SCOTTISH STATUTORY INSTRUMENTS

2007 No. 467

SHERIFF COURT

Act of Sederunt (Sheriff Court Bankruptcy Rules 1996) Amendment (Vulnerable Witnesses (Scotland) Act 2004) 2007

Made - - - -	*17th October 2007*
Coming into force - -	*1st November 2007*

The Lords of Council and Session, under and by virtue of the powers conferred upon them 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 that Act, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Bankruptcy Rules 1996) Amendment (Vulnerable Witnesses (Scotland) Act 2004) 2007 and shall come into force on 1st November 2007.

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

Amendment of the Sheriff Court Bankruptcy Rules

2.—(1) The Sheriff Court Bankruptcy Rules(**b**) shall be amended in accordance with the following sub-paragraph.

(2) After rule 19 (UNCITRAL Model Law on Cross-Border Insolvency)(**c**) there shall be inserted the following:–

"**Vulnerable witnesses**

20.—(1) At any hearing on an application under these rules the sheriff shall ascertain whether there is or is likely to be a vulnerable witness who is to give evidence at or for the purposes of any proof or hearing, consider any child witness notice or vulnerable witness application that has been lodged where no order has been made under section 12(1) or (6) of the Vulnerable Witnesses (Scotland) Act of 2004(**d**) and consider whether any order under section 12(1) of that Act requires to be made.

(2) Except where the sheriff otherwise directs, where a vulnerable witness is to give evidence at or for the purposes of any proof or hearing in an application under these rules,

(**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), schedule 5, paragraph 13 and the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43 and was extended by the Child Support Act 1991 (c.48), sections 39(2) and 49 and the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2).
(**b**) S.I. 1996/2507, amended by S.S.I. 2002/560, 2004/534 and 2006/197.
(**c**) Rule 19 was inserted by S.S.I. 2006/197.
(**d**) 2004 asp.3.

any application in relation to the vulnerable witness or special measure that may be ordered shall be dealt with in accordance with the rules within Chapter 45 of the Ordinary Cause Rules(**a**) in the First Schedule to the Sheriff Courts (Scotland) Act 1907(**b**).

(3) In this rule, "vulnerable witness" means a witness within the meaning of section 11(1) of the Vulnerable Witnesses (Scotland) Act 2004.".

A C Hamilton
Lord President
I.P.D.

Edinburgh
17th October 2007

(**a**) Chapter 45 was inserted by S.S.I. 2007/463.
(**b**) 1907 c.51.

EXPLANATORY NOTE

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

This Act of Sederunt amends the Sheriff Court Bankruptcy Rules 1996. It gives the sheriff the same powers to deal with applications in relation to vulnerable witnesses and the special measures that may be ordered in relation to vulnerable witnesses within the meaning of the Vulnerable Witnesses (Scotland) Act 2004 ("the 2004 Act") that are held by the sheriff under Chapter 45 of the Ordinary Cause Rules in the First Schedule to the Sheriff Courts (Scotland) Act 1907.

The amendment is consequent upon the 2004 Act being commenced where a person who is a vulnerable witness within the meaning of section 11(1) of the 2004 Act is giving or is to give evidence in or for the purposes of any civil proceedings.

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