
EXPLANATORY NOTE

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

This Act of Sederunt amends Chapter 58A (protective expenses orders in environmental appeals and judicial reviews) of the Rules of the Court of Session 1994.

Paragraph 2(2) amends rule 58A.5 to allow an applicant, when applying for a protective expenses order, to request the court to grant an order to provide that any information lodged with the court under rule 58A.5(3) in respect of a protective expenses order is to be kept confidential. Any breach of a court order will be dealt with as contempt of court.

Paragraph 2(3) amends rule 58A.6 to provide that if a motion includes a request for information to be treated as confidential, and the motion is starred, the hearing must take place in chambers.

Paragraph 2(4) amends rule 58A.8 to provide that where a protective expenses order has been made in the Outer House, any limit imposed on the liability of any party will include any liability which may be incurred in a reclaiming motion, irrespective of which party is reclaiming.

Paragraph 2(5) inserts new rule 58A.10 to provide that, except on cause shown, expenses incurred in respect of a protective expenses order will not be awarded for or against an applicant who was granted leave to intervene in accordance with Chapter 58.

Paragraph 3 is a saving provision, the effect of which is that the amendments made by this Act of Sederunt do not apply to proceedings commenced before 1st October 2024.