

**2016 No. 242**

**COURT OF SESSION**

**SHERIFF COURT**

**Act of Sederunt (Rules of the Court of Session 1994 and Sheriff  
Court Rules Amendment) (No. 3) (Miscellaneous) 2016**

*Made* - - - - - *30th August 2016*

*Laid before the Scottish Parliament* *1st September 2016*

*Coming into force* - - - *3rd October 2016*

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(a), the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council with such modifications as it thinks appropriate.

The Court of Session therefore makes this Act of Sederunt under the powers conferred by sections 103(1) and 104(1) of the Courts Reform (Scotland) Act 2014(b) and all other powers enabling it to do so.

**Citation and commencement, etc.**

**1.**—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No. 3) (Miscellaneous) 2016.

(2) It comes into force on 3rd October 2016.

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

**Amendment of the Form of Charge for Payment**

**2.**—(1) The Act of Sederunt (Form of charge for payment) 1988(c) is amended in accordance with this paragraph.

(2) In the schedule, in the Form of Charge for Payment of Money(d), for “You are also liable to be sequestrated (declared bankrupt).”, substitute “If you have total debts amounting to £3,000 or more, you are also liable to be sequestrated (declared bankrupt).”.

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(a) 2013 asp 3. Section 4 was amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 31(3) and the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2), schedule 1, paragraph 1(4).

(b) 2014 asp 18.

(c) S.I. 1988/2059, last amended by S.S.I. 2002/560.

(d) The Form of Charge for Payment of Money was last amended by S.S.I. 2002/560.

### **Amendment of the Ordinary Cause Rules 1993**

3.—(1) The Ordinary Cause Rules 1993(a) are amended in accordance with this paragraph.

(2) In rule 33.7(1)(h) (warrants and forms for intimation to a child), after “notice of intimation in Form F9 shall be intimated to that child”, insert “but a copy of the initial writ must not be sent to the child”.

(3) In rule 33A.7(1)(f)(b) (warrants and forms for intimation to a child), after “notice of intimation in Form CP7 shall be intimated to that child”, insert “but a copy of the initial writ must not be sent to the child”.

### **Amendment of Child Support Rules**

4.—(1) The Act of Sederunt (Child Support Rules) 1993(c) is amended in accordance with this paragraph.

(2) In rule 2(1) (application for a liability order)(d), after “Form 2–A”, insert “which may be signed by an official authorised for that purpose by the Secretary of State”.

(3) In the schedule(e), in Form 2-A (form of summary application for a liability order under section 33 of the Child Support Act 1991), in the signing docquet, for “(insert business address of solicitor)” substitute—

“[or [C.D.], Authorised Official]

(insert business address of solicitor or authorised official)”.

### **Amendment of the Rules of the Court of Session 1994**

5.—(1) The Rules of the Court of Session 1994(f) are amended in accordance with this paragraph.

(2) In rule 62.78 (enforcement in another Member State of Court of Session judgments etc.)(g)—

(a) in the cross-heading, before “*Enforcement*”, insert “*Recognition and*”; and

(b) in paragraph (2), for “The”, substitute “If the application is for a certificate concerning a judgment on parental responsibility, the”.

(3) In the Appendix, in Form 16.15-G (Form of charge for payment of money)—

(a) for “pounding and sale”, substitute “attachment and auction”; and

(b) for “You are also liable to be sequestrated (declared bankrupt).”, substitute “If you have total debts amounting to £3,000 or more, you are also liable to be sequestrated (declared bankrupt).”.

### **Amendment of the Act of Sederunt (Jurisdiction, Recognition and Enforcement of Judgments in Matrimonial Matters and Matters of Parental Responsibility Rules) 2006**

6.—(1) The Act of Sederunt (Jurisdiction, Recognition and Enforcement of Judgments in Matrimonial Matters and Matters of Parental Responsibility Rules) 2006(h) is amended in accordance with this paragraph.

(2) In rule 10 (enforcement in another Member State of sheriff court judgments etc.)—

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(a) The Ordinary Cause Rules 1993 are in schedule 1 of the Sheriff Courts (Scotland) Act 1907 (c.51). Schedule 1 was substituted by S.I. 1993/1956 and was last amended by S.S.I. 2016/229.

(b) Rule 33A.7(1)(f) was inserted by S.S.I. 2005/638.

(c) S.I. 1993/920, last amended by S.S.I. 2015/351.

(d) Rule 2 was last amended by S.S.I. 2015/351.

(e) The schedule was substituted by S.S.I. 2015/351.

(f) The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443, last amended by S.S.I. 2016/229).

(g) Rule 62.78 was inserted by S.S.I. 2005/135.

(h) S.S.I. 2006/397.

- (a) in the cross-heading, before “**Enforcement**”, insert “**Recognition and**”; and
- (b) in paragraph (2), for “The”, substitute “If the application is for a certificate concerning a judgment on parental responsibility, the”.

*CJM SUTHERLAND*  
Lord President  
I.P.D.

Edinburgh  
30th August 2016

## EXPLANATORY NOTE

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

This Act of Sederunt makes miscellaneous amendments to the Act of Sederunt (Form of charge for payment) 1988, the Ordinary Cause Rules 1993, the Act of Sederunt (Child Support Rules) 1993, the Rules of the Court of Session 1994 and the Act of Sederunt (Jurisdiction, Recognition and Enforcement of Judgments in Matrimonial Matters and Matters of Parental Responsibility Rules) 2006.

Paragraph 2 amends the form of charge for payment prescribed in the Act of Sederunt (Form of charge for payment) 1988. Paragraph 5(3) amends the equivalent form in the Rules of the Court of Session 1994 (Form 16.15–G). These amendments make it clear to a debtor that he or she will only be liable to be sequestrated if his or her debts amount to £3,000 or more.

Paragraph 3 amends rules 33.7(1)(h) and 33A.7(1)(f) of the Ordinary Cause Rules 1993 to make it clear that when a family action or civil partnership action is intimated to a child who is not a party, a copy of the initial writ must not be sent to the child. This change achieves consistency with rule 49.8(7) of the Rules of the Court of Session 1994.

Paragraph 4 amends the Act of Sederunt (Child Support Rules) 1993 to provide that a summary application by the Secretary of State for Work and Pensions for a liability order under section 33 of the Child Support Act 1991 can be signed by an official authorised for that purpose by the Secretary of State.

Paragraph 5 amends the Rules of the Court of Session 1994. Rule 62.78(2) is amended to clarify that the requirement to produce an execution of service of the judgment only applies where the applicant is seeking enforcement of a judgment on parental responsibility. Paragraph 6 makes equivalent amendments to the rules that apply to the recognition and enforcement of sheriff court judgments.

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