

## SHERIFF COURT RULES COUNCIL & COMMITTEES BUSINESS PLAN 2012 – 2013

### 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
- ♦ To support the Council Working Group established to consider what rules of procedure, if any, might usefully be put in place to expedite proceedings in cases involving the welfare of children

Objectives	Progress to Date
<p><b><u>Full Council</u></b></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"> <li>▫ See Lord President’s Advisory Group on Diligence</li> </ul>
Scottish Civil Courts Review	<ul style="list-style-type: none"> <li>♦ See working group</li> </ul>
Lay Representation Joint Working Group	<ul style="list-style-type: none"> <li>♦ See working group</li> </ul>
Child Welfare Working Group	<ul style="list-style-type: none"> <li>♦ See working group</li> </ul>

Objectives	Progress to Date
<p>Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) (No.2) 2011 included:</p> <ul style="list-style-type: none"> <li>▫ New rules on service of sequestration petitions</li> <li>▫ Amendments to the ordinary cause/summary cause rules as a consequence of the Damages (Scotland) Act 2011</li> <li>▫ New ordinary cause rules as a consequence of the Domestic Abuse (Scotland) Act 2011</li> <li>▫ A provision which enables the Lord President to determine the remuneration of an assessor appointed by a sheriff</li> </ul>	<ul style="list-style-type: none"> <li>▫ Provisions contained in a Miscellaneous Act of Sederunt made on 28 June 2011. Certain provisions came into force on 7 July 2011 and other provisions on 20 July 2011</li> </ul>
<p>Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) (No.3) 2011 included:</p> <ul style="list-style-type: none"> <li>▫ New /amended ordinary cause rules for actions of division and sale and orders for division and/or sale of property</li> <li>▫ New ordinary and summary application rules on reporting restrictions under the Contempt of Court Act 1981</li> <li>▫ Amendments to the ordinary cause personal injuries rules</li> <li>▫ Amendments to the summary application rules as a consequence of the Administration of Justice (Scotland) Act 1972</li> <li>▫ New summary application rules as a consequence of the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011</li> <li>▫ Amendments to the Child Care and Maintenance Rules 1997 as a consequence of Council Regulation (EC) No. 4/2009</li> </ul>	<ul style="list-style-type: none"> <li>▫ Provisions contained in a Miscellaneous Act of Sederunt made on 2 November 2011 and which came into force on 28 November 2011</li> </ul>

Objectives	Progress to Date
<p>Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) 2012 included:</p> <ul style="list-style-type: none"> <li>▫ Amendments to the summary cause rules as a consequence of the Housing (Scotland) Act 2001</li> <li>▫ Incidental amendments to the ordinary cause rules as a consequence of the Evidence in Civil Partnership and Divorce Actions (Scotland) Order 2012</li> <li>▫ Amendment to ordinary cause Form F22</li> <li>▫ New Admiralty rules</li> <li>▫ Amendments to the ordinary cause rules on extempore/reserved judgments; summary disposal and financial provision in family actions</li> <li>▫ Amendments to the ordinary cause rules to include claims under sections 28 and 29 of the Family Law (Scotland) Act 1986</li> </ul>	
<p>Next Miscellaneous Act of Sederunt to include:</p> <ul style="list-style-type: none"> <li>▫ New rules on visual recordings of children</li> <li>▫ Amendments to the ordinary cause, summary cause and small claim rules as a consequence of the Treaty of Lisbon (Changes to Terminology) Order 2012</li> <li>▫ New summary application rules as a consequence of the Protection of Freedoms Act 2012</li> <li>▫ Amendments to the Adults with Incapacity rules</li> <li>▫ Amendments to the ordinary cause personal injuries rules relating to commission &amp; diligence</li> <li>▫ Amendments to the Enforcement of Securities over heritable property rules</li> </ul>	

