

1987 No. 12 (S. 3)

COURT OF SESSION, SCOTLAND

**Act of Sederunt (Rules of Court Amendment No. 1)
(Drug Trafficking) 1987**

Made - - - - - *8th January 1987*
Coming into force *12th January 1987*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 16 of the Administration of Justice (Scotland) Act 1933(a), section 21(2) of the Drug Trafficking Offences Act 1986(b) and of all other powers enabling them in that behalf, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 1) (Drug Trafficking) 1987 and shall come into force on 12th January 1987.

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

Amendment of the Rules of the Court of Session

2.—(1) The Rules of the Court of Session(c) shall be amended in accordance with the following sub-paragraphs.

(2) After Section 8C of Chapter IV of the Rules of the Court of Session, insert the following Section:—

“SECTION 8D

**REGISTRATION AND ENFORCEMENT OF ORDERS OF
THE HIGH COURT IN ENGLAND AND WALES UNDER
THE DRUG TRAFFICKING OFFENCES ACT 1986**

249S. Interpretation

(1) In this Section—

“the Act of 1986” means the Drug Trafficking Offences Act 1986;

“Keeper of the Registers” means the Keeper of the Registers of Scotland.

(2) Words and expressions which are used in this section and are used in the Act of 1986 have the same meaning as in that Act, unless the context otherwise requires.

249T. Applications for registration

(1) An application under section 21(1) of the Act of 1986 for registration of an order to which section 20 of that Act applies, shall be made by petition presented to the Outer House.

(2) There shall be produced with a petition under paragraph (1) a certified copy of the order which is sought to be registered.

(3) Rules 192 and 195 to 197 shall not apply to a petition under this section.

(4) The motion to grant the prayer of a petition under paragraph (1) shall not require an appearance for the petitioner unless the court so requires.

(5) Where the court requires an appearance under paragraph (4), the hearing shall be in chambers.

249U. Registration

(1) The court, on being satisfied that the application meets the requirements of the Act of 1986, shall—

- (a) grant decree and warrant for the registration of the order sought to be registered;
- (b) where necessary, grant decree of the order sought to be registered in accordance with Scots Law and grant decree and warrant for registration of that decree; and
- (c) where warrant for execution is sought, grant decree and warrant for registration in the Books of Council and Session.

(2) Where the court grants decree under paragraph (1), the Deputy Principal Clerk shall enter the order in a register for the registration of orders under the Act of 1986.

(3) Where decree and warrant for execution has been granted under paragraph (1)(c), upon presentation by the petitioner to the Keeper of the Registers of—

- (a) a certified copy of the interlocutor granting such decree and warrant for registration; and
- (b) a certified copy of the order to be registered,

the same shall be registered in the Register of Judgments of the Books of Council and Session whereupon the Keeper of the Registers shall issue an extract of the registered order and decree with warrant for execution.

249V. Intimation of registration

(1) Intimation of a decree and warrant for registration and of registration of an order under rule 249U shall be made by the petitioner in Form 62 to the person against whom the decree and warrant for registration was granted.

(2) Service of the intimation under paragraph (1) shall be made in accordance with rule 74A(a), 74B or 75, as the case may be, and an execution of service shall be lodged in process.

249W. Suspension of enforcement

Where an order has been registered under rule 249U, the court may on the application of the person against whom the order may be enforced by note in the process of the petition, if satisfied that it is sought to have the order set aside or quashed in the High Court in England and Wales—

- (a) suspend enforcement of the registered order; and
- (b) sist any proceedings for enforcement of the registered order.

249X. Modification and cancellation of registration

(1) An application to modify or cancel the registration of an order registered under rule 249U shall be made—

- (a) by the petitioner, by motion in the process of the petition; and
- (b) by any other interested party, by note in the process of the petition.

(2) There shall be produced with the application a certified copy of the order which modifies or revokes the registered order or which causes that order to cease to have effect.

(3) The court shall, on being satisfied that the registered order has been modified, revoked or has ceased to have effect, pronounce an interlocutor so modifying or cancelling the registration, as the case may be.

(a) Rule 74A was added by S.I. 1984/472 and amended by S.I. 1985/1600 and 1986/1941.

(4) Where the court pronounces an interlocutor under paragraph (3), the Deputy Principal Clerk shall modify or cancel the registration in the register kept under rule 249U(2) in accordance with that interlocutor.

249Y. Applications for inhibition and arrestment

(1) An application under section 22(1) of the Act of 1986 for warrant for inhibition or arrestment shall be made by the prosecutor—

- (a) by motion in the process of the petition for registration under rule 249U where the prayer of the petition has previously been granted; or
- (b) in the prayer of that petition.

(2) A motion under paragraph (1)(a) shall not require an appearance for the prosecutor unless the court so requires, in which case the hearing shall be in chambers.”.

(3) In the Appendix, after Form 61, insert the following form:—

“FORM 62

Rule 249V(1)

**Intimation of decree and warrant for registration of an order of
the High Court in England and Wales under the Drug Trafficking Offences Act 1986**

IN THE COURT OF SESSION

in

PETITION

of

[AB] (*address*)

under section 21 of the Drug
Trafficking Offences Act 1986

for

registration of an order of the High
Court of Justice in England and Wales

Dated the day of 19

TO (*name of person against whom the order was made and decree and warrant for registration granted*).

TAKE NOTICE that an interlocutor dated the day of 19, a certified copy of which is attached, was pronounced in the Court of Session granting decree and warrant for registration in the Court of Session [and for registration in the Register of Judgments of the Books of Council and Session] of the order of the High Court of Justice in England and Wales dated the day of 19 that (*briefly describe order*).

The order was registered in the Court of Session on (*date*).

[The order was registered in the Register of Judgments of the Books of Council and Session on (*date*) and an extract of the registered order and decree with warrant for execution has been issued by the Keeper of the Registers. Diligence in execution of the order may now be taken against you to enforce the order.]

Dated this day of 19

(*Signed*)
Petitioner [or Solicitor for
petitioner].
(*Address*)”.

Edinburgh
8th January 1987

Emslie
Lord President,
I.P.D.

EXPLANATORY NOTE

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

This Act of Sederunt amends the rules of the Court of Session to make provision for registration and enforcement in Scotland of orders of the High Court in England and Wales under the Drug Trafficking Offences Act 1986.

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