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## 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.

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

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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.