

SHERIFF COURT RULES COUNCIL & COMMITTEES BUSINESS PLAN 2011 – 2012

Aims of Council:

- ♦ To review civil practice and procedure within the sheriff court
- ♦ To consider the need for rules of court flowing from new and amended legislation and to instruct subordinate legislation as required
- ♦ To support the Council IT Committee established to consider wider use of information technology
- ♦ To support the Council Ordinary Cause Committee in the development of Ordinary Cause procedure
- ♦ To support the Lord President's Advisory Group established to consider the need for new and or amended rules of court flowing from the legislative changes in the Bankruptcy and Diligence (Scotland) Act 2007
- ♦ To support the Council Working Group established to consider the terms of the Civil Courts Review Report and make proposals for changes to the rules to the Council
- ♦ To support the Lay Representation Joint Working Group established to make recommendations on how the Court of Session should exercise its powers under sections 126 and 127 of the Legal Services (Scotland) Act 2010

Objectives	Progress to Date
<p><u>Full Council</u></p> <p>To instruct the necessary subordinate legislation for the legislation under consideration</p>	
Bankruptcy and Diligence (Scotland) Act 2007	<ul style="list-style-type: none"> ▫ See Lord President's Advisory Group on Diligence
Scottish Civil Courts Review	<ul style="list-style-type: none"> ♦ See working group
Lay Representation Joint Working Group	<ul style="list-style-type: none"> ♦ See working group
Pensions Act 2008	<ul style="list-style-type: none"> ▫ provisions contained in miscellaneous instrument made on 10 March 2011 and came into force on 6 April 2011

Objectives	Progress to Date
<p>Miscellaneous Act (1) of 2011 included:</p> <ul style="list-style-type: none"> ▫ Amendments to Rule 24.1 of the Summary Cause Rules 2002 ▫ Amendments to applications for Time Order Forms ▫ Amendment to Sheriff Court Bankruptcy Rules 2008 ▫ Amendments to Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules on service and evidence conventions ▫ Amendments to Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules on rules on service of documents ▫ Amendment to Report of Auction Form 17 	<ul style="list-style-type: none"> ▫ Provisions all contained in miscellaneous instrument made on 10 March 2011 and came into force on 4 April 2011
<p>Miscellaneous Act (2) of 2011 to include:</p> <ul style="list-style-type: none"> ▫ Rules on service of sequestration petitions ▫ Amendments to the Ordinary Cause/Summary Cause Rules as a consequence of the Damages (Scotland) Act 2011 ▫ Changes to rules as a consequence of the Domestic Abuse (Scotland) Act 2011 	<ul style="list-style-type: none"> ▫ Provisions to form part of the next miscellaneous instrument
<p>EC Reasoned Opinion – Protective Costs Orders</p>	<ul style="list-style-type: none"> ◦ Under scrutiny by Council
<p>1996 Hague Convention</p>	<ul style="list-style-type: none"> ▫ SI made on 10 March 2011
<p>Council Regulation EC No. 4/2009</p>	<ul style="list-style-type: none"> ◦ Under scrutiny by Council

Objectives	Progress to Date
Judicial Expenses	<ul style="list-style-type: none"> ▫ Under scrutiny by Council
Administration of Justice (Scotland) Act 1972	<ul style="list-style-type: none"> ▫ Under scrutiny by Council
Damages (Scotland) Act 2011	<ul style="list-style-type: none"> ▫ Under scrutiny by Council
Domestic Abuse (Scotland) Act 2011	<ul style="list-style-type: none"> ▫ Under scrutiny by Council
Forced Marriage etc. (Protection and Jurisdiction)(Scotland) Act 2011	<ul style="list-style-type: none"> ▫ Under scrutiny by Council
Family Law (Scotland) Act 1985 – Sec 14(2) Orders	<ul style="list-style-type: none"> ▫ Under scrutiny by Council
Forth Crossing Act 2011	<ul style="list-style-type: none"> ▫ Under scrutiny by Council
<p>IT Committee</p> <ul style="list-style-type: none"> ♦ To progress the Council's aim to extend the use of IT in Civil Courts in the conjoined Court of Session and SCRC IT Committee ♦ To report this Committee's findings and recommendations and progress made to the Sheriff Court Rules Council quarterly 	<ul style="list-style-type: none"> ♦ Scottish Court Service developing the specification and selecting of a contractor for electronic transmission of civil documents in close consultation with the Joint Committee ♦ Council considered Committee recommendations for rules ♦ Council agreed in principle to the amendment of the Summary Cause and Small Claims Rules 2002 to facilitate the operation of the "virtual court" ♦ Draft rules recommended to the Council

Objectives	Progress to Date
	<ul style="list-style-type: none"> ♦ Draft rules to be revisited once SCS is in a position to proceed with the procurement of a new system to enable the electronic transmission and handling of small claims and summary cause business
<p>Ordinary Cause Committee</p> <ul style="list-style-type: none"> ♦ To consider draft rules for personal injury actions in the sheriff court ♦ To consider draft rules for ADR in the sheriff court ♦ To consider various matters as may be remitted by the Council 	<ul style="list-style-type: none"> ♦ New ordinary cause personal injury rules came into force on 2/11/09. Amendments to the rules under scrutiny. ♦ Draft rules for summary cause personal injury actions under scrutiny ♦ Draft rules for ADR recommended to Council ♦ Draft rules deferred until such time as the Civil Courts Review recommendations are fully considered by both the Court of Session and Sheriff Court Rules Councils Working Groups
<p>Lord President's Advisory Group on Diligence</p> <ul style="list-style-type: none"> ♦ In relation to rules of court, to consider the implications flowing from the proposed legislative changes contained in the Bankruptcy & Diligence (Scotland) Act 2007 ♦ Report back to the Council with proposed amendments to existing rules of court and where needed, new rules 	<ul style="list-style-type: none"> ♦ Secretariat working closely with Lord President's Advisory Group on recommendations for diligence reform. ♦ Arrestment in execution provisions commenced 1 April 2008 ♦ Time to pay directions/time order

Objectives	Progress to Date
of court.	provisions commenced 18 August 2009 <ul style="list-style-type: none"> ♦ Money attachment provisions commenced 23 November 2009 ♦ Removing provisions under scrutiny ♦ Admiralty provisions under scrutiny
<p>Scottish Civil Courts Review Report Working Group</p> <ul style="list-style-type: none"> ▫ To consider the recommendations of the Civil Courts Review Report and make proposals for rules to the Council 	<ul style="list-style-type: none"> ▫ Working Group first met on 15 March 2010 and agreed recommendations for what changes to rules could be made at this stage ▫ The Council agreed with the recommendations and referred the matter back to the Working Group to proceed accordingly ▫ Working Group met again on 30 June 2010 and agreed that certain changes to rules be instructed by the secretariat for consideration by the Council at the next appropriate meeting ▫ Draft rules considered by the Council on 5th November 2010 and remitted to the Working Group for detailed consideration
<p>Lay Representation Joint Working Group</p> <ul style="list-style-type: none"> ♦ To make recommendations on how the Court of Session should exercise its powers under sections 126 and 127 of the Legal Services (Scotland) Act 2010 	<ul style="list-style-type: none"> ▫ Joint Working Group representing the interests of both Rules Councils met on 16 May 2011