

2009 No. 449

SHERIFF COURT

**Act of Sederunt (Child Care and Maintenance Rules)
Amendment (No.2) 2009**

Made - - - - *22nd December 2009*

Coming into force - - *1st January 2010*

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 section 48 of the Civil Jurisdiction and Judgments Act 1982(b), 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 (Child Care and Maintenance Rules) Amendment (No.2) 2009 and comes into force on 1st January 2010.

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

Amendment of the Child Care and Maintenance Rules

2.—(1) The Act of Sederunt (Child Care and Maintenance Rules) 1997(c) is amended in accordance with the following subparagraphs.

(2) In rule 5.38(1) (applications under section 5 of the 1982 Act) for—

- (a) “An application” substitute “Applications”;
- (b) “section 5” substitute “sections 5 or 5A”; and
- (c) “the Secretary of State” substitute “the Scottish Ministers”.

(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) (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.

(b) 1982 c.27. Section 48 was amended by the Civil Jurisdiction and Judgments Act 1991 (c.12), Schedule 2, paragraph 23 and by the Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/3929), Schedule 2, paragraphs 17 and 23.

(c) S.I. 1997/291, amended by S.S.I. 1998/2130, 2000/388, 2002/560, 2005/190, 2006/75, 2007/468, 2009/29 and 2009/284.

(3) The heading of rule 5.38 becomes “**Applications under sections 5 or 5A of the 1982 Act**”.

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

Edinburgh
22nd December 2009

EXPLANATORY NOTE

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

This Act of Sederunt makes changes to the Act of Sederunt (Child Care and Maintenance Rules) 1997 to take account of new section 5A being inserted into the Civil Jurisdiction and Judgments Act 1982 by virtue of the Civil Jurisdiction and Judgments Regulations 2009.

These changes arise in consequence of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, which was agreed by the European Community, the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark on 30th October 2007 (known as the Lugano Convention). The Lugano Convention was ratified by the Council of Ministers on 18th May 2009 and enters into force for the European Community and Norway on 1st January 2010.

© Crown Copyright 2009

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.

2009 No. 449

SHERIFF COURT

Act of Sederunt (Child Care and Maintenance Rules)
Amendment (No.2) 2009