
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 193

SHERIFF COURT

**Act of Sederunt (Sheriff Court Rules)
(Miscellaneous Amendments) 2011**

*Made - - - - 10th March 2011
Coming into force in accordance with paragraph 1(1)
and (2)*

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), section 1A(1)(b) of the Bankruptcy (Scotland) Act 1985(2) and sections 32 and 64 of the Debt Arrangement and Attachment (Scotland) Act 2002(3) 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 Rules) (Miscellaneous Amendments) 2011 and, subject to subparagraph (2), comes into force on 4th April 2011.

(2) Paragraph 15 comes into force on 6th April 2011.

(3) A certified copy of this Act of Sederunt is to be inserted in the Books of Sederunt.

(4) In this Act of Sederunt—

“Ordinary Cause Rules” means the Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(4);

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- (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) (the “2000 asp”), schedule 5, paragraph 13; the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43; the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2); the Consumer Credit Act 2006 (c.14), section 16(4); and the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (the “2007 asp”) section 33. Section 32 is amended prospectively by the 2007 asp, schedule 5, paragraph 10. Section 32 was extended by the Debtors (Scotland) Act 1987 (c.18), section 97; the Child Support Act 1991 (c.48), sections 39(2) and 49; and by section 2(4) of the 2000 asp.
- (2) 1985 c.66. Section 1A was substituted by the Bankruptcy (Scotland) Act 1993 (c.6), section 1(1) and amended by the 2007 asp, sections 2(2), 14(1) and 23(2) and schedule 1, paragraph 2 and schedule 6, paragraph (1); and S.I. 1999/1820.
- (3) 2002 asp 17. Section 32 was amended by the 2007 asp, schedule 5, paragraph 30(8)(a).
- (4) 1907 c.51. Schedule 1 was substituted by S.I. 1993/1956 and amended by S.I. 1996/2167 and 2445; S.S.I. 2000/239 and 408; 2001/8 and 144; 2002/7, 128 and 560; 2003/25, 26 and 601; 2004/197 and 350; 2005/20, 189, 638 and 648; 2006/198, 207,

“Small Claim Rules” means the Small Claim Rules in Schedule 1 to the Act of Sederunt (Small Claim Rules) 2002(5);

“Summary Application Rules” means the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(6);

“Summary Cause Rules” means the Summary Cause Rules in Schedule 1 to the Act of Sederunt (Summary Cause Rules) 2002(7).

Service of documents by sheriff officers

2.—(1) The Ordinary Cause Rules are amended in accordance with the following subparagraph.

(2) In rule 5.4 (service within Scotland by sheriff officer)(8)—

(a) for paragraph (3)(b) substitute—

“(b) by leaving it at that person’s dwelling place or place of business in such a way that it is likely to come to the attention of that person.”;

(b) after paragraph (5), insert—

“(6) Where service is executed under paragraphs (1)(b) or (3), the document and the citation or notice of intimation, as the case may be, must be placed in an envelope bearing the notice “This envelope contains a citation to or intimation from (*insert name of sheriff court*)” and sealed by the sheriff officer.”.

3.—(1) The Summary Application Rules are amended in accordance with the following subparagraph.

(2) In rule 2.11 (service within Scotland by sheriff officer)(9)—

(a) for paragraph (3)(b) substitute—

“(b) by leaving it at that person’s dwelling place or place of business in such a way that it is likely to come to the attention of that person.”;

(b) after paragraph (5), insert—

“(6) Where service is executed under paragraphs (1)(b) or (3), the document and the citation or notice of intimation, as the case may be, must be placed in an envelope bearing the notice “This envelope contains a citation to or intimation from (*insert name of sheriff court*)” and sealed by the sheriff officer.”.

4.—(1) The Summary Cause Rules are amended in accordance with the following subparagraph.

(2) In rule 5.4 (service within Scotland by sheriff officer)—

(a) in paragraph (1)(b)(i) for “an inmate” substitute “a resident”;

(b) for paragraph (2)(b) substitute—

“(b) by leaving it at that person’s dwelling place or place of business in such a way that it is likely to come to the attention of that person.”;

293, 410 and 509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 284, 285, 294 and 402; and 2010/120, 279, 324, 340 and 416.

