

2009 No. 114

COURT OF SESSION

**Act of Sederunt (Rules of the Court of Session Amendment
No. 5) (Exchequer Appeals) 2009**

Made - - - - *18th March 2009*

Coming into force - - *1st April 2009*

The Lords of Council and Session, under and by virtue of the powers conferred 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. 5) (Exchequer Appeals) 2009 and comes into force on 1st April 2009.

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

Exchequer Appeals

2.—(1) Part IV of Chapter 41 of the Rules of the Court of Session 1994(b) (exchequer appeals) is amended in accordance with subparagraphs (2) to (5).

(2) In rule 41.23 (revenue appeals by stated case)(c), paragraph (1)(b) is omitted.

(3) Rule 41.24 (revenue appeals from Special Commissioners)(d) and rule 41.25 (appeals relating to penalties)(e) are omitted.

(4) In rule 41.26(2) (appeals relating to certain determinations of the Commissioners for Her Majesty's Revenue and Customs)(f)—

(a) after “in an application” insert “notified”; and

(b) after “the appeal is to be” insert “notified”.

(a) 1988 c.36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 (c.32), section 2(3), the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 45 and by the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(1).
(b) S.I. 1994/1443, last amended by S.S.I. 2009/105.
(c) Rule 41.23 was substituted by S.I. 1994/2901 and amended by S.S.I. 1999/192 and 2005/268.
(d) Rule 41.24 was substituted by S.I. 1994/2901.
(e) Rule 41.25 was substituted by S.I. 1994/2901 and amended by S.S.I. 1999/192, 2004/52 and 2005/193.
(f) Rule 41.26 was amended by S.I. 1994/2901 and S.S.I. 2005/268.

(5) But rules 41.23, 41.24, 41.25 and 41.26 as they applied immediately before 1st April 2009 continue to have effect in relation to any appeal lodged with the court before that date.

A.C. HAMILTON
Lord President
I.P.D.

Edinburgh
18th March 2009

EXPLANATORY NOTE

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

This Act of Sederunt makes amendments to Part IV of Chapter 41 of the Rules of the Court of Session 1994, in relation to exchequer appeals.

The amendments result from the transfer of the functions of various tax tribunals to the First-tier Tribunal and Upper Tribunal established under the Tribunals, Courts and Enforcement Act 2007. The Transfer of Tribunal Functions and Revenue and Customs Appeal Order 2009 (S.I. 2009/56) makes provision for the transfer of those functions and also makes other consequential amendments to legislation relating to tax tribunals. Those changes are to take effect on 1st April 2009.

Paragraph 2(2) omits rule 41.23(1)(b), as the statutory provision which provides a right of appeal to the Court, and is referred to in that rule, is being repealed with effect from 1st April 2009.

Paragraph 2(3) omits rule 41.24 and rule 41.25, as the statutory provisions which provide for the rights of appeal to the Court, and are referred to in those rules, are all being repealed or revoked with effect from 1st April 2009.

Paragraph 2(4) makes some minor amendments to rule 41.26(2) to reflect amendments made to the statutory provisions referred to in that rule.

Paragraph 2(5) makes savings in relation to the application of the omitted or amended rules, in respect of appeals lodged with the court before 1st April 2009.

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