

ITEM 5.4: REGISTERS OF SCOTLAND – REQUEST FOR COURT RULES**Purpose**

1. To ask members to note the three requests from Registers of Scotland for court rules [**Papers 5.4A-C**] and agree that draft rules be prepared for consideration at the SCJC 29 September meeting.

Discussion

2. **Paper 5.4A** requests court rules to allow for the civil courts to make an order granting warrant to place a caveat on a title sheet of a plot of land in accordance with section 67 of the Land Registration etc. (Scotland) Act 2012 and for the potential renewal, restriction or recall of the initial caveat. The purpose of the rules is to set out the requirements for caveats and the necessary information to be contained in the relative order made by the Court. The Commencement date for the relevant provisions in the 2012 Act is 8 December 2014.

3. **Paper 5.4B** requests, as a result of amendments made to the Conveyancing (Scotland) Act 1924 and the Law Reform (Miscellaneous Provisions) Scotland Act 1985 by the Land Registration etc. (Scotland) Act 2012, court rules which set out information required to be included in decrees of reduction of voidable deeds and orders for rectification of certain documents, where the decree/order itself will be registrable in the Land Register of Scotland. The purpose of this is to ensure that the decree or order made by the relevant court will be in a form that is capable of being accepted for registration by the Keeper of the Registers of Scotland. The Commencement date for the relevant provisions in the 2012 Act is 8 December 2014.

4. **Paper 5.4C** requests an amendment of the existing court rules to improve the procedure relating to diligence by inhibition on the dependence of a court action by either providing a prescribed form for an application for a recall, or specifying in the court rules that certain information is required in the application. This is because, since the insertion new Part 1A (sections 15A to 15N) into the Debtors (Scotland) Act 1987 through Part 6 of the Bankruptcy and Diligence etc. (Scotland) Act 2007, a high proportion of sheriff court recalls submitted to the Keeper for registration in the Register of Inhibitions and Adjudications omit key information. No set date for the

change has been requested but the Keeper would be grateful for an early amendment.

5. Subject to members' agreement, draft rules will be prepared for consideration at the 29 September SCJC meeting.

Recommendation

6. Members are invited to note the three requests from Registers of Scotland for court rules and agree that draft rules should be prepared for consideration at the SCJC 29 September meeting.

Scottish Civil Justice Council – Secretariat

June 2014