
STATUTORY INSTRUMENTS

1991 No. 1183 (S.119)

COURT OF SESSION, SCOTLAND

**Act of Sederunt (Rules of the Court of Session
Amendment No.5) (Prevention of Terrorism) 1991**

Made - - - - *7th May 1991*
Coming into force - - *3rd June 1991*

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⁽¹⁾, by paragraph 11(2) of Schedule 4 to the Prevention of Terrorism (Temporary Provisions) Act 1989⁽²⁾ 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) (Prevention of Terrorism) 1991 and shall come into operation on 3rd June 1991.
(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⁽³⁾ shall be amended in accordance with the following paragraphs.
(2) After rule 201R (causes under the Criminal Justice (Scotland) Act 1987: appeals) ⁽⁴⁾ insert the following Section and rules:—

(1) 1988 c. 36.
(2) 1989 c. 4.
(3) S.I.1965/321; relevant amending instruments are S.I. 1984/472, 1985/1600, 1986/1941, 1987/12 and 1206, 1990/705 and 1991/1157.
(4) Rule 201R was inserted by S.I. 1990/705.

“SECTION 2B

CAUSES UNDER THE PREVENTION OF
TERRORISM (TEMPORARY PROVISIONS) ACT 1989

Interpretation

201S.—(1) In this Section, “the Act of 1989” means the Prevention of Terrorism (Temporary Provisions) Act 1989.

(2) Words and expressions used in this Section which are also used in the Act of 1989 have the same meaning as in that Act unless the context otherwise requires.

Applications for restraint orders

201T.—(1) An application under paragraph 13(1) of Schedule 4 to the Act of 1989 for a restraint order, shall be made by petition presented in the Outer House.

(2) Rules 191(aa), (b) and (c), 192, and 195 to 197 shall not apply to a petition to which this rule applies.

General provisions in relation to restraint orders

201U.—(1) Where a restraint order is made, the Lord Advocate shall serve a copy of it and of the petition on all persons named in the interlocutor as restrained by the order and give notice to all persons affected by the restraint order.

(2) Rule 74A, 74B and 75 shall apply to the service of a copy of an order under paragraph (1) as they apply to citation and service of a summons.

Miscellaneous applications

201V.—(1) An application under paragraph 13(4) (discharge of a restraint order), 14(2) (variation or recall of restraint order), 14(3) (recall of restraint order) or 16(2)(a) or (6)(a) (recall or restriction of arrestment or inhibition) of Schedule 4 to the Act of 1989 shall be made by motion in the process of the petition to which the application relates.

(2) A motion under paragraph (1) shall be intimated by first class recorded delivery letter on an *induciae* of 7 days and the applicant shall lodge in process a copy of the letter of intimation and the Post Office receipt of posting of the letter.

(3) A motion under paragraph (1) shall include a brief statement of the reasons for the application; and the court may, at the hearing of the motion, order that the application be made by note.

(4) An application under paragraph 16(1) of Schedule 4 to the Act of 1989 (warrant for arrestment or inhibition) may be made in the prayer of the petition for a restraint order under paragraph 13(1) of Schedule 4 to the Act of 1989 or, if made after presentation of the petition, by motion in that process and shall not be intimated.

(5) An application under paragraph 17(1) of Schedule 4 to the Act of 1989 (compensation) shall be made by petition presented in the Outer House.

Powers and duties of administrator appointed under paragraph 11(1)(b) of Schedule 4 to the Act of 1989

201W.—(1) Subject to any condition or exception specified by the court, an administrator—

- (a) shall be entitled to take possession of the property as regards which he has been appointed and of any document which both—
 - (i) is in the possession or control of the person (in this Section referred to as “A”) in whom the property is vested; and
 - (ii) relates to the property;
 - (b) shall be entitled to have access to, and to copy, any document relating to the property and not in such possession or control as is mentioned in sub-paragraph (a) above;
 - (c) may bring, defend or continue any legal proceedings relating to the property;
 - (d) may borrow money in so far as it is necessary to do so to safeguard the property and may for the purposes of such borrowing create a security over any part of the property;
 - (e) may, if the administrator considers that to do so would be beneficial for the management and realisation of the property enter into any contract, or execute any deed, as regards the property;
 - (f) may effect or maintain insurance policies as regards the property;
 - (g) may, where A has uncompleted title to any of the property, complete title thereto: provided that completion of title in A’s name shall not validate by accretion any unperfected right in favour of any person other than the administrator;
 - (h) may sell (but not to himself or an associate of his), the property and redeem any obligation secured thereon;
 - (i) may discharge any of his functions through agents or employees: provided that the administrator shall be personally liable to meet the fees and expenses of any such agent or employee out of such remuneration as is payable to the administrator by virtue of paragraph 12(2) and (3) of Schedule 4 of the Act of 1989;
 - (j) may take such professional advice as he may consider requisite for the proper discharge of his functions;
 - (k) may at any time apply to the Court of Session for directions as regards the discharge of his functions;
 - (l) may exercise any power specifically conferred on him by the Court, whether such conferral was at the time of his appointment or on his subsequent application to the Court in that regard; and
 - (m) may do anything incidental to the above powers and duties.
- (2) Subject to the proviso to sub-paragraph (g) of paragraph (1) above—
- (a) a person dealing with an administrator in good faith and for value shall not require to determine whether the administrator is acting within the powers mentioned in that subsection; and
 - (b) the validity of any title shall not be challengeable by reason only of the administrator having acted outwith those powers.
- (3) The exercise of a power mentioned in any of sub-paragraphs (c) to (h) of paragraph (1) above shall be in A’s name.

