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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 509**

**Act of Sederunt (Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules) Amendment (Equality Act 2006 etc.) 2006**

**Amendment of the Summary Cause Rules**

4.—(1) The Summary Cause Rules in Schedule 1 to the Act of Sederunt (Summary Cause Rules) 2002<sup>(1)</sup> shall be amended in accordance with the following sub-paragraphs.

(2) After Chapter 35 (electronic transmission of documents) there shall be inserted the following:—

“CHAPTER 36

EQUALITY ENACTMENTS

**Application and interpretation**

**36.1.**—(1) This Chapter applies to claims under the equality enactments.

(2) In this Chapter, “claims under the equality enactments” means proceedings in reparation for breach of statutory duty under any of the following enactments:—

- (a) Sex Discrimination Act 1975;
- (b) Race Relations Act 1976;
- (c) Disability Discrimination Act 1995;
- (d) Equality Act 2006.

**Relevant Commission**

**36.2.**—(1) The pursuer shall send a copy of the summons to the relevant Commission by registered or recorded delivery post.

(2) The relevant Commission is—

- (a) for proceedings under the Sex Discrimination Act 1975, the Equal Opportunities Commission;
- (b) for proceedings under the Race Relations Act 1976, the Commission for Racial Equality;
- (c) for proceedings under the Disability Discrimination Act 1995, the Disability Rights Commission;
- (d) for proceedings under the Equality Act 2006, the Commission for Equality and Human Rights.

### **Assessor**

**36.3.**—(1) The sheriff may, of his own motion or on the incidental application of any party, appoint an assessor.

(2) The assessor shall be a person who the sheriff considers has special qualifications to be of assistance in determining the cause.

### **Taxation of Commission expenses**

**36.4.**—(1) The expenses incurred by the Commission within the meaning and for the purposes of the sections referred to in paragraph (2) shall be assessed by the sheriff clerk or taxed by the auditor, as the case may be, of the sheriff court in which such proceedings under the relevant Act were taken or would have been taken but for any compromise or settlement, as if they were outlays incurred by a solicitor on behalf of a client.

(2) The sections are as follows:—

- (a) section 75(3) (assistance by Commission) of the Sex Discrimination Act 1975;
- (b) section 66(5) (assistance by Commission) of the Race Relations Act 1976.

### **National security**

**36.5.**—(1) Where, on an incidental application under paragraph (3) or of his own motion, the sheriff considers it expedient in the interests of national security, he may—

(a) exclude from all or part of the proceedings—

- (i) the pursuer;
- (ii) the pursuer's representatives;
- (iii) any assessors;

(b) permit a pursuer or representative who has been excluded to make a statement to the court before the commencement of the proceedings or the part of the proceedings, from which he is excluded;

(c) take steps to keep secret all or part of the reasons for his decision in the proceedings.

(2) The sheriff clerk shall, on the making of an order under paragraph (1) excluding the pursuer or his representatives, notify the Advocate General for Scotland of that order.

(3) A party may make an incidental application for an order under paragraph (1).

(4) The steps referred to in paragraph (1)(c) may include the following:—

- (a) directions to the sheriff clerk; and
- (b) orders requiring any person appointed to represent the interests of the pursuer in proceedings from which the pursuer or his representatives are excluded not to communicate (directly or indirectly) with any persons (including the excluded pursuer)—

- (i) on any matter discussed or referred to;
- (ii) with regard to any material disclosed,

during or with reference to any part of the proceedings from which the pursuer or his representatives are excluded.

(5) Where the sheriff has made an order under paragraph (4)(b), the person appointed to represent the interests of the pursuer may make an incidental application for authority to seek instructions from or otherwise communicate with an excluded person.

(6) The sheriff may, on the application of a party intending to lodge an incidental application in written form, reduce the period of two days specified in rule 9.1(2) or dispense with notice.

(7) An application under paragraph (6) shall be made in the written incidental application, giving reasons for such reduction or dispensation.”.