

**2006 No. 293**

**SHERIFF COURT**

**Act of Sederunt (Ordinary Cause Rules) Amendment (Causes  
Relating to Articles 81 and 82 of the Treaty Establishing the  
European Community) 2006**

*Made* - - - - *26th May 2006*

*Coming into force* - - *16th June 2006*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(a), and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of that Act, do hereby enact and declare:

**Citation and commencement**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Ordinary Cause Rules) Amendment (Causes Relating to Articles 81 and 82 of the Treaty Establishing the European Community) 2006 and shall come into force on 16th June 2006.

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

**Amendment of Ordinary Cause Rules**

2.—(1) The Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(b) shall be amended in accordance with the following sub-paragraphs.

(2) After Chapter 42 (competition appeal tribunal)(c) there shall be inserted the following:—

**“CHAPTER 43**

**CAUSES RELATING TO ARTICLES 81 AND 82 OF THE TREATY  
ESTABLISHING THE EUROPEAN COMMUNITY**

**Intimation of actions to the Office of Fair Trading**

43.1—(1) In this rule—

“the Treaty” means the Treaty establishing the European Community; and

“the OFT” means the Office of Fair Trading.

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(a) 1971 c.58. Section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12, the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4), the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2), the Adults with Incapacity (Scotland) Act 2000 (asp 4), schedule 5, paragraph 13 and the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43 and was extended by the Child Support Act 1991 (c.48), sections 39(2) and 49 and the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2).

(b) 1907 c.51. Schedule 1 was substituted by S.I. 1993/1956 and amended by S.I. 1996/2167 and 2445, S.S.I. 2000/239 and 408, 2001/8 and 144, 2002/7, 128 and 566, 2003/25 and 26, 2004/197 and 350 and 2005/20, 189, 638 and 648.

(c) Chapter 42 was inserted by S.S.I. 2004/350.

(2) In an action where an issue under Article 81 or 82 of the Treaty is raised–

- (a) by the pursuer in the initial writ;
- (b) by the defender in the defences;
- (c) by any party in the pleadings;

intimation of the action shall be given to the OFT by the party raising the issue by a notice of intimation in Form OFT1.

(3) The initial writ, defences or pleadings in which the issue under Article 81 or 82 of the Treaty is raised shall include a crave for warrant for intimation to the OFT.

(4) A certified copy of an interlocutor granting a warrant under paragraph (3) shall be sufficient authority for the party to intimate by notice in Form OFT1.

(5) A notice of intimation under paragraph (2) shall be on a period of notice of 21 days unless the sheriff otherwise orders; but the sheriff shall not order a period of notice of less than 2 days.

(6) There shall be attached to the notice of intimation–

- (a) a copy of the initial writ, defences or pleadings (including any adjustments and amendments), as the case may be;
- (b) a copy of the interlocutor allowing intimation of the notice; and
- (c) where the pleadings have not been amended in accordance with any minute of amendment, a copy of that minute.”.

(3) In Appendix 1, after Form PA1 there shall be inserted the form set out in the Schedule to this Act of Sederunt.

*BRIAN GILL*  
Lord Justice Clerk  
I.P.D.

Edinburgh  
26th May 2006

## SCHEDULE

Paragraph 2(3)

### FORM OFT1

Rule 43.1(2)

#### **Form of notice of intimation to the Office of Fair Trading**

Date: *(date of posting or other method of intimation)*

To: The Office of Fair Trading

#### TAKE NOTICE

*(Name and address of pursuer or defender)* has brought an action against [*or* has defended an action brought by] *(name and address of defender or pursuer)*. The action raises an issue under Article 81 or 82 of the Treaty establishing the European Community. A copy of the initial writ is [*or* pleadings and interlocutor allowing intimation are] attached.

If you wish to submit written observations to the court, these should be addressed to the sheriff clerk *(insert address of sheriff clerk)* and must be lodged within 21 days of *(insert date on which intimation was given. N.B. rule 5.3(2) relating to postal service or intimation)*.

If you wish to submit oral observations to the court, you must lodge a minute with the sheriff clerk *(insert address of sheriff clerk)* for leave to do so. Your minute must be lodged within 21 days of *(insert date on which intimation was given. N.B. rule 5.3(2) relating to postal service or intimation)*.

Date *(insert date)*

*(Signed)*

Solicitor for pursuer/defender

## **EXPLANATORY NOTE**

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

This Act of Sederunt inserts a new Chapter 43 into the Ordinary Cause Rules to provide for intimation to the Office of Fair Trading of any action in which an issue under Article 81 or 82 of the Treaty establishing the European Community is raised. It also inserts a new form of intimation to the Office of Fair Trading.

**£3.00**

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