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 S T A T U T O R Y I N S T R U M E N T S
 

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1976 No. 1849 (S.148)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 10)  
(Revenue Appeals) 1976

Made - - - - 3rd November 1976  
Coming into Operation 26th November 1976

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act 1933(a) and of all other powers competent to them in that behalf, do hereby enact and declare:—

*Citation, commencement and interpretation*

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 10) (Revenue Appeals) 1976 and shall come into operation on 26th November 1976.

(2) The Interpretation Act 1889(b) shall apply to the interpretation of this Act of Sederunt as it applies to the interpretation of an Act of Parliament.

*Amendment of Rules 281 to 283 (Revenue Appeals)*

2. In the Rules of Court(c), for rules 281 to 283, there are substituted the following rules:—

“281. **Revenue appeals (other than appeals relating to penalties).**

(1) This rule applies to appeals to the Court of Session as the Court of Exchequer in Scotland under any enactment providing for appeal by way of stated case to the Court from a determination of the General or Special Commissioners, not being an appeal to which rule 282 applies, and in particular applies to the following enactments:—

- (a) section 56 of the Taxes Management Act 1970(d);
- (b) paragraph 10(4) of Schedule 4 to the Finance Act 1975(e);
- (c) paragraph 14 of Schedule 2 to the Oil Taxation Act 1975(f).

(2) On the case being stated and signed and sent to the party requiring it he shall within 30 days of the date on which it was sent to him, send notice in writing of the fact that the case has been stated on his application, together with a copy of the case, to the other party and shall intimate to the other party whether or not he intends to proceed with the case, and if he so intends, he shall within that period send the principal case to the Deputy Principal Clerk of Session who shall docquet it, and within 30 days after the date of so sending it, the appellant shall lodge the principal case in the General Department together with a process and ten copies of the case.

(3) On lodging the principal case the party lodging it shall:—

- (a) enrol a motion for an order for hearing, and

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(a) 1933 c. 41.  
(d) 1970 c. 9.

(b) 1889 c. 63.  
(e) 1975 c. 7.

(c) S.I. 1965/321 (1965 I, p. 803).  
(f) 1975 c. 22.

- (b) intimate to the other party or his solicitor that he has lodged the principal case and enrolled the motion, and
  - (c) deliver to the other party or his solicitor such number of copies of the case, not exceeding 15, as he may require.
- (4) The motion shall be brought before either Division of the Inner House in chambers, and the Division may send the case to the Summar Roll, or, if the Division thinks proper, direct the case to be heard in the Single Bills.
- (5) If the party requiring the case fails to comply with any time limit imposed by this rule he shall be held to have abandoned the case.

**282. Revenue Appeals relating to penalties.** (1) This rule applies to appeals to the Court of Session as the Court of Exchequer in Scotland under any enactment providing for an appeal to the Court from a determination of the General or Special Commissioners relating to the award, imposition or recovery of a penalty, and in particular applies to an appeal from the award of any penalty under the following enactments:—

- (a) section 53(2) of the Taxes Management Act 1970;
  - (b) section 100(6) of the said Act;
  - (c) paragraph 1 of Schedule 2 to the Oil Taxation Act 1975.
- (2) In an appeal to which this rule applies, the appellant shall within 30 days of the determination of the Commissioners intimate his appeal in writing to them and to the other party and the grounds of his appeal.
- (3) The Commissioners shall on receiving intimation of an appeal under paragraph (2), state and sign a case for the opinion of the Court, setting out the facts found by them and their determination thereon.
- (4) For the purposes of further procedure under this rule, rule 281 shall apply to an appeal under this rule as it applies to an appeal under that rule.

**283. Appeals against determinations of the Board relating to Capital Transfer Tax.** (1) This rule applies to appeals under paragraph 7(3) of Schedule 4 to the Finance Act 1975.

- (2) An application by an appellant for leave to appeal to the Court of Session under the said paragraph 7(3) against any determination of the Board specified in a notice given by the Board to the appellant under paragraph 6 of the said Schedule 4 shall be made in writing and lodged with the General Department within 30 days of the date on which the Board intimate to the appellant that they do not agree that the appeal be to the Court.
- (3) An application under paragraph (2) shall set out the matters it is contended are to be decided on appeal and shall be accompanied by—
- (a) a copy of the notice in writing and grounds of appeal given to the Board under paragraph 7(1) of the said Schedule; and
  - (b) the reasons stating why the appeal should be to the Court.
- (4) On lodging his application the appellant shall lodge with it a certificate that a copy of the application has been sent to the Solicitor of Inland Revenue for Scotland on behalf of the Board with the date of

posting thereof, and the Board may lodge answers thereto within 14 days of the said date of posting.

(5) On expiry of the said period of 14 days, the appellant shall—

- (i) enrol a motion for an order for hearing, and
- (ii) intimate the motion to the Solicitor of Inland Revenue for Scotland on behalf of the Board.

(6) The motion shall be brought before either Division of the Inner House in chambers, and the Division may send the case to the Summar Roll, or if the Division thinks proper, may direct the case to be heard in the Single Bills.

(7) In a case where the Court grants leave to appeal or, where it is agreed between the appellant and the Board that the appeal be to the Court, the appellant shall lodge in the General Department within 14 days of the date on which leave to appeal is granted or, as the case may be, of the date on which the Board intimate their agreement to the appellant, a statement of facts and the grounds on which he contends the Board's determination under paragraph 6 of the said Schedule 4 is erroneous, and shall at the same time send a copy thereof to the Solicitor of Inland Revenue for Scotland on behalf of the Board.

(8) Within 14 days of the date of posting to them of the appellant's statement of facts and grounds of appeal, the Board may lodge answers thereto in the General Department and on so doing shall send a copy thereof to the appellant.

(9) In a case where the Board sends answers under paragraph (8), a record of the statement of facts and answers and of the respective contentions of the appellant and the Board shall be made up and ten copies thereof shall be lodged by the appellant in the application process, and may, on the motion of either party, be adjusted for such period as the Court may determine.

(10) In a case where there are no answers by the Board the appellant shall lodge in the General Department, within 14 days of the expiry of the period mentioned in paragraph (8), ten copies of the statement of facts and grounds of appeal.

(11) Paragraph (3) of rule 281 shall apply to an appellant under this rule as it applies to a party lodging a principal case under that rule, and paragraphs (4) and (5) of rule 281 shall apply for the purposes of the hearing and disposal of an appeal under this rule as they apply to the hearing and disposal of an appeal under that rule.

(12) Where it appears to the Court considering an appeal under this rule that any question as to the value of land in the United Kingdom requires to be determined, the Court shall remit the case—

- (a) if the land is in Scotland, to the Lands Tribunal for Scotland;
- (b) if the land is in England or Wales, to the Lands Tribunal;
- (c) if the land is in Northern Ireland, to the Lands Tribunal for Northern Ireland,

to determine that question and remit back to the Court for further procedure.”.

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

Edinburgh,  
3rd November 1976.

*G. C. Emslie,*  
I.P.D.

**EXPLANATORY NOTE**

*(This Note is not part of the Act of Sederunt.)*

This Act of Sederunt amends the Rules of Court relating to revenue appeals and includes provisions for appeals in relation to capital transfer tax and petroleum revenue tax.

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