

2007 No. 362

SHERIFF COURT

**Act of Sederunt (Proceedings for Determination of Devolution
Issues Rules) Amendment 2007**

Made - - - - *25th July 2007*

Coming into force - - - *15th August 2007*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971^(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, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the Sheriff Courts (Scotland) Act 1971, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Proceedings for Determination of Devolution Issues Rules) Amendment 2007 and shall come into force on 15th August 2007.

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

Amendment of the Act of Sederunt (Proceedings for Determination of Devolution Issues Rules) 1999

2.—(1) The Act of Sederunt (Proceedings for Determination of Devolution Issues Rules) 1999^(e) shall be amended in accordance with the following sub-paragraphs.

(2) In rule 2(1) (interpretation)—

- (a) in paragraph (c) of the definition of “devolution issue” and in paragraph (c) of the definition of “relevant authority” for “Schedule 8” there shall be substituted “Schedule 9”;
- (b) in paragraph (c) of the definition of “devolution issue” for “Government of Wales Act 1998”^(f) there shall be substituted “Government of Wales Act 2006”; and

^(a) 1971 c.58. Section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12, the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4), the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2), the Adults with Incapacity (Scotland) Act 2000 (asp 4), schedule 5, paragraph 13 and the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43 and was extended by the Child Support Act 1991 (c.48), sections 39(2) and 49 and the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2).

^(b) 1998 c.46.

^(c) 1998 c.47.

^(d) 2006 c.32.

^(e) S.I. 1999/1347.

^(f) 1998 c.38.

- (c) in paragraph (c) of the definition of “relevant authority” for “National Assembly for Wales” there shall be substituted “Counsel General to the Welsh Assembly Government”.
- (3) In rule 6 (intimation of devolution issue), at the end there shall be inserted–
- “(6) Where, after determination at first instance of any proceedings in which a devolution issue has been raised under this Act of Sederunt, a party to those proceedings marks an appeal under rule 31.3 or 31.4 of the Ordinary Cause Rules 1993 in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(a), that party shall, unless the relevant authority is already a party to the proceedings, intimate the note of appeal to the relevant authority together with a notice in Form 2A.”.
- (4) In rule 7 (response to intimation of devolution issue), at the end there shall be inserted–
- “(7) Where a relevant authority does not take part as a party in the proceedings at first instance the court may allow him to take part as a party in any subsequent appeal to the sheriff principal.”.
- (5) For sub-paragraph (c) of paragraph (1) of rule 8 (intimation under section 102 of the Scotland Act 1998, section 81 of the Northern Ireland Act 1998 or section 110 of the Government of Wales Act 1998) there shall be substituted–
- “(c) section 153 of the Government of Wales Act 2006 (power to vary retrospective decisions).”.
- (6) The title of rule 8 becomes “*Intimation under section 102 of the Scotland Act 1998, section 81 of the Northern Ireland Act 1998 or section 153 of the Government of Wales Act 2006*”.
- (7) In Schedule 1–
- (a) in Form 1 for “Government of Wales Act 1998” there shall be substituted “Government of Wales Act 2006”;
- (b) after Form 2 there shall be inserted Form 2A as set out in the Schedule to this Act of Sederunt; and
- (c) in Form 3 for “section 110 of the Government of Wales Act 1998” in both places where it occurs there shall be substituted “section 153 of the Government of Wales Act 2006”.
- (8) In paragraph 4 of the form in Schedule 2 for “Government of Wales Act 1998” there shall be substituted “Government of Wales Act 2006”.

A C HAMILTON
Lord President
I.P.D.

Edinburgh
25th July 2007

(a) 1907 c.51. Schedule 1 was substituted by S.I. 1993/1956 and amended by S.I. 1996/2167 and 2445, S.S.I. 2000/239 and 408, 2001/8 and 144, 2002/7, 128 and 566, 2003/25 and 26, 2004/197 and 350, 2005/20, 189, 638 and 648, 2006/207, 293, 410 and 509, 2007/6 and 339.

SCHEDULE

Paragraph 2(7)(b)

FORM 2A

Rule 6(6)

Form of intimation to relevant authority of appeal in proceedings in which a devolution issue has been raised

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

Court Ref No:

You are given notice that an appeal has been marked in proceedings in which a devolution issue has been raised. A copy of the note of appeal is enclosed.

Date *(insert date)*

(Signed)
Solicitor for the Appellant
*(add designation and
business address)*

EXPLANATORY NOTE

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

This Act of Sederunt makes the following amendments to the Act of Sederunt (Proceedings for Determination of Devolution Issues Rules) 1999—

- (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 requiring intimation to the relevant authority of notes of appeal lodged in relation to appeals under sections 31.3 and 31.4 of the Ordinary Cause Rules and for a form of intimation;
- (e) provision is made to allow a relevant party to take part as a party in a subsequent appeal where he did not take part in the proceedings at first instance; 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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