SCOTTISH STATUTORY INSTRUMENTS

2009 No. 402

SHERIFF COURT

Act of Sederunt (Amendment of the Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) 2009) 2009

Made - - - -	*12th November 2009*
Coming into force - -	*30th November 2009*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(**a**) and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the said Act of 1971, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Amendment of the Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) 2009) 2009 and comes into force on 30th November 2009.

(2) This Act of Sederunt is to be inserted in the Books of Sederunt.

Actions relating to regulated agreements

2.—(1) The Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) 2009(**b**) is amended in accordance with the following subparagraphs.

(2) For paragraph 2(2) (ordinary cause rules) substitute—

"(2) After rule 3.2 (actions relating to heritable property) insert—

"Actions relating to regulated agreements

3.2A. In an action which relates to a regulated agreement within the meaning given by section 189(1) of the Consumer Credit Act 1974(**c**) the initial writ shall include an averment that such an agreement exists and details of that agreement.".".

(3) For paragraph 3(2) (summary application rules) substitute—

"(2) In rule 2.4 (the initial writ)(**d**), after paragraph (4) insert—

(**a**) 1971 c.58. Section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12; the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4); the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2); the Adults with Incapacity (Scotland) Act 2000 (asp 4) (the "2000 asp"), schedule 5, paragraph 13; the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43; the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2); the Consumer Credit Act 2006 (c.14), section 16(4); and the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (the "2007 asp"), section 33. Section 32 is amended prospectively by the 2007 asp, schedule 5, paragraph 10. Section 32 was extended by the Debtors (Scotland) Act 1987 (c.18), section 97; the Child Support Act 1991 (c.48), sections 39(2) and 49; and by section 2(4) of the 2000 asp.

(**b**) S.S.I. 2009/294.

(**c**) 1974 c.39.

(**d**) Rule 2.4 was amended by S.S.I. 2004/197.

"(4A) In an action which relates to a regulated agreement within the meaning given by section 189(1) of the Consumer Credit Act 1974 the initial writ shall include an averment that such an agreement exists and details of the agreement.".".

(4) For paragraph 4(2) (summary cause rules) substitute—

"(2) After rule 4.2 (statement of claim) insert—

"Actions relating to regulated agreements

4.2A. In an action which relates to a regulated agreement within the meaning given by section 189(1) of the Consumer Credit Act 1974 the statement of claim shall include an averment that such an agreement exists and details of the agreement.".".

(5) For paragraph 5(2) (small claim rules) substitute—

"(2) After rule 4.2 (statement of claim) insert—

"Actions relating to regulated agreements

4.2A. In an action which relates to a regulated agreement within the meaning given by section 189(1) of the Consumer Credit Act 1974 the statement of claim shall include an averment that such an agreement exists and details of the agreement.".".

A.C. HAMILTON
Lord President
I.P.D.

Edinburgh
12th November 2009

EXPLANATORY NOTE

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

The Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) 2009 includes provisions amending the four principal sets of sheriff court rules so as to include a requirement that in proceedings relating to a regulated agreement within the meaning of section 189(1) of the Consumer Credit Act 1974, the pursuer requires to lodge a copy of the agreement when presenting the initial writ or summons.

Those provisions were to come into effect on 1 December 2009. This Act of Sederunt amends the aforementioned Act of Sederunt before it comes into force, with the effect that the said requirement is no longer part of that Act of Sederunt when it comes into force.

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