(5) S.S.I. 2002/133, amended by S.S.I. 2003/26; 2004/197; 2005/648; 2006/509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 294 and 402; 2010/279, 340 and 416.

(6) S.I. 1999/929, amended by S.S.I. 2000/148 and 387; 2001/142; 2002/7, 129, 130, 146 and 563; 2003/26, 27, 98, 261, 319, 346 and 556; 2004/197, 222, 334 and 455; 2005/61, 445, 473, 504 and 648; 2006/198, 410, 437 and 509; 2007/6, 233, 339, 440 and 463; 2008/9, 41, 111, 223, 335, 365 and 375; 2009/107, 109, 164, 294, 320 and 402; and 2010/324, 340 and 416.

(7) S.S.I. 2002/132, amended by S.S.I. 2002/516; 2003/26 and 601; 2004/197; 2005/648; 2006/509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 294 and 402; and 2010/279, 340 and 416.

(8) Rule 5.4 was amended by S.S.I. 2003/26.

(9) Rule 2.11 was amended by S.S.I. 2003/26.

(c) after paragraph (5), insert—

“(6) Where service is executed under paragraphs (1)(b) or (2), the document and the citation or notice of intimation, as the case may be, must be placed in an envelope bearing the notice “This envelope contains a citation to or intimation from (*insert name of sheriff court*)” and sealed by the sheriff officer.”

5.—(1) The Small Claim Rules are amended in accordance with the following subparagraph.

(2) In rule 6.4 (service within Scotland by sheriff officer)—

(a) in paragraph (1)(b)(i) for “an inmate” substitute “a resident”;

(b) for paragraph (2)(b) substitute—

“(b) by leaving it at that person’s dwelling place or place of business in such a way that it is likely to come to the attention of that person.”;

(c) after paragraph (6), insert—

“(7) Where service is executed under paragraphs (1)(b) or (2), the document and the citation or notice of intimation, as the case may be, must be placed in an envelope bearing the notice “This envelope contains a citation to or intimation from (*insert name of sheriff court*)” and sealed by the sheriff officer.”

Service and evidence conventions

6. For “the Secretary of State for Foreign and Commonwealth Affairs” substitute “the Scottish Ministers” where it occurs in each of the following places—

rule 5.5(1)(b)(ii) of the Ordinary Cause Rules (service on persons furth of Scotland)(**10**),

rule 2.12(1)(b)(ii) of the Summary Application Rules (service on persons furth of Scotland)(**11**),

rule 5.7(3)(c) of the Summary Cause Rules (service on persons outwith Scotland)(**12**),

rule 6.5(3)(c) of the Small Claim Rules (service on persons outwith Scotland)(**13**).

7. After “in the request to” insert “the Scottish Ministers or, as the case may be,” where it occurs in each of the following places—

rule 5.5(3)(a) of the Ordinary Cause Rules,

rule 2.12(3)(a) of the Summary Application Rules,

rule 5.7(8)(a) of the Summary Cause Rules,

rule 6.5(8)(a) of the Small Claim Rules.

8. For “the Foreign and Commonwealth Office” substitute “the Scottish Ministers” where it occurs in each of the following places—

rule 28.14(6) of the Ordinary Cause Rules (letters of request)(**14**),

rule 18.7(6) of the Summary Cause Rules (letter of request)(**15**).

Regulated agreements

9.—(1) The Ordinary Cause Rules are amended in accordance with the following subparagraph.

(10) Rule 5.5 was last amended by [S.S.I. 2008/365](#).

(11) Rule 2.12 was last amended by [S.S.I. 2008/365](#).

(12) Rule 5.7 was last amended by [S.S.I. 2008/365](#).

(13) Rule 6.5 was last amended by [S.S.I. 2008/365](#).

(14) Rule 28.14 was last amended by [S.S.I. 2003/601](#).

(15) Rule 18.7 was amended by [S.S.I. 2003/601](#).

(2) In Form O3(16) in Appendix 1 (forms), in Part B of the Application for a Time Order under the Consumer Credit Act 1974—

- (a) after the heading of section 5 insert “(Please attach a copy of the agreement if you have retained it and insert details of the agreement where known)”;
- (b) after section 5(b) omit “(Please attach a copy of the agreement)”.

