
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 349

**Act of Sederunt (Rules of the Court of Session
Amendment No. 5) (Miscellaneous) 2008**

Applications for judicial review

9.—(1) After rule 58.7 (first order) insert—

“Mandatory transfer of applications to the Upper Tribunal

58.7A. Where an application to the supervisory jurisdiction of the court is presented to the Lord Ordinary under rule 58.7 and the conditions referred to in section 20(1)(a) of the Tribunals, Courts and Enforcement Act 2007 are met, the Lord Ordinary shall, instead of granting an order specifying a date for a first hearing, make an order transferring the application to the Upper Tribunal.”

(2) After rule 58.10 (second hearing) insert—

“Discretionary transfer of applications to the Upper Tribunal

58.11.—(1) Where—

- (a) an application is made to the supervisory jurisdiction of the court; and
- (b) Conditions 1, 3 and 4 are met, but Condition 2 is not met, as specified in section 20(1)(b) of the Tribunals, Courts and Enforcement Act 2007,

the Lord Ordinary may, if satisfied that it is in all the circumstances appropriate to do so, make an order transferring the application to the Upper Tribunal.

(2) The Lord Ordinary may, having heard parties, make an order under paragraph (1), whether or not such an order was sought in the petition or was sought by motion by any party to the proceedings.

(3) The Lord Ordinary may make an order under paragraph (1)—

- (a) when the petition is presented to the Lord Ordinary for a first order under rule 58.7;
- (b) at the first hearing; or
- (c) at any subsequent hearing.

(4) Where the Lord Ordinary makes an order transferring the application to the Upper Tribunal under paragraph (1) or rule 58.7A, the Lord Ordinary may make an order in respect of any expenses incurred by the parties up to the time at which the order transferring the application is granted.”