

APPROVED MINUTES OF MEETING

Ordinary Cause Rules Committee

Perth Sheriff Court on 18 August 2005

Present :

Sheriff Principal S Young (Chairman)
Sheriff W Holligan
Steven Brand
Joseph d'Inverno
John McCormick
Alan Johnston
Paul Cackette
Glynis McKeand (SCRC Secretary)
Karen Stewart (Committee Secretary)

- 1. No apologies**
- 2. Previous Minutes** – approved
- 3. European Matrimonial & Parental Responsibility Jurisdiction and Judgements SSI 144/2001**

The committee discussed the paper and the original EU Regulation. There was agreement that the issue of these certificates is an administrative matter and that the sheriff clerk should sign the certificate. There will require to be a minor amendment to the wording of Ordinary Cause Rule 33.27A to reflect this position. The Secretariat will instruct the draftsman accordingly.

There was further general discussion on the need for the Rules Council to issue S.I.s relating to European legislation – the need for this particular S.I. was questioned.

- 4. Commission & Diligence: expenses of havers**

The committee noted the current position that a draft letter has been prepared for issue to the Lord President. An update will be issued by the secretariat in due course.

- 5. Commercial Court Research - open discussion**

The secretariat advised that the report was still in draft form and has not yet been published. It is still to be considered under embargo and is not for further dissemination by the secretariat or committee members.

The committee had a lengthy discussion of the various issues raised in the research report. The committee thanked Mr d'Inverno for producing a paper summarising the main points.

The committee agree in principal to the need for the following changes in ordinary cause procedure :

- Capacity to accelerate the options hearing, either on motion of parties or ex proprio motu by sheriff
- Provisions of the commercial court procedure to be made available to the sheriff at an options hearing to expand the range of possible outcomes
- Capacity to hold a 'pre-proof hearing'
- Court of Session personal injury rules to be imported with necessary adaptations to provide the capacity to have a proof date fixed at the 'NID' stage (this will be subject to checks with SE)
- Revise the rules providing prescription of actions points to be carried out by those involved in the case and the reasons for same (a checklist in effect)
- Chapter 17 – summary decrees - expand the range of available disposals

The Secretary will prepare drafting instructions for OSSE which the chairman will consider prior to presenting these to draftsperson.

The secretary will prepare a meeting summary for the chairman for the next SCRC meeting on 2 September.

6. Date of next meeting : 18 November 2005 @10.30 am in Perth