10.—(1) The Summary Application Rules are amended in accordance with the following subparagraph.

(2) In Form 5(17) in Schedule 1 (forms), in Part B of the Application for a Time Order under the Consumer Credit Act 1974—

- (a) after the heading of section 5 insert “(Please attach a copy of the agreement if you have retained it and insert details of the agreement where known)”;
- (b) after section 5(b) omit “(Please attach a copy of the agreement)”.

11.—(1) The Summary Cause Rules are amended in accordance with the following subparagraph.

(2) On page numbered 11 of Form 1a(18) in Appendix 1 (forms), in the Application for a Time Order under the Consumer Credit Act 1974—

- (a) after the heading of section 5 insert “(Please attach a copy of the agreement if you have retained it and insert details of the agreement where known)”;
- (b) after section 5(b) omit “(Please attach a copy of the agreement)”.

12.—(1) The Small Claim Rules are amended in accordance with the following subparagraph.

(2) On page numbered 12 of Form 1a(19) in Appendix 1 (forms), in the Application for a Time Order under the Consumer Credit Act 1974—

- (a) after the heading of section 5 insert “(Please attach a copy of the agreement if you have retained it and insert details of the agreement where known)”;
- (b) after section 5(b) omit “(Please attach a copy of the agreement)”.

Appointment or removal of a person as a guardian of a child

13.—(1) The Ordinary Cause Rules are amended in accordance with the following subparagraph.

(2) In rule 33.1 (interpretation of Chapter 33, family actions)(20), omit—

- (a) in paragraph (1)(h)(i), the word “and”;
- (b) paragraph (1)(h)(ii).

14.—(1) The Act of Sederunt (Family Proceedings in the Sheriff Court) 1996(21) is amended in accordance with the following subparagraph.

(2) Paragraph 4 (summary applications to appoint or remove guardian under Children (Scotland) Act 1995) is omitted.

(16) Form O3 was substituted by [S.S.I. 2009/294](#).

(17) Form 5 was substituted by [S.S.I. 2009/294](#).

(18) Form 1a was substituted by [S.S.I. 2009/294](#).

(19) Form 1a was substituted by [S.S.I. 2009/294](#).

(20) Rule 33.1 was last amended by [S.S.I. 2006/207](#).

(21) [S.I. 1996/2167](#).

Pensions Act 2008

15.—(1) The Ordinary Cause Rules are amended in accordance with the following subparagraphs.

(2) In rule 33.7 (warrants and forms for intimation)(22)—

(a) in paragraph (1)(l) omit the word “and” where it appears at the end of that paragraph;

(b) after paragraph (1)(m) insert—

“(n) in an action where a pursuer makes an application for an order under section 8(1)(bab) of the Act of 1985 (pension compensation sharing order)(23), to the Board of the Pension Protection Fund, and a notice of intimation in Form F12C shall be attached to the initial writ intimated to that Board; and

(o) in an action where a pursuer makes an application for an order under section 8(1)(bb) of the Act of 1985 (an order under section 12B(2) of the Act of 1985 for pension compensation)(24), to the Board of the Pension Protection Fund and a notice of intimation in Form F12D shall be attached to the initial writ intimated to that Board.”.

(3) In rule 33.51 (applications relating to orders for financial provision)(25)—

(a) in paragraph (3)(b) omit the word “or” where it appears at the end of that paragraph; and

(b) after paragraph (3)(b) insert—

“(ba) section 12B(4) of the Act of 1985 (recall or variation of a capital sum order)(26), or”.

(4) In rule 33A.7 (warrants and forms for intimation)(27)—

(a) in paragraph (1)(j) omit the word “and” where it appears at the end of that paragraph;

(b) after paragraph (1)(k) insert—

“(l) in an action where a pursuer makes an application for an order under section 8(1)(bab) of the Act of 1985 (pension compensation sharing order), to the Board of the Pension Protection Fund, and a notice of intimation in Form CP12A shall be attached to the initial writ intimated to that Board; and

(m) in an action where a pursuer makes an application for an order under section 8(1)(bb) of the Act of 1985 (an order under section 12B(2) of the Act of 1985 for pension compensation), to the Board of the Pension Protection Fund and a notice of intimation in Form CP12B shall be attached to the initial writ intimated to that Board.”.

