

2008 No. 123

COURT OF SESSION

**Act of Sederunt (Rules of the Court of Session Amendment
No. 4) (Miscellaneous) 2008**

Made - - - - - *13th March 2008*

Coming into force - - - - - *1st April 2008*

The Lords of Council and Session, under and by virtue of the powers conferred by section 5 of the Court of Session Act 1988(a), section 14 of the Scottish Commission for Human Rights Act 2006(b) 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 the Court of Session Amendment No. 4) (Miscellaneous) 2008.

(2) It comes into force on 1st April 2008 and is to be inserted in the Books of Sederunt.

(3) In this Act of Sederunt, “the Rules” means the Rules of the Court of Session 1994(c).

Lodging of account of expenses

2.—(1) In rule 42.1 of the Rules (remit to the auditor), for paragraph (2)(d) substitute—

“(2) Any party found entitled to expenses shall—

- (a) lodge an account of expenses in process not later than four months after the final interlocutor in which a finding in respect of expenses is made;
- (b) if he has failed to comply with sub-paragraph (a), lodge such account at any time with leave of the court but subject to such conditions (if any) as the court thinks fit to impose; and
- (c) on lodging an account under sub-paragraph (a) or (b), intimate a copy of it forthwith to the party found liable to pay those expenses.”.

(2) But rule 42.1(2)(b) of the Rules as it applied immediately before 1st April 2008 continues to have effect in relation to any account lodged before that date.

(a) 1988 c.36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 c.32, section 2(3), the Children (Scotland) Act 1995 c.36, Schedule 4, paragraph 45 and by the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(1).

(b) 2006 asp 16.

(c) S.I. 1994/1443, last amended by SSI 2008/122.

(d) Paragraph (2) was amended by S.I. 1995/1396, 1996/1756 and 1998/890 and S.S.I. 2001/305.

Scottish Commission for Human Rights

3.—(1) In rule 58.8A of the Rules (judicial review: applications for public interest intervention), after paragraph (1) insert—

“(1A) This rule does not apply to the Scottish Commission for Human Rights (which may instead intervene in accordance with Chapter 95).”.

(2) After Chapter 94 of the Rules(a) insert—

“CHAPTER 95

SCOTTISH COMMISSION FOR HUMAN RIGHTS

Interpretation

95.1. In this Chapter—

“the Act of 2006” means the Scottish Commission for Human Rights Act 2006; and

“the SCHR” means the Scottish Commission for Human Rights.

Reports to the Court of Session under schedules 2 and 3 to the Act of 2006

95.2. A report to the court for the purposes of paragraph 3(3) of schedule 2, or paragraph 3(1) of schedule 3, to the Act of 2006, shall be made by petition.

Application to intervene

95.3.—(1) An application for leave to intervene under section 14(2)(a) of the Act of 2006 shall be by way of a minute of intervention in Form 95.3, and the SCHR shall —

(a) send a copy of it to all the parties; and

(b) lodge it in process, certifying that sub-paragraph (a) above has been complied with.

(2) In granting leave, the court may impose such terms and conditions as it considers desirable in the interests of justice, including making provision in respect of any additional expenses incurred by the parties as a result of the intervention.

(3) Any decision of the court in proceedings under this Chapter shall be final and not subject to review.

(4) The clerk of court shall give written intimation of a grant or refusal of leave to the SCHR and all the parties.

Invitation to intervene

95.4.—(1) An invitation to intervene under section 14(2)(b) of the Act of 2006 shall be in Form 95.4, and the clerk of court shall send a copy of it to the SCHR and all the parties.

(2) An invitation under paragraph (2) shall be accompanied by—

(a) a copy of the pleadings in the proceedings; and

(b) such other documents relating to that proceedings as the court thinks relevant.

(3) In issuing an invitation under section 14(2)(b) of the Act of 2006, the court may impose such terms and conditions as it considers desirable in the interests of justice, including making provision in respect of any additional expenses incurred by the parties as a result of the intervention.

(a) Chapter 94 was inserted by S.S.I. 2007/449.

Form of intervention

95.5.—(1) An intervention shall be by way of a written submission which (including any appendices) does not exceed 5000 words.

(2) The SCHR shall lodge the submission and send a copy of it to all the parties by such time as the court may direct.

(3) The court may in exceptional circumstances—

(a) allow a longer written submission to be made;

(b) direct that an oral submission is to be made.

(4) Any diet in pursuance of paragraph (3)(b) shall be fixed by the Keeper of the Rolls who shall give written intimation of the diet to the SCHR and all the parties.”

4. In the appendix, after Form 94.3(a) insert—

“FORM 95.3

Rule 95.3

Form of minute of intervention by the Scottish Commission for Human Rights

FORM OF MINUTE OF INTERVENTION BY THE SCOTTISH COMMISSION FOR HUMAN RIGHTS

in the cause

[A.B.] (designation and address), Pursuer [*or Petitioner*]

against

[C.D.] (designation and address), Defender [*or Respondent*]

[*Here set out briefly:*

(a) *the issue arising in the proceedings which the Commission intends to address;*
and;

(b) *a summary of the submission that the Commission intends to make.*

(a) Form 94.3 was inserted by S.S.I. 2007/449.

FORM 95.4

Rule 95.4

Invitation to the Scottish Commission for Human Rights to intervene

INVITATION TO THE SCOTTISH COMMISSION FOR HUMAN RIGHTS TO
INTERVENE

in the cause

[A.B.] (designation and address), Pursuer [*or Petitioner*]

against

[C.D.] (designation and address), Defender [*or Respondent*]

[*Here set out briefly:*

(a) *the facts, procedural history and issues in the proceedings;*

(b) *the issue in the proceedings on which the court seeks a submission.*”]

A C HAMILTON
Lord President
I.P.D.

Edinburgh
13th March 2008

EXPLANATORY NOTE

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

This Act of Sederunt amends the Rules of the Court of Session 1994.

Paragraph 2 substitutes a new rule 42.1(2) which provides for the lodging of an account of expenses and intimation of it to the party found liable for expenses.

Paragraph 3 inserts new Chapter 95 which makes provision, in accordance with section 14 of the Scottish Commission for Human Rights Act 2006 for the Scottish Commission for Human Rights to intervene in proceedings.

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