SCOTTISH STATUTORY INSTRUMENTS

2002 No. 563

SHERIFF COURT

Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (No. 5) (Proceeds of Crime Act 2002) 2002

Made - - - -	*19th December 2002*
Coming into force - -	*30th December 2002*

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 Sheriff Courts (Scotland) Act 1971, do hereby enact and declare:

Citation and commencement

1. This Act of Sederunt–

(a) may be cited as the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (No. 5) (Proceeds of Crime Act 2002) 2002;

(b) shall come into force on 30th December 2002; and

(c) shall be inserted in the Books of Sederunt.

Amendment and revocation of the principal Rules

2.—(1) In the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(**2**), Chapter 3 (rules on applications under specific statutes) is amended in accordance with the following paragraphs.

(2) After Part XVIII (Local Government (Scotland) Act 1973)(**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 13, and was extended by sections 39(2) and 49 of the Child Support Act 1991 (c. 48).

(**2**) S.I.1999/929 as amended by S.S.I.2000/148 and 387, 2001/142 and 2002/7, 129, 130 and 146.

(**3**) Part XVIII was inserted by S.S.I. 2002/130.

"PART XIX

PROCEEDS OF CRIME ACT 2002

General

Interpretation and application

3.19.1.—(1) In this Part–

"the Act" means the Proceeds of Crime Act 2002(**4**);

a reference to a specified section is a reference to the section bearing that number in the Act; and any reference to a specified paragraph in a specified Schedule is a reference to the paragraph bearing that number in the Schedule of that number in the Act.

(2) This Part applies to applications to the sheriff under Part 5 of the Act.

Recovery of cash in summary proceedings

Applications for extended detention of cash

3.19.2.—(1) An application to the sheriff for an order under sections 295(2) and (7) (extended detention of seized cash) shall be made by summary application.

(2) An application for any further order for the detention of cash under section 295(2) shall be made by minute in the process of the original application for extended detention of seized cash and shall be proceeded with in accordance with sub-paragraph (3) below.

(3) On the lodging of an application for any further order the sheriff shall–

(a) fix a date for determination of the application; and

(b) order service of the application together with notice of such date for determination on any persons whom he considers may be affected.

Applications for release of detained cash

3.19.3.—(1) An application to the sheriff under section 297(3) (application for release of detained cash) or under section 301(1) (application by person who claims that cash belongs to him) shall, where the court has made an order under section 295(2), be made by minute in the process of the application for that order, and in any other case shall be made by summary application in the course of the proceedings or at any other time.

(2) On the lodging of such an application the sheriff shall–

(a) fix a date for a hearing; and

(b) order service of the application together with notice of such hearing on the procurator fiscal and any other person whom he considers may be affected by the granting of such an application.

Applications for forfeiture of detained cash

3.19.4.—(1) An application to the sheriff under section 298(1)(b) (application by the Scottish Ministers for forfeiture of detained cash) shall, where the court has made an order

(**4**) 2002 c. 29.