
 STATUTORY INSTRUMENTS

1973 No. 1991 (S.151)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 6) 1973

Made - - - - 28th November 1973

Coming into Operation 1st January 1974

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 as follows—

1. The Rules of Court(b) are hereby amended as follows:—

By adding a new Rule of Court 170B as follows:—

170B—Domicile and Matrimonial Proceedings Act 1973(c)

(a) The condescence of the Summons, (either in its original form or as amended at any time prior to the commencement of proof) in every action of divorce, separation, declarator of marriage, or declarator of nullity of marriage, in the Court of Session shall contain a short statement of whether to the knowledge of the pursuer any proceedings are continuing in any country outside Scotland, which are in respect of the marriage to which the Summons relates or are capable of affecting its validity or subsistence.

(b) If there are any such proceedings said statement shall give particulars thereof including:—

(i) The Court or Tribunal or authority before which they have been commenced;

(ii) The date of commencement;

(iii) The names of the parties;

(iv) The date, or expected date of any proof in the proceedings; and

(v) Such other facts as may be relevant to the question of whether the Court of Session action should be sisted under Schedule 3 of the Domicile and Matrimonial Proceedings Act 1973.

(c) For the purposes of this Rule and said Schedule 3, proceedings shall be treated as 'continuing' where proceedings in respect of that marriage or capable of affecting its validity have been instituted before a Court, Tribunal or other authority in any country outside Scotland and such proceedings have not been finally disposed of.

(d) A short statement such as is referred to in paragraph (a) hereof shall in all such actions be inserted in any defences or minute lodged by

(a) 1933 c. 41.

(b) S.I. 1965/321 (1965 I, p. 803).

(c) 1973 c. 45.

any party in such action, containing the particulars referred to in paragraph (b) hereof in so far as these particulars are additional to or contradictory of any such particulars provided by the pursuer in the action, or in any case in which the pursuer has provided no such statement.

(e) Any application made by any party in an action of divorce, separation, declarator of marriage or declarator of nullity of marriage for an order in terms of Part I or Part II of Schedule 2 of said Act, or for a sist of such an action or the recall of a sist in such an action in terms of said Schedule 3 shall be made by motion enrolled and intimated in accordance with current practice.

2. This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 6) 1973, and shall come into operation on 1st January 1974.

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

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

Edinburgh.
28th November 1973.

EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of Court by providing that a short statement shall be inserted in all Summonses of divorce, separation, declarator of marriage or declarator of nullity of marriage and in defences and minutes lodged in such actions *inter alia* averring whether other proceedings are continuing in any country other than Scotland in respect of that marriage or which may affect the validity of the marriage, and further by providing that applications to the Court under Parts I and II of Schedule 2 and Schedule 3 of the Domicile and Matrimonial Proceedings Act 1973 shall be made by way of motion.

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