

MINUTES OF SHERIFF COURT RULES COUNCIL MEETING

McDiarmid Park, Perth

2 June 2006

PRESENT

Sheriff Principal Sir S S T Young, Bt, QC (Chairman)
Sheriff Principal B A Kerr, QC
Sheriff M Fletcher
S Brand
R Conway
J Murphy
C Flanagan.
G McKeand (Secretary)
A Oxley (Assistant Secretary)
S McCourt (Assistant Secretary)

1 Apologies

P Cackette, Sheriff W Holligan, J d'Inverno, S Di Rollo, QC
A Johnston, J McCormick, S O'Neill, Sheriff I Peebles, R Young.

The Chairman welcomed Steve McCourt to his first meeting of the Council.

2 Minutes of previous meeting and matters arising

The minutes of the last meeting of 3 March 2006 were approved.

3 Police, Public Order and Criminal Justice (Scotland) Bill

The Council considered the paper before it and answered the questions put forward in it by the Secretariat.

After discussion the Council approved the instruction of a draft Act of Sederunt and, given that the provisions contained in the Bill were due to commence on 1 September 2006, it was agreed that Sheriffs Principal Young and Kerr would clear any draft rules.

4 Equality Act

The Council considered the papers before it and responded to the questions posed therein by the Secretariat. It directed the Secretariat to instruct the necessary rules with a view to a draft Act of Sederunt being available for consideration at the September meeting of the Council.

5 Bankruptcy petitions – paper from Sheriff George Presslie

Members considered the correspondence from Sheriff Presslie and noted the problem with bankruptcy petitions being experienced at Haddington Sheriff Court. After discussion the Council agreed that the matter was not understood to be a widespread problem throughout the Scottish Courts and it was not necessary to provide new rules. Following further discussion it was agreed that the Secretariat

would write to the Accountant in Bankruptcy, asking her in turn to write to the Institute of Chartered Accountants setting out the documents that should be submitted to the court.

The Secretariat was asked to write to Sheriff Presslie advising of the decision reached and thanking him for bringing the matter to the attention of the Council.

6 Mediation Committee Consultation Paper

The Chairman advised members that Lord Clarke's working group had now put out a report to the Judges of the Court of Session. Council Members decided that the consultation paper should be issued as soon as possible and take priority over the personal injury consultation paper.

It was agreed that the paper should be issued mid June with a consultation period of 3 months. An extraordinary meeting would be arranged to take place in October to consider responses to the consultation.

7 Animal Health & Welfare (Scotland) Bill

The Council considered the papers before it and responded to the questions contained therein.

After discussion the Council approved the instruction of a draft Act of Sederunt with a view to a draft Act of Sederunt being available for consideration at the September meeting of the Council.

It was agreed that it is premature to consider the Animal Welfare Bill currently before the UK Parliament and that it should be considered at a later date.

8 Business Update

An oral update was given regarding the Bankruptcy and Diligence (Scotland) Bill. Council members noted with interest recent progress on the various issues.

9 Any other business

It was decided that the Council Business Plan would be cleared by e mail.

The Council thanked the Lord President's legal adviser for drawing to its notice the Subordinate Legislation Committee Report into the Regulatory Framework in Scotland. Having considered the recommendations contained in the report, in particular, those relating to rules of court, the Council concluded that for it to comment may well be outwith its remit and that in any event it would be a matter for the Lord President to decide whether or not to respond further.

10 Date of subsequent meetings.

The meetings for 8 September and 1 December were confirmed. No further dates were arranged meantime.