(5) In rule 33A.48 (applications relating to orders for financial provision)(28)—

(a) in paragraph (3)(b) omit the word “or” where it appears at the end of that paragraph; and

(b) after paragraph (3)(b) insert—

“(ba) section 12B(4) of the Act of 1985 (recall or variation of a capital sum order); or”.

(6) Appendix 1 (forms) is amended as follows:—

(22) Rule 33.7 was amended by [S.I. 1996/2167](#) and [2445](#); [S.S.I. 2000/408](#); and [S.S.I. 2006/207](#).

(23) [1985 c.37](#). Section 8(1)(bab) was inserted by the Pensions Act 2008 ([c.30](#)), Schedule 7, paragraph 2.

(24) Section 8(1)(bb) was inserted by the Pensions Act 2008, Schedule 7, paragraph 2.

(25) Rule 33.51(3) was inserted by [S.I. 1996/245](#); and amended by [S.S.I. 2003/26](#).

(26) Section 12B was inserted by the Pensions Act 2008, Schedule 7, paragraph 6.

(27) Rule 33A.7 was inserted by [S.S.I. 2005/638](#); and amended by [S.S.I. 2006/207](#).

(28) Rule 33A.48 was inserted by [S.S.I. 2005/638](#).

- (a) after Form F12B insert Form F12C and Form F12D set out in the Schedule to this Act of Sederunt; and
- (b) after Form CP12 insert Form CP12A and Form CP12B set out in the Schedule to this Act of Sederunt.

Recall of decree

16.—(1) The Summary Cause Rules are amended in accordance with the following subparagraphs.

- (2) For rule 24.1 (recall of decree)(**29**) substitute—

“Recall of decree

24.1.—(1) A party may apply for recall of a decree granted under any of the following provisions—

- (a) rule 7.1; or
- (b) paragraph (5), (6) or (7) of rule 8.2.

(2) The application is to be by minute in Form 30, which must be lodged with the sheriff clerk.

(3) The application must include where appropriate (and if not already lodged with the sheriff clerk), the proposed defence or the proposed answer to the counterclaim.

(4) A party may apply for recall of a decree in the same action on one occasion only.

(5) A minute for recall of a decree of dismissal must be lodged within 14 days of the date of decree.

(6) Subject to paragraphs (7) to (9), a minute for recall of any other kind of decree may be lodged at any time before the decree is fully implemented.

(7) Subject to paragraphs (8) and (9), where a charge or arrestment has been executed following the decree, the minute must be lodged within 14 days of that execution (or the first such execution where there has been more than one).

(8) Subject to paragraph (9), in the case of a party seeking recall who was served with the action under rule 5.7, the minute must be lodged—

- (a) within a reasonable time of such party having knowledge of the decree against him or her; but
- (b) in any event, within one year of the date of decree.

(9) Where the decree includes a decree for removing from heritable property to which section 216(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007(**30**) applies, the minute may be lodged at any time before the defender has been removed from the subjects or premises.

(10) On the lodging of a minute for recall of a decree, the sheriff clerk must fix a date, time and place for a hearing of the minute.

(11) Where a hearing has been fixed under paragraph (10), the party seeking recall must, not less than 7 days before the date fixed for the hearing, serve upon the other party—

- (a) a copy of the minute in Form 30a; and
- (b) a note of the date, time and place of the hearing.

(29) Rule 24.1 was amended by S.S.I. 2007/6.

(30) 2007 asp 3.

(12) At a hearing fixed under paragraph (10), the sheriff must recall the decree so far as not implemented and the hearing must then proceed as a hearing held under rules 8.2(3) to (7) and 8.3.

(13) A minute for recall of a decree, when lodged and served in terms of this rule, will have the effect of preventing any further action being taken by the other party to enforce the decree.

(14) On receipt of the copy minute for recall of a decree, any party in possession of an extract decree must return it forthwith to the sheriff clerk.

