SCOTTISH STATUTORY INSTRUMENTS

2003 No. 556

SHERIFF COURT

Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (International Protection of Adults) 2003

Made - - - -	*13th November 2003*
Coming into force - -	*14th November 2003*

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 the said Act of 1971, 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 (International Protection of Adults) 2003, and shall come into force on 14th November 2003.

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

Amendment of the Summary Applications 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, after Part XXIII (Ethical Standards in Public Life Etc. (Scotland) Act 2000) 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 13, 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, and 2003/26, 27, 98, 261, 316 and 346.

"PART XXIV

INTERNATIONAL PROTECTION OF ADULTS

Interpretation

3.24.1. In this Part–

"the Act" means the Adults with Incapacity (Scotland) Act 2000(**3**);

"the Convention" means the Hague Convention of 13th January 2000 on the International Protection of Adults;

"international measure" means any measure taken under the law of a country other than Scotland for the personal welfare, or the protection of property, of an adult with incapacity, where–

(a) jurisdiction in the other country was based on the adult's habitual residence there; or

(b) the other country and the United Kingdom were when that measure was taken parties to the Convention, and jurisdiction in that other country was based on a ground of jurisdiction in the Convention; and

"Public Guardian" shall be construed in accordance with section 6 (the public guardian and his functions) of the Act.

Application

3.24.2.—(1) An application to register an international measure under paragraph 8(1) of schedule 3 to the Act shall be by summary application made under this Part.

(2) The original document making the international measure, or a copy of that document duly certified as such by an officer of the issuing or a requesting body, shall be lodged with an application under paragraph (1), together with (as necessary) an English translation of that document and that certificate.

(3) Any translation under paragraph (2) must be certified as a correct translation by the person making it, and the certificate must contain the full name, address and qualifications of the translator.

Intimation of application

3.24.3.—(1) The sheriff shall order intimation of an application to register an international measure–

(a) except where the sheriff is satisfied that the person to whom the international measure relates had an opportunity to be heard in the country where that measure was taken, to that person;

(b) which if registered would have the effect of placing the adult to whom the international measure relates in an establishment in Scotland, to the–

(i) Scottish Central Authority; and

(ii) Mental Welfare Commission;

(c) to the Public Guardian; and

(d) to any other person whom the sheriff considers appropriate.

(2) In this rule–

(**3**) 2000 asp 4.