SCOTTISH STATUTORY INSTRUMENTS

2004 No. 334

SHERIFF COURT

Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (Protection of Children (Scotland) Act 2003) 2004

Made - - - -	*27th July 2004*
Coming into force - -	*30th July 2004*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(**1**) and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of that Act, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (Protection of Children (Scotland) Act 2003) 2004 and shall come into force on 30th July 2004.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Amendment of the Summary Application Rules

2.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(**2**) is amended in accordance with paragraph (2).

(2) In Chapter 3 (rules on applications under specific statutes), after Part XXV (Sexual Offences Act 2003)(**3**), insert–

(**1**) 1971 c. 58. Section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), Schedule 2, paragraph 12, the Civil Evidence (Scotland) Act 1988 (c. 32), section 2(4), the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 18(2), the Adults with Incapacity (Scotland) Act 2000 (asp 4), Schedule 5, paragraph 12, and the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43, and was extended by the Child Support Act 1991 (c. 48), sections 39(2) and 49.

(**2**) S.I.1999/929, amended by S.S.I. 2000/148 and 387, 2001/142, 2002/7, 129, 130, 146 and 563, 2003/26, 27, 98, 261, 316, 346 and 556 and 2004/222.

(**3**) Part XXV was inserted by S.S.I. 2004/222.

"PART XXVI

PROTECTION OF CHILDREN (SCOTLAND) ACT 2003

Interpretation

3.25.1. In this Part–

"the Act" means the Protection of Children (Scotland) Act 2003(**4**); and

"the list" means the list of individuals considered unsuitable to work with children kept by the Scottish Ministers under section 1(1) of the Act, and cognate expressions shall be construed accordingly.

Application

3.25.2. An application under section 7(6) or 14(1) or an appeal under section 15(1) of the Act shall be made by summary application.

Provisional inclusion in the list

3.25.3. The sheriff may consider and dispose of an application by the Scottish Ministers under section 7(6) of the Act without intimation to, or representation by, any other person.

Applications for removal from the list

3.25.4.—(1) A listed individual shall combine in a single application–

(a) a request for leave to make an application under section 14(1) of the Act;

(b) the grounds on which that individual considers that the sheriff should grant leave; and

(c) the grounds on which that individual considers that the sheriff should grant such an application.

(2) An application under paragraph (1) shall be intimated to the Scottish Ministers.

(3) The sheriff shall consider and dispose of at a preliminary hearing that part of an application relating to the request for leave under paragraph (1)(a).

Appeal: inclusion in lists under section 5 or 6 of the Act

3.25.5. An appeal under section 15(1) of the Act against inclusion in the list in terms of section 5 or 6 of the Act shall be intimated to the Scottish Ministers.

Appeals: to the sheriff principal or to the Inner House of the Court of Session

3.25.6. An appeal under section 15(4) of the Act to the sheriff principal or an appeal under section 15(6)(a) of the Act to the Inner House of the Court of Session shall be intimated to the Scottish Ministers.".

(**4**) 2003 asp 5.