(15) If it appears to the sheriff that there has been any failure or irregularity in service of the minute for recall of a decree, the sheriff may order re-service of the minute on such conditions as the sheriff thinks fit.”.

(3) In Appendix 1 (forms), in Forms 30 and 30a—

- (a) omit “Reason for failure to appear or be represented.”;
- (b) insert “/third party” after “pursuer/defender”; and
- (c) insert “*” before “Proposed defence/answer”.

17.—(1) The Small Claim Rules are amended in accordance with the following subparagraphs.

(2) For rule 22.1 (recall of decree)(31) substitute—

“Recall of decree

22.1.—(1) A party may apply for recall of a decree granted under any of the following provisions—

- (a) rule 8.1(3);
- (b) paragraph (6), (7) or (8) of rule 9.1; or
- (c) rule 11.1(8).

(2) The application is to be by minute in Form 20, which must be lodged with the sheriff clerk.

(3) The application must include where appropriate (and if not already lodged with the sheriff clerk), the proposed defence or the proposed answer to the counterclaim.

(4) A party may apply for recall of a decree in the same claim on one occasion only.

(5) A minute for recall of a decree of dismissal must be lodged within 14 days of the date of decree.

(6) Subject to paragraphs (7) and (8), a minute for recall of any other kind of decree may be lodged at any time before the decree is fully implemented.

(7) Subject to paragraph (8), where a charge or arrestment has been executed following the decree, the minute must be lodged within 14 days of that execution (or the first such execution where there has been more than one).

(8) In the case of a party seeking recall who was served with the action under rule 6.5, the minute must be lodged—

- (a) within a reasonable time of such party having knowledge of the decree against him or her; but
- (b) in any event, within one year of the date of decree.

(9) On the lodging of a minute for recall of a decree, the sheriff clerk must fix a date, time and place for a hearing of the minute.

(31) Rule 22.1 was amended by [S.S.I. 2007/6](#).

(10) Where a hearing has been fixed under paragraph (9), the party seeking recall must, not less than 7 days before the date fixed for the hearing, serve upon the other party—

- (a) a copy of the minute in Form 20a; and
- (b) a note of the date, time and place of the hearing.

(11) Paragraph (12) applies if the party seeking recall—

- (a) is not a partnership or body corporate;
- (b) is not acting in a representative capacity; and
- (c) is not represented by a solicitor.

(12) The sheriff clerk must assist such party to complete and lodge the minute for recall and arrange service of the minute for recall—

- (a) by first class recorded delivery post; or
- (b) on payment of the fee prescribed by the Scottish Ministers by order, by sheriff officer.

(13) At a hearing fixed under paragraph (9), the sheriff must recall the decree so far as not implemented and the hearing must then proceed as a hearing held under rules 9.1(4) to (8) and 9.2.

(14) A minute for recall of a decree, when lodged and served in terms of this rule, will have the effect of preventing any further action being taken by the other party to enforce the decree.

(15) On receipt of the copy minute for recall of a decree, any party in possession of an extract decree must return it forthwith to the sheriff clerk.

(16) If it appears to the sheriff that there has been any failure or irregularity in service of the minute for recall of a decree, the sheriff may order re-service of the minute on such conditions as the sheriff thinks fit.”.

(3) In Appendix 1 (forms), in Forms 20 and 20a—

- (a) omit “Reason for failure to appear or be represented.”; and
- (b) insert “*” before “Proposed defence/answer”.

Debt arrangement and attachment: Report of auction

18.—(1) The Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002(**32**) is amended in accordance with the following subparagraph.

(2) In Form 17 in Appendix 1 (forms) of Schedule 1, for “This report is made by me (*specify name and address*) to the Sheriff at (*place*) on (*date*)” substitute—

“I, (*insert name and address*) declare that all the information contained within this report is, to the best of my knowledge, true.

(*Date*)”.

Sheriff Court Bankruptcy Rules

19.—(1) The Act of Sederunt (Sheriff Court Bankruptcy Rules) 2008(**33**) is amended in accordance with the following subparagraph.

(2) In Appendix 2 (information to be contained in the Register of Insolvencies) of the Schedule—

- (a) in section A (Sequestrations), after “Name of debtor” insert on a new line “Debtor’s date of birth (where known)”;

(32) S.S.I. 2002/560 was last amended by S.S.I. 2009/403.

