

**2007 No. 360**

**COURT OF SESSION**

**Act of Sederunt (Rules of the Court of Session Amendment  
No. 7) (Devolution Issues) 2007**

*Made* - - - - *20th July 2007*

*Coming into force* - - *10th August 2007*

The Lords of Council and Session, under and by virtue of the powers conferred by section 5 of the Court of Session Act 1988(a), paragraph 37 of Schedule 6 to the Scotland Act 1998(b), paragraph 38 of Schedule 10 to the Northern Ireland Act 1998(c) and paragraph 32 of Schedule 9 to the Government of Wales Act 2006(d) and of all other powers enabling them in that behalf, do hereby enact and declare:

**Citation and commencement Act of Sederunt (Rules of the Court of Session Amendment No. 7) (Devolution Issues)**

1.—(1) This Act of Sederunt may be cited as the 2007 and shall come into force on 10th August 2007.

(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 1994(e) shall be amended in accordance with the following sub-paragraphs.

(2) In rule 25A.1 (interpretation of Chapter)—

- (a) in the definition of “devolution issue” for paragraph (c) there shall be substituted—  
“(c) Schedule 9 to the Government of Wales Act 2006;”;
- (b) in the text following paragraph (c) for “Schedule 8” there shall be substituted “Schedule 9” and for “Government of Wales Act 1998”(f) there shall be substituted “Government of Wales Act 2006”; and
- (c) in paragraph (c) of the definition of “relevant authority” for “Schedule 8, the National Assembly for Wales ” there shall be substituted “Schedule 9, the Counsel General to the Welsh Assembly Government”.

(3) In sub-paragraph (a) of paragraph (2) of rule 25A.3 (time for raising devolution issue) for “Schedule 8” there shall be substituted “Schedule 9”.

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(a) 1988 c.36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 c.32, section 2(3), the Children (Scotland) Act 1995 c.36, Schedule 4, paragraph 45 and by the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(1).

(b) 1998 c.46.

(c) 1998 c.47.

(d) 2006 c.32.

(e) S.I. 1994/1443, last amended by S.S.I. 2007/350.

(f) 1998 c.38.

(4) In the text following sub-paragraph (c) of paragraph (1) of rule 25A.4 (specification of devolution issue) for “Schedule 8” there shall be substituted “Schedule 9”.

(5) In paragraphs (1) and (4) of rule 25A.5 (intimation of devolution issue) for “Schedule 8” there shall be substituted “Schedule 9”.

(6) After rule 25A.5 there shall be inserted—

“25A.5A.—Where, after determination at first instance of any proceedings in which a devolution issue has been raised, a party to those proceedings—

- (a) marks a reclaiming motion under rule 38.6; or
- (b) makes an application to the *nobile officium* of the court under rule 14.3,

that party shall, unless the relevant authority is already party to the proceedings, at the same time intimate the motion to, or seek leave to serve the petition on, the relevant authority together with a notice in Form 25A.5A.”

(7) In rule 25A.7 (reference of devolution issue to Inner House)—

- (a) for “Schedule 8” there shall be substituted “Schedule 9”; and
- (b) number the existing provision as paragraph (1) and after that paragraph insert—

“(2) Where, in any proceedings before the Lord Ordinary, reference of a devolution issue is made to the Inner House, the Deputy Principal Clerk shall, unless the relevant authority is already party to the proceedings, not later than seven days after the reference has been made, give notice of the reference in Form 25A.7 to the relevant authority.”.

(8) In paragraph (1) of rule 25A.8 (reference of devolution issue to Judicial Committee)—

- (a) in sub-paragraph (a) for “Schedule 8” there shall be substituted “Schedule 9”; and
- (b) in sub-paragraph (b) for “paragraph 30(1) of Schedule 8” there shall be substituted “paragraph 29(1) of Schedule 9”.

(9) In sub-paragraphs (a) and (b) of paragraph (1) of rule 25A.11 (appeals to the Judicial Committee) for “Schedule 8” there shall be substituted “Schedule 9”.

(10) For sub-paragraph (c) of paragraph (1) of rule 25A.12 (orders mitigating the effects of certain decisions) there shall be substituted—

“(c) section 153 of the Government of Wales Act 2006.”.

(11) In the Appendix—

- (a) after Form 25A.5 there shall be inserted the forms set out in the Schedule to this Act of Sederunt; and
- (b) in Form 25A.12 the title becomes “*Form of intimation to a relevant authority that the court is considering making an order under [section 102 of the Scotland Act 1998/section 81 of the Northern Ireland Act 1998/section 153 of the Government of Wales Act 2006]*”.

A C HAMILTON  
Lord President  
I.P.D.

Edinburgh  
20th July 2007

## SCHEDULE

Paragraph 2(11)(a)

FORM 25A.5A

Rule 25A.5A

**Form of notice to a relevant authority of reclaiming motion [*or* application to the *nobile officium* of the court] in proceedings in which a devolution issue has been raised**

To: (*name and address of relevant authority*)

You are given notice that a reclaiming motion has been marked in proceedings in which a devolution issue has been raised [*or* first orders for service and/or delivery have been obtained in a petition to the *nobile officium* of the court relating to proceedings in which a devolution issue has been raised]. A copy of the reclaiming motion [*or* petition] is enclosed.

(Signed)

Solicitor for Appellant

(*add designation and business address*)

**Form of notice to a relevant authority of the reference of a devolution issue to the Inner House**

To: *(name and address of relevant authority)*

You are given notice that in an action raised in the Court of Session the court has referred a devolution issue to the Inner House under paragraph 7 of Schedule 6 to the Scotland Act 1998 [*or* paragraph 25 of Schedule 10 to the Northern Ireland Act 1998] [*or* paragraph 15 of Schedule 9 to the Government of Wales Act 2006]. A copy of the relevant report is enclosed.

(Signed)

Deputy Principal Clerk of Session

## EXPLANATORY NOTE

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

This Act of Sederunt makes the following amendments to the Rules of the Court of Session 1994:

- (a) the references to the “Government of Wales Act 1998” are changed to the “Government of Wales Act 2006”;
- (b) the references to Schedule 8 to the Government of Wales Act 1998 are changed to Schedule 9 to the Government of Wales Act 2006;
- (c) the reference to the “National Assembly for Wales” is changed to the “Counsel General to the Welsh Assembly Government”;
- (d) provision is made, where a reclaiming motion is marked or an application to the *nobile officium* is made, for the motion to be served, or for leave to be sought to serve a copy of a petition to the *nobile officium*, on the relevant authority and provision is made for a form of intimation;
- (e) provision is made for the Deputy Principal Clerk to give notice to the relevant authority of a reference of a devolution issue to the Inner House not later than 7 days from the date it was made and a form of notice is provided; and
- (f) the references to section 110 of the Government of Wales Act 1998 are changed to section 153 of the Government of Wales Act 2006.





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