

1978 No. 799 (S.69)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 5)
(Depute Clerks of Session) 1978

Made - - - - - 31st May 1978

Coming into Operation 22nd June 1978

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 enabling them in that behalf, do hereby enact and declare:—

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 5) (Depute Clerks of Session) 1978 and shall come into operation on 22nd June 1978.

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

Powers of Depute Clerks of Session

2. In the Rules of Court(c), in Chapter II (Ordinary Actions), in Section 5 (Motions), after rule 93 there is inserted the following rule:—

“93A. Powers of Depute Clerks of Session

Notwithstanding the provisions of the Interlocutors Acts 1686(d) and 1693(e) a Depute Clerk of Session may, subject to any direction he may be given by a judge—

(a) write an interlocutor (other than a final interlocutor) in respect of a motion which is not starred;

(b) sign any such interlocutor as Clerk of Court on behalf of the judge, and any such interlocutor so written and signed shall be treated for all purposes as if it had been written and signed by the judge; and an extract of any such interlocutor, shall not, by reason only of it being so written and signed, be invalid.”.

Consequential amendment

3. In the Rules of Court, in rule 198, for the words “Rule 93” there are substituted the words “rules 93 and 93A”.

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

Edinburgh,
31st May 1978.

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

(a) 1933 c. 41.
(e) 1693 c. 31.

(b) 1889 c. 63.

(c) S.I. 1965/321.

(d) 1686 c. 4.

EXPLANATORY NOTE

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

This Act of Sederunt empowers Depute Clerks of Session to frame and sign interlocutors in respect of routine procedural matters where counsel are not required to appear and a formal order of the Court only is required.

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