(33) S.S.I. 2008/119.

- (b) in section B (Protected trust deeds for creditors), after “Name and address of granter of trust deed” insert on a new line “Granter’s date of birth (where known)”;
- (c) in section C (Bankruptcy Restrictions Orders, Interim Bankruptcy Restrictions Orders and Bankruptcy Restrictions Undertakings), after “Name of debtor” insert on a new line “Debtor’s date of birth (where known)”.

Transitional and savings provision

20.—(1) Subject to subparagraph (2), the Ordinary Cause Rules, Summary Application Rules, Summary Cause Rules, Small Claim Rules, Act of Sederunt (Family Proceedings in the Sheriff Court) 1996 and Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002 as they applied immediately before 4th April 2011 continue to have effect for the purpose of any action raised but not determined prior to that date.

(2) Subparagraph (1) does not apply to the changes made to the Ordinary Cause Rules by paragraph 15.

Edinburgh
10th March 2011

A.C. HAMILTON
Lord President
I.P.D.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Paragraph 15(6)

Form F12C

Rule 33.7(1)(n)

Form of intimation to Board of the Pension Protection Fund in relation to pension compensation sharing order under section 8(1)(bab) of the Family Law (Scotland) Act 1985

Court ref. no.

To *(insert name and address as in warrant)*

You are given NOTICE that in this action the pursuer has applied under section 8(1)(bab) of the Family Law (Scotland) Act 1985 for a pension compensation sharing order in circumstances where the matrimonial property includes rights to Pension Protection Fund compensation. The relevant pension arrangement is *(give brief details, including number, if known)*. If you wish to appear as a party, you must lodge a minute with the sheriff clerk *(insert address of sheriff clerk)*, for leave to do so. Your minute must be lodged within 21 days of *(insert date on which intimation was given. N.B. Rule 5.3(2) relating to postal service or intimation)*.

Date *(insert date)*

(Signed)

Solicitor for the pursuer

(insert designation and business address)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form F12D

Rule 33.7(1)(o)

Form of intimation to Board of the Pension Protection Fund in relation to an order under section 12B(2) of the Family Law (Scotland) Act 1985

Court ref. no.

To *(insert name and address as in warrant)*

You are given NOTICE that in this action the pursuer has applied under section 8(1)(bb) of the Family Law (Scotland) Act 1985 for an order under section 12B(2) of the Act in circumstances where the matrimonial property includes rights to Pension Protection Fund compensation. The relevant pension arrangement is *(give brief details, including number, if known)*. If you wish to appear as a party, you must lodge a minute with the sheriff clerk *(insert address of sheriff clerk)*, for leave to do so. Your minute must be lodged within 21 days of *(insert date on which intimation was given. N.B. Rule 5.3(2) relating to postal service or intimation)*.

Date *(insert date)*

(Signed)

Solicitor for the pursuer

(insert designation and business address)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form CP12A

Rule 33A.7(1)(l)

Form of intimation to Board of the Pension Protection Fund in relation to pension compensation sharing order under section 8(1)(bab) of the Family Law (Scotland) Act 1985 in a civil partnership action

Court ref. no.

To *(insert name and address as in warrant)*

You are given NOTICE that in this action the pursuer has applied under section 8(1)(bab) of the Family Law (Scotland) Act 1985 for a pension compensation sharing order in circumstances where the family property includes rights to Pension Protection Fund compensation. The relevant pension arrangement is *(give brief details, including number, if known)*. If you wish to appear as a party, you must lodge a minute with the sheriff clerk *(insert address of sheriff clerk)*, for leave to do so. Your minute must be lodged within 21 days of *(insert date on which intimation was given. N.B. Rule 5.3(2) relating to postal service or intimation)*.

Date *(insert date)*

(Signed)

Solicitor for the pursuer

(insert designation and business address)

Form CP12B

Rule 33A.7(1)(m)

Form of intimation to Board of the Pension Protection Fund in relation to an order under section 12B(2) of the Family Law (Scotland) Act 1985 in a civil partnership action

Court ref. no.

