
SCOTTISH STATUTORY INSTRUMENTS

2001 No. 92

Act of Sederunt (Rules of the Court of Session Amendment No. 2) (Assistance In Investigations Undertaken by European Commission Into Certain Prohibited Practices and Abuses) 2001

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No.2) (Assistance in Investigations Undertaken By European Commission Into Certain Prohibited Practices and Abuses) 2001 and shall come into force on 1st April 2001.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Restriction as to orders against which caveats may be lodged

2.—(1) In rule 5.1 of the Rules of the Court of Session 1994(1), at the beginning there shall be inserted “Without prejudice to rule 5.1A.”.

(2) After rule 5.1 there shall be inserted—

“Further restriction as to caveats

5.1A. A caveat shall not be lodged against an interim order sought in a petition under rule 82.2.”.

Assistance in investigations undertaken by European Commission into certain prohibited practices and abuses

3. After Chapter 81 of those Rules there shall be added—

“Chapter 82

Applications For Purposes Of Investigations Ordered Pursuant To Article 14 Of Regulation 17 Of The Council Of The European Communities

Application of this Chapter

82.1 This Chapter applies to investigations ordered pursuant to Article 14 of Regulation 17 of the Council of the European Communities(2) (investigation necessary to bring to light any agreement, decision or concerted practice prohibited by Article 85(1) of the Treaty establishing the European Community or any abuse of a dominant position prohibited by Article 86 of that Treaty).

(1) S.I.1994/1443.

(2) Council Regulation 17/62, 1962 OJ Special Edition 1959 – 1962, page 87.

Warrant for messengers-at-arms to assist in investigation

82.2.—(1) On the application, made by petition, of an official authorised by the European Commission for the purposes of an investigation to which this Chapter applies the court, if satisfied that such opposition as is mentioned in paragraph 6 of the said Article 14 has arisen or may arise, may pronounce an interlocutor granting warrant for messengers-at-arms to assist the official in the investigation.

(2) In relation to the undertaking or association of undertakings investigated, a warrant granted under paragraph (1) shall authorise a messenger-at-arms, on behalf of or accompanied by the applicant, on exhibiting the warrant, to do, at all reasonable times, anything mentioned in sub-paragraphs (a) to (d) of paragraph 1 of the said Article 14 and to take such steps as are requisite to enable them to do so, as for example, but without prejudice to the generality of this paragraph, to open any lockfast place.

Giving notice of grant of warrant

82.3.—(1) Such Notice (if any) as the court thinks fit of the granting of a warrant under rule 82.2(1) shall be given by the applicant to such persons, in such manner and by such means as the court may direct.

(2) Without prejudice to the generality of paragraph (1), a direction under that paragraph may provide that a telecommunications system (as defined in section 4(1) of the Telecommunications Act 1984⁽³⁾) may be used as a means of giving notice.”.

Edinburgh
8th March 2001

Rodger of Earlsferry
Lord President, I.P.D.

(3) 1984 c. 12.