
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 509

Act of Sederunt (Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules) Amendment (Equality Act 2006 etc.) 2006

Amendment of the Ordinary Cause Rules

2.—(1) The Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907⁽¹⁾ shall be amended in accordance with the following sub-paragraphs.

(2) Part V (Sex Discrimination Act 1975) of Chapter 36 (actions of damages)⁽²⁾ shall be omitted.

(3) After Chapter 43 (causes relating to Articles 81 and 82 of the Treaty establishing the European Community)⁽³⁾ there shall be inserted the following:—

“CHAPTER 44

EQUALITY ENACTMENTS

Application and interpretation

44.1.—(1) This Chapter applies to claims under the equality enactments.

(2) In this Chapter, “claims under the equality enactments” means proceedings in reparation for breach of statutory duty under any of the following enactments:—

- (a) Sex Discrimination Act 1975;
- (b) Race Relations Act 1976;
- (c) Disability Discrimination Act 1995;
- (d) Equality Act 2006.

Relevant Commission

44.2.—(1) The pursuer shall send a copy of the initial writ to the relevant Commission by registered or recorded delivery post.

(2) The relevant Commission is—

- (a) for proceedings under the Sex Discrimination Act 1975, the Equal Opportunities Commission;
- (b) for proceedings under the Race Relations Act 1976, the Commission for Racial Equality;
- (c) for proceedings under the Disability Discrimination Act 1995, the Disability Rights Commission;

(1) 1907 c. 51. Schedule 1 was substituted by S.I. 1993/1956 and amended by S.I. 1996/2167 and 2445, S.S.I. 2000/239 and 408, 2001/8 and 144, 2002/7, 128 and 566, 2003/25 and 26, 2004/197 and 350, 2005/20, 189, 638 and 648 and 2006/207, 293 and 410.

(2) Part V of Chapter 36 was amended by S.I. 1996/2445.

(3) Chapter 43 was inserted by S.S.I. 2006/293.

- (d) for proceedings under the Equality Act 2006, the Commission for Equality and Human Rights.

Assessor

44.3.—(1) The sheriff may, of his own motion or on the motion of any party, appoint an assessor.

(2) The assessor shall be a person who the sheriff considers has special qualifications to be of assistance in determining the cause.

Taxation of Commission expenses

44.4.—(1) The expenses incurred by the Commission within the meaning and for the purposes of the sections referred to in paragraph (2) shall be taxed by the auditor of the sheriff court in which such proceedings under the relevant Act were taken or would have been taken but for any compromise or settlement, as if they were outlays incurred by a solicitor on behalf of a client.

(2) The sections are as follows:—

- (a) section 75(3) (assistance by Commission) of the Sex Discrimination Act 1975;
- (b) section 66(5) (assistance by Commission) of the Race Relations Act 1976.

National security

44.5.—(1) Where, on a motion under paragraph (3) or of his own motion, the sheriff considers it expedient in the interests of national security, he may—

- (a) exclude from all or part of the proceedings—
 - (i) the pursuer;
 - (ii) the pursuer's representatives;
 - (iii) any assessors;
- (b) permit a pursuer or representative who has been excluded to make a statement to the court before the commencement of the proceedings or the part of the proceedings, from which he is excluded;
- (c) take steps to keep secret all or part of the reasons for his decision in the proceedings.

(2) The sheriff clerk shall, on the making of an order under paragraph (1) excluding the pursuer or his representatives, notify the Advocate General for Scotland of that order.

(3) A party may apply by motion for an order under paragraph (1).

(4) The steps referred to in paragraph (1)(c) may include the following:—

- (a) directions to the sheriff clerk; and
- (b) orders requiring any person appointed to represent the interests of the pursuer in proceedings from which the pursuer or his representatives are excluded not to communicate (directly or indirectly) with any persons (including the excluded pursuer)—
 - (i) on any matter discussed or referred to;
 - (ii) with regard to any material disclosed,during or with reference to any part of the proceedings from which the pursuer or his representatives are excluded.

(5) Where the sheriff has made an order under paragraph (4)(b), the person appointed to represent the interests of the pursuer may apply by motion for authority to seek instructions from or otherwise communicate with an excluded person.”.