

APPROVED MINUTES OF SHERIFF COURT RULES COUNCIL MEETING

EDINBURGH SHERIFF COURT

10 SEPTEMBER 2004

PRESENT :

Sheriff Principal I. D. MacPhail
Sheriff Principal B. A. Kerr
J. d'Inverno, Solicitor-Advocate
Sheriff M J Fletcher
Mrs C Flanagan, Solicitor
Mr J Murphy, Sheriff Clerk
Mr J McCormick, Solicitor
Mrs E Laing, Assistant Area Director
Mr P Cackette, SEJD
Ms H. Janssen, OSSE
Sheriff N Morrison

Mrs G McKeand, Secretary
Miss K Stewart, Assistant Secretary

1. APOLOGIES :

Mr A Loudon, Solicitor
Mr S Di'Rollo, Solicitor
Mr R Conway, Solicitor
Sheriff I Peebles

The Chairman intimated the resignation of Mr Alan Adams and welcomed Miss K Stewart to her first meeting.

2. Minutes of Previous Meeting

It was noted that the previous minutes contained a typographical error in the designation of Mr d'Inverno, this was amended.

The minutes of meeting of 25 June 2004 were approved.

Matters arising :-

- The chairman intimated that the I.T. Consultation paper was ready for issue with responses requested by 15-11-04
- Competition Appeals Tribunal Rules – S.I. No. 350 commenced 20 Aug 2004

3. Taking of Evidence via video link

Due to time constraints, it was agreed that consideration of this item be deferred until the next meeting.

4. Land Reform (Scotland) Act 2003

The Council considered the paper and questions produced by the Secretariat in respect of the Draft Act of Sederunt.

- The undernoted amendments were proposed by the chairman and agreed by the Counsel

3.28.2 deletion of the word “close” where it appears in line 3 and substitution therefore the word “closely” ; deletion of the word “with” where it appears in line 3 and substitution therefore the word “to” ; deletion of “advertise by public notice in a local circulating newspaper details of the application” in line 4 and substitution thereof “ by publication of an advertisement in a newspaper circulating in the area of the land,” ; deletion of the words “under section 14(2) of the Act” in line 5.

The Council agreed the Secretariat would consult directly with the draftsman on minor amendments to the headings at points 3.28.4 and 3.28.5

Thereafter, the Council gave approval for the Draft to be taken forward to conclusion with the Chairman.

5. Cash seizures under the proceeds of Crime Act 2002

The Council considered the paper and questions produced by the Secretariat in respect of the Draft Act of Sederunt.

The Council agreed the Secretariat would consult directly with the draftsman on minor amendments to the numbering references at 2.2

Thereafter, the Council gave approval for the Draft to be taken forward to conclusion with the Chairman.

The Secretary enquired with the Council as to the appropriate commencement date

The Chairman enquired as to local measures being taken to agree hearing protocols within the Sheriffdoms. It was agreed that local protocols would require to be in place prior to commencement.

The Chairman and Council agreed that the Secretariat liaise with Crown Office and confirm the date with the Chairman.

6A. The Debt Arrangement Scheme

The Council considered the paper and questions produced by the Secretariat in respect of the Draft Act of Sederunt.

The paper considered by the Council is annexed with the Council's responses to the questions posed added in red italics. The Secretariat was instructed to revert to the drafts person with these points and the others marked on the draft Act of Sederunt. Thereafter, the Council gave approval for the draft to be taken forward to conclusion with the Chairman.

6B. DAS Bankruptcy Rules

The Council considered the paper and questions produced by the Secretariat in respect of the draft Act of Sederunt.

Thereafter, the Council gave approval for the draft to be taken forward to conclusion with the Chairman.

7. Anti-Social Behaviour Bill

The Council Considered the paper, questions and commentary produced by the Secretariat in respect of the Draft Act of Sederunt. The paper considered by the Council is annexed with the Council's responses to the questions posed added in red italics. The Secretariat was instructed to revert to the drafts person with these points and the others marked on the draft Act of Sederunt.

Thereafter, the Council gave approval for the draft to be taken forward to conclusion with the Chairman.

8. Cautioners and Guarantors

The Council considered the question raised by the Secretariat and authorised the instruction of draft Rules by the Secretariat.

9. Mental Health (Care and Treatment) (Scotland) Act 2003

The Council considered the questions raised by the Secretariat and authorised the instruction of draft Rules by the Secretariat.

10. Vulnerable Witnesses (Scotland) Act 2004

The Council considered the questions raised by the Secretariat.

5.6 Presence of Supporters (Sec 22)

The Council agreed that any rule should specify that the Sheriff will make arrangements as he sees fit on the points raised herein

Thereafter, the Council approved the instruction of Draft Rules by the Secretariat and affirmed their strong support for the contention that where forms of notice are required in Civil / Criminal or children's Hearings procedure, these forms should, so far as practicable, for the benefit of court users, be uniform in content and appearance.

11. Date of Next Meeting

26 November 2004 at 10.30 am within Parliament House

Karen Stewart
Assistant Secretary to Sheriff Court Rules Council