

**2003 No. 261**

**SHERIFF COURT**

**Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (Immigration and Asylum) 2003**

*Made*

*23rd May 2003*

*Coming into force in accordance with article 1(1)*

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 Sheriff Courts (Scotland) Act 1971, do hereby enact and declare:

**Citation and commencement**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (Immigration and Asylum) 2003, and shall come into force on the day after the day on which it is made.

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

**Amendment of the principal Rules**

2.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(b) shall be amended in accordance with the following paragraph.

(2) In Chapter 3 (rules on applications under specific statutes), after Part XX(c) insert—

“PART XXI

IMMIGRATION AND ASYLUM ACT 1999

**Interpretation**

**3.21.1** In this Part—

“the Act” means the Immigration and Asylum Act 1999(d); and

“an appeal” means an appeal to the sheriff under section 35A(1) or section 40B(1) of the Act(e).

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(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.

(b) S.I. 1999/929; amended by S.S.I. 2000/148 and 387, 2001/142, 2002/7, 129, 130, 146 and 563, and 2003/27 and 98.

(c) Part XX was inserted by S.S.I. 2003/27.

(d) 1999 c.33.

(e) Sections 35A and 40B of the Act were inserted respectively by the Nationality, Immigration and Asylum Act 2002 (c.41), (“the 2002 Act”), Schedule 8, paragraphs 8 and 13.

## Appeals

**3.21.2**—(1) A person making an appeal against a decision by the Secretary of State to impose a penalty under section 32 or a charge under section 40 of the Act must, subject to paragraph (2), bring an appeal within 21 days after receiving the penalty notice or charge notice.

(2) Where the appellant has given notice of objection to the Secretary of State under section 35(4) or section 40A(3)(a) of the Act within the time prescribed for doing so, he must bring an appeal within 21 days after receiving notice of the Secretary of State's decision under section 35(7) or section 40A(6) respectively of the Act in response to the notice of objection.”.

*W DOUGLAS CULLEN*  
Lord President  
I.P.D.

Edinburgh  
23rd May 2003

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(a) Section 35(3) to (5) was substituted by the 2002 Act, Schedule 8, paragraph 7(3) and section 40A(1) to (4) was inserted by Schedule 8, paragraph 13.

## **EXPLANATORY NOTE**

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

This Act of Sederunt further amends the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999 (“the 1999 Rules”).

Article 2 inserts a new Part XXI into Chapter 3 of the 1999 Rules. The new Part provides that appeals to the sheriff from decisions of the Secretary of State to impose a penalty or a charge must be brought within 21 days after receiving notice of the Secretary of State’s decision under respectively section 35(7) or section 40A(6) of the Immigration and Asylum Act 1999 in response to a notice of objection.

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**£1.75**

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under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland  
150 06/03 19593

