SCOTTISH STATUTORY INSTRUMENTS

2002 No. 128

SHERIFF COURT

Act of Sederunt (Ordinary Cause Rules) Amendment (Applications under the Protection from Abuse (Scotland) Act 2001) 2002

Made - - - -	*1st March 2002*
Coming into force - -	*8th March 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 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, 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 (Ordinary Cause Rules) Amendment (Applications under the Protection from Abuse (Scotland) Act 2001) 2002 and shall come into force on 8th March 2002.

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

Amendment of Ordinary Cause Rules

2.—(1) The Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(**3**) shall be amended in accordance with the following paragraphs.

(2) After Chapter 40 (commercial actions)(**4**), 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 (c.32), section 2(4), the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 18(2) and 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**) 2001 asp 14; see section 7 for the definition of "prescribed".

(**3**) 1907 c. 51. Schedule 1 was substituted by S.I.1993/1956 and amended by S.I. 1996/2167 and 2445, and by S.S.I. 2000/239 and 408, 2001/8 and 144, and 2002/7.

(**4**) Inserted by S.S.I. 2001/8.

"CHAPTER 41

PROTECTION FROM ABUSE (SCOTLAND) ACT 2001

Interpretation

41.1.—(1) In this Chapter a section referred to by number means the section so numbered in the Protection from Abuse (Scotland) Act 2001.

(2) Words and expressions used in this Chapter which are also used in the Protection from Abuse (Scotland) Act 2001 have the same meaning as in that Act.

Attachment of power of arrest to interdict

41.2.—(1) An application under section 1(1) (application for attachment of power of arrest to interdict)–

(a) shall be made in the crave in the initial writ, defences 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 was obtained.

(2) Where the sheriff attaches a power of arrest under section 1(2) (order attaching power of arrest) the following documents shall be served along with the power of arrest in accordance with section 2(1) (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 the 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) (notification to 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 the 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).

Extension or recall of power of arrest

41.3.—(1) An application under either of the following provisions shall be made by minute in the process of the action in which the power of arrest was attached:–

(a) section 2(3) (extension of duration of power of arrest);

(b) section 2(7) (recall of power of arrest).