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1973 No. 543 (S.42)

## SHERIFF COURT, SCOTLAND

## Act of Sederunt (Sheriff Court Procedure Amendment No. 2)

1973

Made - - - - 22nd March 1973

Coming into Operation 3rd May 1973

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 32 of the Sheriff Courts (Scotland) Act 1971(a) and of all other powers competent to them in that behalf do hereby enact and declare as follows:—

1. The Sheriff Courts (Scotland) Act 1907(b) as amended shall be further amended as follows:—

At the end of Rule 174 there shall be added the following:—

## “EUROPEAN COURT”

175.—(1) Interpretation:

In this Rule:

- (i) any expression defined in Schedule 1 to the European Communities Act 1972(c) has the meaning there given to it.
- (ii) “the European Court” means the Court of Justice of the European Communities;
- (iii) “reference” means a reference to the European Court for a preliminary ruling under Article 177 of the European Economic Community Treaty, Article 150 of the European Atomic Energy Community Treaty or Article 41 of the European Coal and Steel Community Treaty;
- (iv) “appeal” shall include an application for leave to appeal.

(2) A reference may be made by the sheriff *ex proprio motu* or on the motion of any party to the proceedings in the sheriff court.

(3) A reference shall be made in the form of a request for a preliminary ruling of the European Court as nearly as may be in terms of Schedule C.

(4) (a) When the sheriff decides that a reference be made, he shall continue the cause *simpliciter* for that purpose and within four weeks thereafter draft a reference.

(b) On the reference being drafted, the sheriff clerk shall forthwith send a copy to each of the parties.

(c) Within four weeks from the date when copies of the draft have been sent to parties, each party may lodge in the hands of the sheriff clerk and send to each of the other parties in the proceedings a note of any adjustments he desires to have made in the draft reference.

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(a) 1971 c. 58.

(b) 1907 c. 51.

(c) 1972 c. 63

(d) Within fourteen days after the latest date on which any such note may be lodged the sheriff, after considering any such adjustments, shall make and sign the reference.

(e) The sheriff clerk shall forthwith intimate the making of the reference to the parties in the proceedings.

(5) On a reference being made the proceedings shall, unless the sheriff when making such a reference otherwise orders be sisted until the European Court has given a preliminary ruling on the question or questions referred to it, provided that the sheriff shall have power to recall such sist for the purpose of making any interim order which a due regard to the interests of the parties may require.

(6) A copy of the reference certified by the sheriff clerk, shall be transmitted by the sheriff clerk of the Registrar of the European Court but, unless the sheriff otherwise directs, such copy shall not be sent to the Registrar so long as an appeal or further appeal against the making of the reference is pending, and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal.

### SCHEDULE C

“REQUEST FOR PRELIMINARY RULING OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES”.

[Here set out a statement of the case for the European Court, giving brief particulars of the case and the issues between the parties, any relevant facts found by the Court, any relevant rules and provisions of Scots Law, and the relevant Treaty provisions, acts, instruments or rules of Community law giving rise to the reference.]

The preliminary ruling of the Court of Justice of the European Communities is accordingly sought on the following questions—1, 2, etc. [Insert the questions on which the ruling is sought.]

Dated the                      day of    19                      .

2.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Procedure Amendment No. 2) 1973, and shall come into operation on 3rd May 1973.

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

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

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

Edinburgh  
22nd March 1973.

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**EXPLANATORY NOTE**

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

This Act of Sederunt amends the Rules in the Schedule to the Sheriff Courts (Scotland) Act 1907 by prescribing the procedure in references to the European Court for preliminary rulings under Article 177 of the European Economic Community Treaty, Article 150 of the Euratom Treaty and Article 41 of the European Coal and Steel Community Treaty.

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