POLICY NOTE

ACT OF SEDERUNT (RULES OF THE COURT OF SESSION 1994 AND ORDINARY CAUSE RULES 1993 AMENDMENT) (ATTENDANCE AT HEARINGS) 2023

SSI 2023/168

Background

1. As part of the Scottish response to the Covid 19 pandemic, the majority of civil court hearings proceeding since lockdown in March 2020 have taken place by electronic means. That reflected a pragmatic need for the courts to continue to operate whilst managing the footfall within court buildings and ensuring that business was conducted in a safe environment in accordance with public health guidance. The practice has continued in both the Court of Session and the sheriff courts, supported by the Coronavirus (Recovery and Reform) (Scotland) Act 2022 ("the 2022 Act").

2. During 2021, the Scottish Civil Justice Council consulted on draft proposals to replace the provisions made within the 2022 Act. This policy note should be read in conjunction with the key outputs from that consultation process:
    - Consultation Document;
    - Business and Regulatory Impact Assessment;
    - Equality Impact Assessment;
    - Analysis of Responses; and
    - SCJC Response to Consultation

3. The reason for developing new rules now is:
    - To make permanent the innovative approach which delivers many benefits for court users;
    - To ensure consistency of approach across the courts, so that civil court users have predictability on the most likely mode of attendance for their case; and
    - To have new rules in place in advance of the expiry of the 2022 Act.

Impact of the new rules

4. Substantive business is likely to be heard in person, with most procedural business attended virtually. Users can apply by motion if they wish to change the mode of attendance for their hearing at any time. Where required by the interests of justice, the court may need to take the final decision. The rules cover hybrid hearings, and will replace the current rules on live links.

Secretariat to the Scottish Civil Justice Council
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