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STATUTORY INSTRUMENTS

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**1999 No. 1386 (S.106)**

**COURT OF SESSION, SCOTLAND**

**Act of Sederunt (Rules of the Court of Session  
Amendment No. 5) (Miscellaneous) 1999**

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| <i>Made</i>                                     | - - - - | <i>14th May 1999</i> |
| <i>Coming into force</i>                        |         |                      |
| <i>Paragraphs 1 and 2(1) to<br/>(7) and (9)</i> |         | <i>19th May 1999</i> |
| <i>Paragraph 2(8)</i>                           |         | <i>1st July 1999</i> |

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) 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) (Miscellaneous) 1999.

(2) This paragraph and paragraph 2(1) to (7) and (9) of this Act of Sederunt shall come into force on 19th May 1999 and paragraph 2(8) of this Act of Sederunt shall come into force on 1st July 1999.

(3) 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(2) shall be amended in accordance with the following sub-paragraphs.

(2) In Chapter 1—

- (a) in the heading, for “**INTERPRETATION AND FORMS**” substitute “**ETC.**”; and
- (b) after rule 1.3 add—

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(1) 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.  
(2) S.I. 1994/1443.

**“Direction relating to Advocate General**

**1.4.** The Lord President may, by direction, specify such arrangements as he considers necessary for, or in connection with, the appearance in court of the Advocate General for Scotland.”

- (3) In rule 3.6A (registers kept by the Court)—
  - (a) in the heading, the word “3.6A.” shall cease to have effect; and
  - (b) for “1.5.” substitute “3.6A.”.
- (4) In rule 24.2(5) (motions to amend record in terms of minute of amendment etc.), at the end add “; and if it is reasonably practicable to do so, the party shall specify the nature of such further procedure.”.
- (5) In rule 37.2 (citation of jurors)—
  - (a) in paragraph (1), for “14” substitute “28”; and
  - (b) in paragraph (2), for “10” substitute “21”.
- (6) In rule 50.2 (parties to, and service of, action under Presumption of Death (Scotland) Act 1977)—
  - (a) in paragraph (1), for the words from “, subject” to the end substitute “service on that person shall be by advertisement in such newspaper or other publication as the court thinks fit of such of the facts relating to the missing person and set out in the summons as the court may specify.”;
  - (b) in paragraph (2), for the words “rule 16.5 by virtue of paragraph (1) of this rule” substitute “paragraph (1)”; and
  - (c) paragraph (3) and Form 50.2-A shall cease to have effect.
- (7) Rule 50.3(1) (motion by pursuer where no defences lodged timeously in action under 1977 Act) shall cease to have effect.
- (8) In rule 63.10(4) (intimation of certain motions relating to public trusts), for “Lord Advocate” substitute “Scottish Ministers”.
- (9) In Chapter 69 (election petitions)—
  - (a) in rule 69.5(1)—
    - (i) after “to” insert  
“—  
(a)”;  
and
    - (ii) at the end add  
“; and  
(b) the Advocate General for Scotland”;
  - (b) in each of rules 69.9(1), 69.19(2), 69.20(2), 69.23(1) and 69.24(2), after sub-paragraph (b) insert—  
“(ba) the Advocate General for Scotland”;
  - (c) in each of rules 69.11(1) and 69.12(1)—
    - (i) in sub-paragraph (b), the word “and” shall cease to have effect; and
    - (ii) at the end of that sub-paragraph add  
“and

- (iii) the Advocate General for Scotland.”;
- (d) in rule 69.13(2)—
  - (i) the word “and” shall cease to have effect; and
  - (ii) at the end, add
    - “; and
    - (c) the Advocate General for Scotland.”;
- (e) in each of rules 69.21(3), 69.25(2) and 69.26(2), after sub-paragraph (c) insert—
  - “(ca) the Advocate General for Scotland;”;
- (f) in paragraph 69.29(3), after sub-paragraph (a) insert—
  - “(aa) the Advocate General for Scotland;”;
- (g) in paragraph 69.30—
  - (i) after “to”, where it secondly occurs, insert
    - “—
    - (a);
  - (ii) after “Advocate;” insert
    - “and
    - (b) the Advocate General for Scotland;”;
  - (iii) after “Advocate”, where it secondly occurs, insert “and the Advocate General for Scotland”.

Edinburgh,  
14 May 1999.

*Rodger of Earlsferry*  
Lord President I.P.D.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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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 1994 as follows—

- (a) paragraph 2(2) inserts a new rule 1.4 under which the Lord President may give a direction as respects the arrangements for, or in connection with, the appearance in court of the Advocate General for Scotland;
- (b) paragraph 2(3) corrects the numbering of rule 3.6A;
- (c) paragraph 2(4) makes provision in rule 24.2(5) for parties to specify the nature of the further procedure sought when enrolling a motion under that rule;
- (d) paragraph 2(5) amends the time limits in rule 37.2(1) and (2) for issuing jury precepts;
- (e) paragraph 2(6) and (7) amends rule 50.2 (which relates to advertisement for missing persons in connection with actions under the Presumption of Death (Scotland) Act 1977) and revokes rule 50.3(1);
- (f) paragraph 2(8) amends rule 63.10(4) in consequence of the transfer (with effect from 1 July 1999) to the Scottish Ministers of certain functions relating to public trusts currently exercised by the Lord Advocate; and
- (g) paragraph 2(9) amends chapter 69 (election petitions) to provide for intimation of petitions and other matters to the Advocate General for Scotland.