SCOTTISH STATUTORY INSTRUMENTS

# 2003 No. 388

# SHERIFF COURT

## Act of Sederunt (Sheriff Court Company Insolvency Rules 1986) Amendment 2003

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| *Made - - - -* | *8th August 2003* |
| *Coming into force - -* | *15th September 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, commencement and interpretation

**1.**—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Company Insolvency Rules 1986 ) Amendment 2003, and shall come into force on 15th September 2003.

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

(3) In this Act of Sederunt, "the Rules" means the Act of Sederunt (Sheriff Court Company Insolvency Rules) 1986(**2**).

### Amendment of Part II of the Rules

**2.**—(1) Part II of the Rules (administration orders) is amended in accordance with paragraphs (2) to (6).

(2) In the heading, for "ORDERS" substitute "PROCEDURE".

(3) In rule 10–

(a) in paragraph (1), after "administration order" insert "or any other order in an administration";

(b) for paragraph 1(c), substitute–

"(c) how the making of that order will achieve–

(**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 sections 39(2) and 49 of the Child Support Act 1991 (c. 48).

(**2**) S.I.1986/2297.

(i) any of the purposes specified in section 8(3) of the Act of 1986(**3**); or

(ii) an objective specified in paragraph 3 of Schedule B1 to the Act of 1986(**4**);";

(c) in paragraph 1(g), for "an administration" substitute "that";

(d) for paragraph 1(h), substitute–

"(h) Council Regulation (EC) 1346/2000 of 29th May 2000 on insolvency proceedings(**5**)–

(i) that so far as known to the petitioner, there are no other proceedings; or

(ii) whether the present proceedings are main or territorial proceedings;"; and

(e) omit paragraph 2(b).

(4) In rule 11, for "2.2" substitute "2.3".

(5) For rule 12, substitute–

"Applications during an administration

**12.** An application or appeal under any provision of the Act of 1986 or the Insolvency Rules during an administration shall be–

(a) where no previous application or appeal has been made, by petition; or

(b) where a petition for an order in respect of an administration has been made, by note in the process of that petition.".

(6) For rule 14, substitute–

"Report of administrator's proposals: Schedule B1 to the Act of 1986

**14.**—(1) Paragraph (2) shall apply where a report under paragraphs 53(2) or 54(6) of Schedule B1 to the Act of 1986 discloses a failure to approve, or to approve a revision of, an administrator's proposals.

(2) The sheriff clerk shall appoint a hearing for determination by the sheriff of any order that may be made under paragraph 55(2) of Schedule B1 to the Act of 1986.

Time and date of lodging in an administration

**14A.**—(1) The time and date of lodging of a notice or document relating to an administration under the Act of 1986 or the Insolvency Rules shall be noted by the sheriff clerk upon the notice or document.

(2) Subject to any provision of the Insolvency Rules–

(a) where the time of lodging of a notice or document cannot be ascertained by the sheriff clerk, the notice or document shall be deemed to be lodged at 10 a.m. on the date of lodging; and

(b) where a notice or document under paragraph (1) is delivered on any day other than a business day, the date of lodging shall be the first business day after such delivery.".

(**3**) The Insolvency Act 1986 (c. 45) ("the Act of 1986") is defined in the Act of Sederunt (Sheriff Court Company Insolvency Rules) 1986 as "the Act of 1986", and section 8 was amended by the Financial Services and Markets Act 2000 (c. 8), section 359, and by S.I. 2001/3649, 2002/1240 and 1555, and applied with modifications by the Building Societies Act 1986 (c. 53), Schedule 15, the Building Societies Act 1997 (c. 32), Schedule 6, and S.I. 2001/1090.

(**4**) Schedule B1 was inserted into the Act of 1986 by the Enterprise Act 2002 (c. 40), section 248.

(**5**) O.J. L 160, 30/06/2000 P. 0001-0018.