
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 356

Act of Sederunt (Sheriff Appeal Court Rules) 2015

PART 6

INCIDENTAL PROCEDURE: SPECIAL PROCEDURES

CHAPTER 21

PRELIMINARY REFERENCES TO THE CJEU

Interpretation of this Chapter

21.1. In this Chapter—

“European Court” means the Court of Justice of the European Union;

“reference” means a reference to the European Court for—

- (a) a preliminary ruling under Article 267 of the Treaty on the Functioning of the European Union⁽¹⁾;
- (b) a ruling on the interpretation of the Conventions mentioned in Article 1 of Schedule 2 to the Civil Jurisdiction and Judgments Act 1982⁽²⁾ under Article 3 of that Schedule;
- (c) a preliminary ruling on the interpretation of the instruments mentioned in Article 1 of Schedule 3 to the Contracts (Applicable Law) Act 1990⁽³⁾ under Article 2 of that Schedule.

Applications for a reference

21.2.—(1) An application for a reference by a party is to be made by motion.

(2) The Court may make a reference of its own accord.

Preparation of reference

21.3.—(1) Where the Court decides that a reference is to be made, it is to make an order specifying—

- (a) by whom the reference is to be drafted and adjusted;
- (b) the periods within which the reference is to be drafted and adjusted.

(2) A reference is to be drafted in Form 21.3 unless the Court directs otherwise when it makes an order under paragraph (1).

⁽¹⁾ OJ C 326, 26.10.2012, p. 47.

⁽²⁾ 1982 c. 27. Schedule 2 was substituted by S.I. 2000/1824.

⁽³⁾ 1990 c. 36. Schedule 3 was amended by S.I. 2011/1043.

(3) In drafting and adjusting the reference, parties are to have regard to the Recommendations to national courts and tribunals in relation to the initiation of preliminary ruling proceedings issued by the European Court⁽⁴⁾.

(4) When the reference has been drafted and any adjustments required by the Court have been made, the Court is to make and sign the reference.

(5) When the reference is made, the Clerk must notify the parties.

Transmission of reference to European Court

21.4. A copy of the reference is to be certified by the Clerk and sent to the Registrar of the European Court.

Sist of appeal

21.5.—(1) When a reference is made, the Court is to sist the appeal until the European Court determines the reference, unless the Court orders otherwise.

(2) Where an appeal is sisted under paragraph (1), the Court may recall the sist for the purposes of making an interim order.

(4) OJ C 338, 6.11.2012, p. 1.