
STATUTORY INSTRUMENTS

1986 No. 1937 (S.143)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No.8)
(Miscellaneous) 1986

Made - - - - 12th November 1986

Coming into Operation 4th December 1986

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 16 of the Administration of Justice (Scotland) Act 1933(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 Court Amendment No. 8) (Miscellaneous) 1986 and shall come into operation on 4th December 1986.

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

Amendments to the Rules of Court

2. In the Rules of Court(b)—

(a) in rule 30 (interlocutors), after paragraph (2), insert the following paragraph:—

“(3) During vacation or recess the judge, or presiding judge, may sign an interlocutor in respect of a cause heard or tried before him during session.”;

(b) for rule 63 (extracts), substitute the following rules:—

“Form of extract

63.—(1) An extract of a decree of the Court may be—

- (a) partly or wholly written, or
- (b) typewritten, or
- (c) printed, or
- (d) lithographed, or
- (e) photographed.

(a) 1933 c.41.

(b) S.I. 1965/321; relevant amending instruments are S.I. 1978/799 and 1984/472.

(2) Every such extract shall—

- (a) be signed on the last page by the Extractor, and
- (b) have each page impressed with the Extractor's seal or stamp, and
- (c) have any alteration authenticated by the initials of the Extractor or assistant Extractor.

Expenses to include dues of extract

63A. Any interlocutor awarding a lump sum by way of modified expenses shall be treated as also awarding, in addition to that sum, the dues of any extract required to enforce the award, and the Extractor shall include in the extract the amount of those dues.

Extract not a bar to review

63B. Review by the Inner House of an interlocutor of the Outer House shall not be prevented by reason only that extract has been issued before the expiry of the reclaiming days.”;

- (c) in rule 91B (report by judge), insert at the beginning the figure “(1)” and add the following paragraph:—

“(2) In relation to any incidental matter reported to it under paragraph (1)—

- (a) the Inner House may dispose of the matter summarily;
- (b) any judgment or order made by the Inner House in respect of that matter shall be final;
- (c) the Inner House may determine any question of expenses relating to the matter reported, or may reserve any such question.”;

- (d) after rule 198 (motions in opposed and unopposed petitions), insert the following rule:—

“Report by Judge

198A.—(1) The Lord Ordinary may at any stage of a cause commenced by petition, on intimation to the parties, report the petition, or any individual matter which may arise in the course of the petition, to the Inner House for a ruling; and on such a ruling being given shall give effect to it.

(2) The Inner House may, after consideration of any such report, either—

- (a) dispose of the petition or any incidental matter so reported;
or
- (b) give such instructions to the Lord Ordinary in respect thereof as it thinks fit.

(3) It shall not be competent to reclaim against an interlocutor pronounced by the Lord Ordinary in accordance with a ruling or instruction given by the Inner House under this rule.”.

Repeals

3. The Schedule to this Act of Sederunt shall have effect to repeal the enactments mentioned in columns 1 and 2 of the Schedule to the extent mentioned in column 3.

Emslie,
Lord President,
I.P.D.

Edinburgh,
12th November 1986.

REPEAL OF ENACTMENTS RE-ENACTED IN RULES OF COURT

Column 1 (Chapter)	Column 2 (Short Title)	Column 3 (Extent of Repeal)
1686 c.4	Interlocutors Act 1686	The whole Act.
1686 c.30	Evidence Act 1686	The whole Act.
1693 c.31	Interlocutors Act 1693	The whole Act.
55 Geo. 3 c.42	Jury Trials (Scotland) Act 1815	Sections 31, 32.
1 & 2 Geo. 4 c.38	Court of Session Act 1821	Section 33.
6 Geo. 4 c.120	Court of Session Act 1825	Sections 10, 13, 19.
13 & 14 Vict. c.36	Court of Session Act 1850	Sections 14, 43, 51.
19 & 20 Vict. c.56	Exchequer Court (Scotland) Act 1856	In section 2, from the words "and, unless" to the end; sections 10, 20, in so far as it relates to exchequer causes commenced in the Court of Session before the Lord Ordinary; 21; in section 28 from the words "and such extractor" to "office".
20 & 21 Vict. c.56	Court of Session Act 1857	In section 5, the proviso; in section 6 from the words "but any judgement" to the end.
31 & 32 Vict. c.100.	Court of Session Act 1868	Sections 18, 23, 24, 75, 94.
6 & 7 Geo. 5 c.49	Court of Session (Extracts) Act 1916	The whole Act.
23 & 24 Geo. 5 c.41.	Administration of Justice (Scotland) Act 1933	Section 7.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt amends the Rules of the Court of Session to make new provision in relation to miscellaneous procedural matters in respect of which provision is already made in statutes relating to Court of Session procedure. It also repeals those and certain other statutory provisions now re-enacted in the Rules.