To *(insert name and address as in warrant)*

You are given NOTICE that in this action the pursuer has applied under section 8(1)(bb) of the Family Law (Scotland) Act 1985 for an order under section 12B(2) of the Act in circumstances where the family property includes rights to Pension Protection Fund compensation. The relevant pension arrangement is *(give brief details, including number, if known)*. If you wish to appear as a party, you must lodge a minute with the sheriff clerk *(insert address of sheriff clerk)*, for leave to do so. Your minute must be lodged within 21 days of *(insert date on which intimation was given. N.B. Rule 5.3(2) relating to postal service or intimation)*.

Date *(insert date)*

(Signed)

Solicitor for the pursuer

(insert designation and business address)

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt makes miscellaneous amendments to the Ordinary Cause Rules, the Summary Application Rules, the Summary Cause Rules and the Small Claim Rules; and certain other minor amendments.

Paragraphs 2 to 5 amend each set of rules in relation to service of documents within Scotland by sheriff officer. In particular, the rules now require that where sheriff officers serve a document by depositing or leaving it, the document should be placed in a sealed envelope.

Paragraphs 6 to 8 amend each set of rules in consequence of a transfer of functions from the Secretary of State for Foreign and Commonwealth Affairs to the Scottish Ministers for outgoing requests for service and evidence from Scotland under the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters and the Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Paragraphs 9 to 12 amend each set of rules so that the forms for Applications for a Time Order under the Consumer Credit Act 1974 require that an applicant should attach a copy of the regulated agreement to their application if they have retained it.

Paragraph 13 amends the definition of “family action” in rule 33.1 of the Ordinary Cause Rules so that applications for an order appointing or removing a person as guardian of a child are to be made by ordinary cause, rather than by summary application. In consequence of this change, paragraph 14 omits paragraph 4 of the Act of Sederunt (Family Proceedings in the Sheriff Court) 1996.

Paragraph 15 amends the Ordinary Cause Rules in relation to applications for pension compensation orders on divorce or dissolution of civil partnership. In particular:—

- (a) it inserts rules 33.7(1)(n) and (o) to provide that where a party to a family action applies for a pension compensation sharing order to be made under section 8(1)(bab) of the Family Law (Scotland) Act 1985 (the “1985 Act”) or an order under section 12B(2) to be made under section 8(1)(bb) of the 1985 Act, intimation of the application is given to the Board of the Pension Protection Fund (paragraph 15(2)(b));
- (b) it inserts rule 33.51(3)(ba) to provide that an application for recall or variation of a capital sum order made under section 12B(4) of the 1985 Act is to be made by minute in the process of the action to which the application relates (paragraph 15(3));
- (c) similar rules regarding intimation of applications for a pension compensation sharing order or an order under section 12B(2) of the 1985 Act are inserted in rule 33A.7 in respect of civil partnership actions (paragraph 15(4));
- (d) corresponding provision is made in rule 33A.48 in respect of recall or variation of a capital sum order made in the context of civil partnership actions (paragraph 15(5));
- (e) Forms F12C and Form F12D are inserted in Appendix 1, in which intimation is to be made on the Board of the Pension Protection Fund in respect of family actions (paragraph 15(6)(a)); and
- (f) Forms CP12A and CP12B are inserted in Appendix 1, in which intimation is to be made on the Board of the Pension Protection Fund in respect of civil partnership actions (paragraph 15(6)(b)).

Paragraphs 16 and 17 amend the rules in respect of recall of decree in the Summary Cause Rules and the Small Claim Rules. In particular, it is provided that in the Summary Cause Rules in the case of decree including a decree for removing from heritable property to which section 216(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 applies, a minute for recall may be lodged at any time before the defender has been removed from the subjects or premises.

Paragraph 18 amends Form 17 in Appendix 1 of Schedule 1 to the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) so that a sheriff officer is required to complete a declaration in accordance with section 32(2)(c) of the Debt Arrangement and Attachment (Scotland) Act 2002.

Paragraph 19 amends Appendix 2 of the Schedule to the Act of Sederunt (Sheriff Court Bankruptcy Rules) 2008 to require that the debtor’s date of birth (where known) is included in the information to be contained in the Register of Insolvencies.

Paragraph 20 contains transitional provisions.