

**2005 No. 268**

**COURT OF SESSION**

**Act of Sederunt (Rules of the Court of Session Amendment  
No. 7) (Miscellaneous) 2005**

*Made* - - - - - *17th May 2005*

*Coming into force* - - - - - *7th June 2005*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 5 of the Court of Session Act 1988(a) and of all other powers enabling them in that behalf, do hereby enact and declare:

**Citation and commencement**

- 1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No. 7) (Miscellaneous) 2005 and shall come into force on 7th June 2005.
- (2) This Act of Sederunt shall be inserted in the Books of Sederunt.

**Amendment of the Rules of the Court of Session**

- 2.—(1) The Rules of the Court of Session 1994(b) shall be amended in accordance with the following sub-paragraphs.
- (2) In rule 8.1(1) (certificates by officer of Inland Revenue)—
- (a) for the heading there shall be substituted “Certificates by officer of Revenue and Customs”;
  - (b) for “officer of the Inland Revenue” there shall be substituted “officer of Revenue and Customs”; and
  - (c) for “Commissioners of Inland Revenue” there shall be substituted “Commissioners for Her Majesty’s Revenue and Customs”.
- (3) In rule 41.23(1)(a) (revenue appeals by stated case)(c) for “Commissioners of Inland Revenue” there shall be substituted “Commissioners for Her Majesty’s Revenue and Customs”.
- (4) In rule 41.26 (appeals relating to certain determinations of the Commissioners of Inland Revenue)(d)—
- (a) for the heading there shall be substituted “Appeals relating to certain determinations of Commissioners for Her Majesty’s Revenue and Customs”;

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(a) 1988 c.36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 c.32, section 2(3) and by the Children (Scotland) Act 1995 c.36, Schedule 4, paragraph 45.

(b) S.I. 1994/1443, last amended by S.S.I. 2005/198.

(c) Rule 41.23 was inserted by S.I. 1994/2901 and amended by S.S.I. 1999/192.

(d) Rule 41.26 was amended by S.I. 1994/2901.

- (b) for “Commissioners of Inland Revenue” there shall be substituted “Commissioners for Her Majesty’s Revenue and Customs”.
- (5) In Part XI of Chapter 41—
- (a) rules 41.53 (reference to Inner House) and 41.54 (service of order) shall be renumbered rules 41.52A and 41.52B respectively<sup>(a)</sup>; and
- (b) rule 41.55 (expenses) shall be omitted<sup>(b)</sup>.
- (6) Part IIA of Chapter 70 (applications under the Child Abduction and Custody Act 1985)<sup>(c)</sup> shall be renumbered Part IV.
- (7) For rule 72.1(1) (interpretation of chapter 22) there shall be substituted the following:—
- “In this Chapter—
- “the Act of 1985” means the Bankruptcy (Scotland) Act 1985; and
- “the EC Regulation” means Council Regulation (EC) 1346/2000 of 29th May 2000 on insolvency proceedings<sup>(d)</sup>.”.
- (8) After rule 72.1 (interpretation) there shall be inserted the following:—
- “Application of the EU Regulation*
- 72.1A.** A petition for sequestration to which section 12 of the Act of 1985 (petition for sequestration of debtor’s estate) applies shall include averments stating—
- (a) whether the EC Regulation applies; and
- (b) if so, whether the proceedings are main proceedings or territorial proceedings.”.
- (9) After rule 74.10 (form of petition in administration procedure)<sup>(e)</sup> there shall be inserted the following:—
- “Interim orders*
- 74.10A.**—(1) On making an interim order under paragraph 13(1)(d) of Schedule B1 to the Act of 1986 the Lord Ordinary shall fix a hearing on the By Order Roll for a date after the expiry of the period of notice mentioned in rule 14.6 (period of notice for lodging answers).
- (2) At the hearing under paragraph (1) the Lord Ordinary shall make such order as to further procedure as he thinks fit.”.

*Cullen of Whitekirk*  
Lord President  
I.P.D.

Edinburgh  
17th May 2005

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<sup>(a)</sup> Rules 41.53 and 41.54 were inserted into Part XI by S.S.I. 2005/198.  
<sup>(b)</sup> Rule 41.55 was inserted by S.S.I. 2005/198.  
<sup>(c)</sup> Part IIA was inserted by S.S.I. 2005/135.  
<sup>(d)</sup> O.J.L. 160, 30/06/2000 p. 0001-0018.  
<sup>(e)</sup> Rule 74.10 was amended by S.I. 1994/2901 and S.S.I. 2003/385.

## **EXPLANATORY NOTE**

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

This Act of Sederunt makes amendments to the Rules of the Court of Session 1994 (S.I. 194/1443) (“the Rules”).

Paragraph 2(2), (3) and (4) makes minor amendments consequent upon the Commissioners for Revenue and Customs Act 2005 (c.11).

Paragraph 2(5) omits a rule allowing the court to reserve the question of expenses in applications under the Nationality, Immigration and Asylum Act 2002 (c.41).

Paragraph 2(6) corrects an error in the numbering of Chapter 70 of the Rules (applications under the Child Abduction and Custody Act 1985).

Paragraph 2(7) and (8) make provision requiring petitions for sequestration to contain averments about whether the proceedings are main or territorial proceedings under EC Regulation 1436/2000 of 29th May 2000 on insolvency proceedings.

Paragraph 2(9) inserts a rule into Chapter 74 of the Rules (administration procedure for companies) to provide for the fixing of a hearing in every case in which an interim order is made.

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