

**2005 No.189**

**SHERIFF COURT**

**Act of Sederunt (Ordinary Cause Rules) Amendment (Gender Recognition Act 2004) 2005**

*Made* - - - - - *24th March 2005*

*Coming into force* - - - - - *4th April 2005*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(a) 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 (Gender Recognition Act 2004) 2005, and shall come into force on 4th April 2005.

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

**Amendment of the Ordinary Cause Rules**

**2.**—(1) The Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(b) are amended in accordance with sub-paragraphs (2) and (3).

(2) In rule 33.1(2), after the definition of “contact order” insert—

““full gender recognition certificate” and “interim gender recognition certificate” mean the certificates issued as such under section 4 or 5 of the Gender Recognition Act 2004(c);

“Gender Recognition Panel” is to be construed in accordance with Schedule 1 to the Gender Recognition Act 2004;”.

(3) After rule 33.9, insert—

*“Productions in action of divorce on ground of issue of interim gender recognition certificate*

**33.9A.**—(1) This rule applies where, in an action of divorce, the ground on which decree of divorce may be granted is that an interim gender recognition certificate has, after the date of the marriage, been issued to either party to the marriage.

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(a) 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 the Child Support Act 1991 (c.48), sections 39(2) and 49.

(b) 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 566, 2003/25 and 26, 2004/197 and 350 and 2005/20.

(c) 2004 c.7.

(2) Unless the sheriff otherwise directs, a warrant for citation shall not be granted without there being produced with the initial writ—

- (a) where the pursuer is the subject of the interim gender recognition certificate, the interim gender recognition certificate or, failing that, a certified copy of the interim gender recognition certificate; or
- (b) where the pursuer is the spouse of the person who is the subject of the interim gender recognition certificate, a certified copy of the interim gender recognition certificate.

(3) For the purposes of this rule, a certified copy of an interim gender recognition certificate shall be a copy of that certificate sealed with the seal of the Gender Recognition Panels and certified to be a true copy by an officer authorised by the President of Gender Recognition Panels.

*Application for corrected gender recognition certificate*

**33.9B.** An application for a corrected gender recognition certificate under section 6 of the Gender Recognition Act 2004 by—

- (a) the person to whom a full gender recognition certificate has been issued; or
- (b) the Secretary of State,

shall be made by minute in the process of the action pursuant to which the full gender recognition certificate was issued.”.

*CULLEN OF WHITEKIRK*  
Lord President  
I.P.D.

Edinburgh  
24th March 2005

## **EXPLANATORY NOTE**

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

This Act of Sederunt further amends Schedule 1 to the Sheriff Courts (Scotland) Act 1907 (“the Ordinary Cause Rules”) and inserts new rules 33.9A and 33.9B.

New rule 33.9A provides that the pursuer, in an application for divorce on the ground that an interim gender recognition certificate has been issued to either party to the marriage, must produce the interim gender recognition certificate (or a certified copy thereof) together with the initial writ.

New rule 33.9B provides that an application for a corrected gender recognition certificate shall be made by minute in the process of the action in relation to which the gender recognition certificate was issued.

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Recognition Act 2004) 2005

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