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## EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of the Court of Session 1994 and Act of Sederunt (Sheriff Court Company Insolvency Rules) 1986 in consequence of amendments made by:

- the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) (Amendment) Rules 2021 (S.I. 2021/1026) (“the 2021 Rules”) to the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018 (S.I. 2018/1082) (“the CVAA Rules”); and
- the Corporate Insolvency and Governance Act 2020 (Coronavirus) (Amendment of Schedule 10) Regulations 2021 (S.I. 2021/1029) (“the 2021 Regulations”) to substitute a new schedule 10 of the Corporate Insolvency and Governance Act 2020 (c.12) (“the 2020 Act”).

The 2021 Rules provide for permanent moratorium rules to replace those enacted on a temporary basis by section 3 and Part 4 of schedule 4 of the 2020 Act.

Aside from paragraphs 2(5), 2(6), 3(4) and (5), this Act of Sederunt comes into force on 1st October 2021. Paragraphs 2(5), 2(6), 3(4) and (5) come into force on 29th September 2021 because the 2021 Regulations substitute the new schedule 10 of the 2020 Act from that earlier date.

Paragraph 2(2) of this Act of Sederunt makes provision for the new court remedy created in new rule 5.22A of the CVAA Rules. Paragraph 2(3) substitutes a new rule 74.3C into the Rules of the Court of Session 1994 (“RCS”) to reflect new procedural requirements created by the 2021 Rules and to make those steps clearer. New rule 74.3CA of the RCS make provision for minimum mandatory service of listed applications to the Court. Paragraph 2(4) makes provision to adjust a statutory cross-reference in the RCS in consequence of the creation of permanent moratorium rules by the 2021 Rules. Equivalent provision is made in paragraph 3 in respect of the sheriff court.

Paragraphs 2(5) and 3(4) make provision about how applications to disapply restrictions on winding-up petitions are to be made. Provision is required as a consequence of the substitution of a new schedule 10 to the 2020 Act by the 2021 Regulations. As a result of the repeal of paragraph 20 of schedule 10 by the 2021 Regulations, paragraphs 2(6) and 3(5) of this Act of Sederunt remove provision from the court rules about how applications under paragraph 20 are made.

Consequential revocations are made in paragraph 4 to remove spent court rules. Saving provision is made at paragraph 5 so that the court rules in place before the coming into force date of this Act of Sederunt will continue to govern pre-existing moratoriums and pre-existing applications to the court for them.