Further duties of administrator

- 201X.—**(1) As soon as possible, but not later than 3 months, after the date of his appointment, the administrator shall lodge with the Accountant of Court—
- (a) an inventory of the property in respect of which he has been appointed;

- (b) all land certificates, title deeds, vouchers, and other documents which relate to that property and are in his possession; and
 - (c) a statement of the property which he has in his possession or intends to realise.
- (2) An administrator shall maintain accounts of his intromissions with the property in his charge and shall—
- (a) lodge an account of his intromissions with the Accountant of Court in such form as the Accountant of Court may require—
 - (i) 6 months after the date of his appointment; and
 - (ii) at 6 monthly intervals after the first account during the subsistence of his appointment, unless the Accountant of Court agrees to waive the lodging of an account where the administrator certifies that there have been no intromissions during a particular accounting period; and
 - (b) lodge, with the account of his intromissions all such supporting vouchers and other documents as the Accountant of Court may require.

Money received by administrator

201Y.—(1) Subject to paragraph (2) below, all money received by an administrator in the exercise of his powers and duties shall be deposited by him in an appropriate bank or institution, in the name of A.

(2) The administrator may at any time retain in his hands a sum not exceeding £200.

(3) In paragraph (1) above, “appropriate bank or institution” means the Bank of England, an institution authorised under the Banking Act 1987⁽⁵⁾ or a person for the time being specified in Schedule 2 to that Act.”.

(3) In rule 249S(1)⁽⁶⁾, after the definition of “the Act of 1988” insert the following definition:—
“‘the Act of 1989’ means the Prevention of Terrorism (Temporary Provisions) Act 1989⁽⁷⁾.”

(4) In rule 249T(1A)⁽⁶⁾—

(a) omit the word “and”; and

(b) after the word “applies” in sub-paragraph (c) insert the following:— “and

(d) paragraph 19(2) of Schedule 4 to the Act of 1989 for registration of an England and Wales order, Northern Ireland order or Islands order.”.

(5) In rule 249U(1) and (2)⁽⁸⁾, after the words “to the Act of 1988” insert the words “or the Act of 1989”.

(6) In rule 249V(1)⁽⁸⁾, after the words “Form 62”, insert the words “or 62A, as the case may be”.

(7) In rule 249Y(1)⁽⁸⁾—

(a) after the words “the Act of 1988”, insert the words “or paragraph 16(1) of Schedule 4 to the Act of 1989”; and

(5) 1987 c. 22.

(6) Rules 249S, 249T, 249U, 249V and 249Y were inserted by S.I. 1987/12. Rules 249S, 249T, 249U and 249Y were amended by S.I. 1990/705. Rules 249S and 249T were further amended by S.I. 1991/1157.

(7) 1989 c. 4.

(6) Rules 249S, 249T, 249U, 249V and 249Y were inserted by S.I. 1987/12. Rules 249S, 249T, 249U and 249Y were amended by S.I. 1990/705. Rules 249S and 249T were further amended by S.I. 1991/1157.

(8) Rules 249S, 249T, 249U, 249V, and 249Y were inserted by S.I. 1987/12. Rules 249S, 249T, 249U and 249Y were amended by S.I. 1990/705. Rules 249S and 249T were further amended by S.I. 1991/1157.

(8) Rules 249S, 249T, 249U, 249V, and 249Y were inserted by S.I. 1987/12. Rules 249S, 249T, 249U and 249Y were amended by S.I. 1990/705. Rules 249S and 249T were further amended by S.I. 1991/1157.

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- (b) omit the words “by the prosecutor”.
- (8) In the Appendix, after Form 62, insert Form 62A in the Schedule to this Act of Sederunt.

Edinburgh
7th May 1991

J.A.D. Hope
Lord President, IPD

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SCHEDULE

Paragraph 2(8)

SCHEDULE

Paragraph 2(8)

FORM 62A

Rule 249V(1)

Intimation of decree and warrant for registration of an order of the Court in England and Wales, Northern Ireland or elsewhere in the British Islands under the Prevention of Terrorism (Temporary Provisions) Act 1989

IN THE COURT OF SESSION

in

PETITION

of

[A.B.] (*Address*)

under paragraph 19(2) of Schedule 4 to the
Prevention of Terrorism (Temporary Provisions)
Act 1989

for

registration of an order of the (*specify court*)

Dated the day of 19.....

To (*name of person against whom the order was made and decree and warrant for registration granted*).

Take notice that an interlocutor dated the day of 19..... a certified copy of which is attached, was pronounced in the Court of Session granting decree and warrant for registration in the Court of Session [and for registration in the Register of Judgments of the Books of Council and Session] of the order of the (*specify the court*) dated the day of..... 19..... that (*briefly describe order*).

The order was registered in the Court of Session on (*date*).

[The order was registered in the Register of Judgments of the Books of Council and Session on (*date*) and an extract of the registered order and decree with warrant for execution has been issued by the Keeper of the Registers. Diligence in execution of the order may now be taken against you to enforce the order.]

Dated this day of 19.....

(*Signed*)

Petitioner [*or Solicitor for
Petitioner*].

(*Address*)

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EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of the Court of Session in order to make provision in respect of restraint orders and the powers and duties of an administrator (paragraph 2(2)), and provides for the registration of specified orders (paragraphs 2(3) to 2(8)), under the Prevention of Terrorism (Temporary Provisions) Act 1989.