
STATUTORY INSTRUMENTS

1993 No. 919

Act of Sederunt (Child Support Act 1991) (Amendment of Ordinary Cause and Summary Cause Rules) 1993

Amendment of Ordinary Cause Rules

2.—(1) The Ordinary Cause Rules of the sheriff court⁽¹⁾ shall be amended in accordance with the following paragraph.

(2) After rule 149 of the Ordinary Cause Rules (Applications for further awards of damages) insert the following rules:—

“CHILD SUPPORT ACT 1991

Interpretation

150. In this Part of the Rules—

“the Act of 1991” means the Child Support Act 1991⁽²⁾;

“child” has the meaning assigned in section 55 of the Act of 1991; and

“crave relating to aliment” means—

- (a) for the purposes of rule 151(1), a crave for decree of aliment in relation to a child or for recall or variation of such a decree; and
- (b) for the purposes of rule 151(3), a crave for decree of aliment in relation to a child or for the recall or variation of such a decree or for the variation or termination of an agreement on aliment in relation to a child; and

“maintenance assessment” has the meaning assigned in section 55 of the Act of 1991.

Initial writs etc.

151.—(1) An initial writ, minute or counterclaim which contains a crave relating to aliment, and to which section 8(6), (7), (8) or (10) of the Act of 1991 (top up maintenance orders) applies shall—

- (a) include an article of condescence stating, where appropriate—
 - (i) that a maintenance assessment under section 11 of the Act of 1991 (maintenance assessments); is in force;
 - (ii) the date of the maintenance assessment;
 - (iii) the amount and frequency of periodical payments of child support maintenance fixed by the maintenance assessment; and

(1) 1907 c. 51; First Schedule substituted by S.I. 1983/747; relevant amendments are contained in S.I. 1984/255, 1986/513, 1230, 1946 and 1966, 1986/614 and 1978, 1990/661 and 2238.

(2) 1991 c. 48.

- (iv) the grounds on which the sheriff retains jurisdiction under section 8(6), (7), (8) or (10) of the Act of 1991; and
 - (b) unless the sheriff on cause shown otherwise directs, be accompanied by any document issued by the Secretary of State to the party intimating the making of the maintenance assessment referred to in paragraph (1)(a) above.
- (2) An initial writ, minute or counterclaim which contains a crave relating to aliment, and to which section 8(6), (7), (8) or (10) of the Act of 1991 does not apply, shall include an article of condescendence stating either—
- (a) that the habitual residence of the absent parent, person with care or qualifying child, within the meaning of section 3 of the Act of 1991, is outwith the United Kingdom; or
 - (b) that the child is not a child within the meaning of section 55 of the Act of 1991.
- (3) In an action for declarator of non-parentage or illegitimacy—
- (a) the initial writ shall include an article of condescendence stating whether the pursuer previously has been alleged to be the parent in an application for a maintenance assessment under sections 4, 6 or 7 of the Act of 1991 (applications for maintenance assessment); and
 - (b) where an allegation of paternity has been made against the pursuer, the Secretary of State shall be named as a defender in the action and rule 152 shall apply to the award of expenses in any such case.
- (4) An initial writ, minute or counterclaim which involves parties in respect of whom a decision has been made in any application, review or appeal under the Act of 1991 relating to any child of those parties, shall—
- (a) include an article of condescendence stating that such a decision has been made and giving details of that decision; and
 - (b) unless the sheriff on cause shown otherwise directs, be accompanied by any document issued by the Secretary of State to the parties intimating that decision.

Restriction of expenses

152. Where the Secretary of State is named as a defender in an action for declarator of non-parentage or illegitimacy to which rule 151(3) applies, and the Secretary of State does not defend the action, no expenses shall be awarded against the Secretary of State.

Effect of maintenance assessments

153. The sheriff clerk shall, on receiving notification that a maintenance assessment has been made, cancelled or has ceased to have effect so as to affect an order of a kind prescribed for the purposes of section 10 of the Act of 1991, endorse on the interlocutor sheet relating to that order a certificate, in either Form CSA 1 or CSA 2, as set out in the Appendix to this Schedule.

Effect of maintenance assessments on extracts relating to aliment

154.—(1) Where an order relating to aliment is affected by a maintenance assessment, any extract of that order issued by the sheriff clerk shall be endorsed with the following certificate:—

“A maintenance assessment having been made under the Child Support Act 1991 on (*insert date*), this order, in so far as it relates to the making or securing of periodical payments to or for the benefit of (*insert name(s) of child/children*), ceases to have effect from (*insert date 2 days after the date on which the maintenance assessment was made*).”.

(2) Where an order relating to aliment has ceased to have effect on the making of a maintenance assessment, and that maintenance assessment is later cancelled or ceases to have effect, any extract of that order issued by the sheriff clerk shall be endorsed also with the following certificate:—

“The jurisdiction of the child support officer under the Child Support Act 1991 having terminated on (*insert date*), this order, in so far as it relates to (*insert name(s) of child/ children*), again shall have effect as of (*insert date of termination of child support officer’s jurisdiction*).”.”