SCOTTISH STATUTORY INSTRUMENTS

2002 No. 514

COURT OF SESSION

Act of Sederunt (Rules of the Court of Session Amendment No. 2) (Applications under the Protection from Abuse (Scotland) Act 2001) 2002

Made - - - -	*21st November 2002*
Coming into force - -	*1st December 2002*

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 5 of the Court of Session Act 1988(**1**) and sections 2(1) and (5)(a) and 3(1) of the Protection from Abuse (Scotland) Act 2001(**2**) and of all other powers enabling them in that behalf, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No. 2) (Applications under the Protection from Abuse (Scotland) Act 2001) 2002 and shall come into force on 1st December 2002.

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

Amendment of the Rules of the Court of Session

2.—(1) The Rules of the Court of Session 1994(**3**) shall be amended in accordance with the following sub-paragraphs.

(2) After Chapter 84 (application under the Terrorism Act 2000), there shall be inserted–

"Chapter 85

APPLICATIONS UNDER THE PROTECTION FROM ABUSE (SCOTLAND) ACT 2001

Interpretation of this Chapter

85.1. In this Chapter–

(**1**) 1988 c. 36; section 5 was amended by section 2(3) of the Civil Evidence (Scotland) Act 1988 (c. 32) and by paragraph 45 of Schedule 4 to the Children (Scotland) Act 1995 (c. 36).
(**2**) 2001 asp 14.
(**3**) S.I. 1994/1443, to which there are amendments not relevant to this Act of Sederunt.

"the Act of 2001" means the Protection from Abuse (Scotland) Act 2001;

"documents" includes documents in electronic form; and

"interdict" includes interim interdict.

Attachment of power of arrest to interdict

85.2.—(1) An application under section 1(1) of the 2001 Act (application for attachment of power of arrest to interdict)–

(a) shall be made by a conclusion of the summons, the prayer of the petition, the defences, answers or counterclaim in which the interdict to which it relates is applied for, or, if made after the application for interdict, by motion in the process of the action in which the interdict was sought; and

(b) shall be intimated to the person against whom the interdict is sought or obtained.

(2) Where the court attaches a power of arrest under section 1(2) of the Act of 2001 (order attaching power of arrest) the following documents shall be served along with the power of arrest in accordance with section 2(1) of the Act of 2001 (documents to be served along with power of arrest)–

(a) a copy of the application for interdict;

(b) a copy of the interlocutor granting interdict; and

(c) where the application to attach a power of arrest was made after the interdict was granted, a copy of the certificate of service of the interdict.

(3) After the power of arrest has been served, the following documents shall be delivered by the person who obtained the power to the chief constable in accordance with section 3(1) of the Act of 2001 (notification to the police)–

(a) a copy of the application for interdict;

(b) a copy of the interlocutor granting interdict;

(c) a copy of the certificate of service of the interdict; and

(d) where the application to attach a power of arrest was made after the interdict was granted–

(i) a copy of the application for the power of arrest;

(ii) a copy of the interlocutor granting it; and

(iii) a copy of the certificate of service of the power of arrest and the documents that required to be served along with it in accordance with section 2(1) of the Act of 2001.

Extension or recall of power of arrest

85.3.—(1) An application under section 2(3) (extension of duration of power of arrest) or section 2(7) (recall of power of arrest) of the Act of 2001 shall be made by minute in the process of the action in which the power of arrest was attached.

(2) Where the court extends the duration of, or recalls, a power of arrest, the person who obtained the extension or recall must deliver a copy of the interlocutor granting the extension or recall in accordance with section 3(1) of the Act of 2001.