Objectives	Progress to Date
EC Reasoned Opinion – Protective Expenses Orders	<ul style="list-style-type: none"> <li>◦ Under scrutiny by Council</li> </ul>
Protection of Freedoms Act 2012	<ul style="list-style-type: none"> <li>◦ Under scrutiny by Council</li> </ul>
Policing and Crime Act 2009	<ul style="list-style-type: none"> <li>◦ Under scrutiny by Council</li> </ul>
Judicial Expenses	<ul style="list-style-type: none"> <li>▫ Act of Sederunt made on 16 November 2011 and came into force on 1 January 2012</li> </ul>
Forth Crossing Act 2011	<ul style="list-style-type: none"> <li>▫ Council on 6 May 2011 agreed that no new rules were required</li> </ul>
<p><b>IT Committee</b></p> <ul style="list-style-type: none"> <li>♦ 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</li> <li>♦ To report this Committee's findings and recommendations and progress made to the Sheriff Court Rules Council quarterly</li> </ul>	<ul style="list-style-type: none"> <li>♦ Scottish Court Service developing the specification and selecting of a contractor for electronic transmission of civil documents in close consultation with the Joint Committee</li> <li>♦ Council considered Committee recommendations for rules</li> <li>♦ Council agreed in principle to the amendment of the Summary Cause and Small Claims Rules 2002 to facilitate the operation of the "virtual court"</li> <li>♦ Draft rules recommended to the Council</li> <li>♦ 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</li> </ul>

Objectives	Progress to Date
<p><b>Ordinary Cause Committee</b></p> <ul style="list-style-type: none"> <li>♦ To consider draft rules for personal injury actions in the sheriff court</li>   <li>♦ To consider draft rules for ADR in the sheriff court</li>   <li>♦ To consider various matters as may be remitted by the Council</li> </ul>	<ul style="list-style-type: none"> <li>♦ New ordinary cause personal injury rules commenced on 2/11/09. Amendments to the rules under scrutiny</li>   <li>♦ New summary cause personal injury rules made and due to commence on 1 September 2012</li>   <li>♦ Draft rules for ADR recommended to Council</li>   <li>♦ 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</li> </ul>
<p><b>Lord President's Advisory Group on Diligence</b></p> <ul style="list-style-type: none"> <li>♦ In relation to rules of court, to consider the implications flowing from the proposed legislative changes contained in the Bankruptcy &amp; Diligence (Scotland) Act 2007</li>   <li>♦ Report back to the Council with proposed amendments to existing rules of court and where needed, new rules of court.</li> </ul>	<ul style="list-style-type: none"> <li>♦ Secretariat working closely with Lord President's Advisory Group on recommendations for diligence reform.</li>   <li>♦ Interim diligence provisions commenced 1 April 2008</li>   <li>♦ Time to pay directions/time order provisions commenced 18 August 2009</li>   <li>♦ Money attachment provisions commenced 23 November 2009</li>   <li>♦ Removing provisions cleared by Council on 3 February 2012</li> </ul>

Objectives	Progress to Date
	<ul style="list-style-type: none"> <li>♦ Admiralty provisions made and due to commence on 1 August 2012</li> </ul>
<p><b>Scottish Civil Courts Review Report Working Group</b></p> <ul style="list-style-type: none"> <li>▫ To consider the recommendations of the Civil Courts Review Report and make proposals for rules to the Council</li> </ul>	<ul style="list-style-type: none"> <li>▫ Working Group first met on 15 March 2010 and agreed recommendations for what changes to rules could be made at this stage</li> <li>▫ The Council agreed with the recommendations and referred the matter back to the Working Group to proceed accordingly</li> <li>▫ 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</li> <li>▫ Draft rules considered by the Council on 5<sup>th</sup> November 2010 and remitted to the Working Group for detailed consideration</li> <li>▫ Working group met again on 2 September 2011 and 19 January 2012</li> <li>▫ Provisions on reserved/extempore judgments, summary disposal and financial provision in family actions made and due to commence on 1 August 2012</li> </ul>
<p><b>Lay Representation Joint Working Group</b></p> <ul style="list-style-type: none"> <li>♦ 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</li> </ul>	<ul style="list-style-type: none"> <li>▫ Joint Working Group representing the interests of both Rules Councils met on 16 May 2011 and 26 September 2011</li> <li>▫ Draft rules currently under scrutiny</li> </ul>

Objectives	Progress to Date
<p><b>Child Welfare Working Group</b></p> <ul style="list-style-type: none"> <li>♦ To consider what rules of procedure, if any, might usefully be put in place to expedite proceedings in cases involving the welfare of children and instruct the preparation of draft rules for consideration by the Council in due course</li> </ul>	<ul style="list-style-type: none"> <li>▫ Working group first met on 7 October 2011</li> <li>▫ Has since met on 19 January, 21 February and 23 March 2012, primarily to consider rules required as a consequence of the Children's Hearings (Scotland) Act 2011</li> <li>▫ Draft rules currently under scrutiny</li> </ul>