

ITEM 2.3: ACTIVITY SINCE LAST MEETING

Purpose

- 1) To update members on activity which has taken place since the last SCJC meeting of 10 June 2013.

Discussion

- 2) This paper provides updates on the following topics:
 - (a) committee activity
 - (b) rules made since last meeting
 - (c) minutes of meetings and SCJC documents
 - (d) publications and other developments of interest
- 3) Subject to members' views, it is proposed to provide an activity update as a standing agenda item and also to provide members with an update on a similar basis between meetings (except in relation to the progress of action points).

Committee Activity

- 4) Members will wish to note that under agenda item 3, it is proposed to amend the SCJC Standing Orders to provide that committees will provide a report to the SCJC at each of its meetings. It is suggested that reports should be prepared with the approval of the relevant committee Chair and circulated to committee members prior to being submitted to the SCJC. Subject to the Council's consideration of this paper and Papers 3.2 and 3.2A, it is suggested that such reports should form part of the regular activity update.
- 5) The Family Law Committee report is provided at **Paper 2.3A** and the Personal Injury Committee Report is provided at **Paper 2.3B**.

Rules made since 10 June 2013

6) Seven instruments have been made since the SCJC's last meeting. This includes instruments which were not prepared by the SCJC. Details are as follows.

- A. Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules Amendment)(Policing and Crime Act 2009) 2013 (SSI 2013/241)** was made on 12 August 2013 and comes into force on 1 October 2013. It amends the Summary Application Rules in consequence of the amendments made to the Proceeds of Crime Act 2002 by the Policing and Crime Act 2009: applications for discharge or variation of a detention order are to be made by minute in process, and the form for appeals to the Court of Session under sections 127O and 131C of the Proceeds of Crime Act 2002 is prescribed. The instrument was considered and approved by the Council at its last meeting of 10 June 2013 and it was not subject to any amendments by the Court of Session before it was made.
- B. Act of Sederunt (Rules of the Court of Session Amendment No. 5) (Miscellaneous) 2013 (SSI 2013/238)** was made on 30 July 2013 and came into force on 19 August 2013. It amended the Rules of the Court of Session in consequence of the coming into force of Part 2 of the Justice and Security Act 2012. The instrument was considered and approved by the Council at its last meeting of 10 June 2013 and was subject to only minor amendments by the Court of Session before it was made. It deals with the steps of process that are to be copied, initiated and can be borrowed. The instrument also reinstated what is known as the "second appeals test". This latter change was considered and approved by the Court of Session Rules Council at its last meeting on 13 May 2013.
- C. Act of Sederunt (Registration Appeal Court) 2013 (SSI 2013/236)** was made on 23 July 2013 and came into force on 19 August 2013. It appoints three judges to hear registration appeals in respect of section 57 of the Representation of the People Act

1983. It revoked the Act of Sederunt (Registration Appeal Court) 2012, which previously made such provisions. As the instrument did not amend the Rules of the Court it was not considered by the Council.

- D. **Act of Sederunt (Lands Valuation Appeal Court) 2013 (SSI 2013/161)** was made on 22 May 2013 and came into force on 1 July 2013. It appointed the judges who may hear appeals under section 7 of the Valuation of Lands (Scotland) Amendment Act 1879. It revoked the Act of Sederunt (Lands Valuation Appeal Court) 2011 . As the instrument did not amend the Rules of Court it was not considered by the Council.
- E. **Act of Sederunt (Rules of the Court of Session Amendment No. 4)(Miscellaneous) 2013 (SSI 2013/162)** was made on 22 May 2013 and came into force on 4 June 2013 (except for paragraph 3). Paragraph 3 came into force on 24 June 2013. It amends the Rules of the Court of Session 1994 in respect of the coming into force of the Children’s Hearing (Scotland) Act 2011, the Energy Act 2011 and the Energy and Supply Company Administration (Scotland) Rules 2013. Further, the instrument inserts new rule 24.6 to make provision for applications to amend the name of a party in more than one cause, and new rule 76.37A in respect of a new application that can be made to the court under Part 5 of the Proceeds of Crime Act 2002. As the instrument was made prior to the establishment of the Council, it was not considered by the Council.
- F. **Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) (No. 3) 2013 (SSI 2013/171)** was made on 28 May 2013 and came into force on 7 June 2013 (paragraph 3) and on 25 June 2013 for all other purposes. It amends the Act of Sederunt (Sheriff Court Insolvency Rules) 1986 in consequence of the coming into force of the Energy Supply Company Administration (Scotland) Rules 2013. Further, the instrument amends the provisions for service of applications relating to guardianship orders under rule 3.16.4 of the Summary Application Rules. It also makes minor corrections to the Act of Sederunt (Sheriff Court Rules) (Miscellaneous

Amendments) 2013 and to the Summary Cause Rules. As the instrument was made on the day the Council was established, it was not considered by the Council.

- G. **Act of Sederunt (Children's Hearings (Scotland) Act 2011) (Miscellaneous Amendments) 2013 (SSI 2013/172)** was made on 28 May 2013 and came into force on 24 June 2013. It amends the Child Care and Maintenance Rules, the Ordinary Cause Rules and the Sheriff Court Adoption Rules 2009 in consequence of the coming into force of the Children's Hearings (Scotland) Act 2011. As the instrument was made on the day the Council was established, it was not considered by the Council.

Minutes of meetings and SCJC documents

- 7) Links to minutes of meetings of the SCS Board, SLAB Board, SCJC Committees and other documents produced under the auspices of the SCJC since 120 June are provided as follows:
- A. Personal Injury Committee [draft minutes](#) of meeting 2 September 2013: [link to follow]
 - B. Family Law Committee [draft minutes](#) of meeting 2 September 2013: [link to follow]
 - C. SCJC [evidence to Justice Committee on Tribunals \(Sc\) Bill](#), 2 August 2013
 - D. SCS Board [minutes](#) of meeting 24 June 2013
 - E. SCJC Family Law Committee [minutes](#) of meeting 24 June 2013
 - F. SLAB Board [minutes](#) of meeting 17 June 2013

Publications and other developments of interest

- A. Scottish Government Report on Courts Reform Bill Consultation. This will be available at <http://www.scotland.gov.uk/Publications/Recent> when published.
- B. Recommendations of Sheriff Principal Taylors [Review of Expenses and Funding of Civil Litigation in Scotland](#).

- C. Empowering Scotland: the Government's [Programme for Scotland](#) 2013-14 (a summary of the legislative programme for 2013/14 is provided at pp. 89-93) (2 September 2013)
- D. Judicial Factors: [Report by the Scottish Law Commission](#) (August 2013)
- E. Written [evidence to Justice Committee on Tribunals \(Sc\) Bill](#) (summer 2013)
- F. Judiciary of England and Wales, [Judicial Working Group Report on Litigants in Person](#) (July 2013)

Recommendation

8) Members are invited to:

- a) agree to an update on activity being a standing agenda item;**
- b) give views on the form and content of this update generally;**
- c) note the activity of the Family Law and Personal Injury Committees; and**
- d) note that, subject to members' views on the form and content, a similar update will be provided by email between meetings.**

**Scottish Civil Justice Council – Secretariat
September 2013**