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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 349**

**Act of Sederunt (Rules of the Court of Session  
Amendment No. 5) (Miscellaneous) 2008**

**Appeals under Statute**

- 7.—(1) In rule 41.20(2) (lodging of appeal in court)—
- (a) for subparagraph (a) substitute—

“(a) section 37 of the Employment Tribunals Act 1996 (appeal on a question of law from a decision or order of the Employment Appeal Tribunal with leave of the Tribunal);”;
  - (b) for subparagraph (b) substitute—

“(b) section 15 of the Social Security Act 1998 (appeal from decision of a commissioner on a question of law with leave of a commissioner);”;
  - (c) after subparagraph (c) insert—

“(d) section 13 of the Tribunals, Courts and Enforcement Act 2007 (appeal from decision of Upper Tribunal with leave from the Upper Tribunal) in respect of the exercise of functions transferred from a Child Support Commissioner or a Social Security Commissioner to the Upper Tribunal.”.
- (2) After rule 41.20(2) (lodging of appeal in court) insert—
- “(2A) Paragraph (2B) applies where an appeal lies to the court under any decision made by a Child Support Commissioner or a Social Security Commissioner which falls to be dealt with as if the decision were a decision made on or after 3rd November 2008 by the Upper Tribunal.
- (2B) In such a case, paragraph (2) shall apply, subject to a requirement that the appeal shall be lodged in the General Department within 42 days after the date on which the decision of a Child Support Commissioner or a Social Security Commissioner to grant leave was intimated to the appellants.”.

- (3) In rule 41.21(3) (orders for service and answers)—
- (a) for “section 25(1) of the Child Support Act 1991 (appeal from Child Support Commissioner) or section 24(1) of the Social Security Administration Act 1992 (appeal from Social Security Commissioner)” substitute “section 15 of the Social Security Act 1998 (appeal from a Social Security Commissioner) or, in respect of the exercise of functions transferred from a Child Support Commissioner or a Social Security Commissioner to the Upper Tribunal, section 13 of the Tribunals, Courts and Enforcement Act 2007 (appeal from Upper Tribunal);”;
  - (b) for subparagraph (a) substitute—

“(a) the Secretary of State for Work and Pensions;”.
- (4) In rule 41.41 (form of appeal under certain Social Security Acts), omit paragraph (a).
- (5) In rule 41.44(2) (appeals to be heard in the Outer House)—
- (a) for subparagraph (i) substitute—

- “(i) an appeal under section 13 of the Tribunals, Courts and Enforcement Act 2007 (appeal from the Upper Tribunal) in respect of the exercise of functions transferred from a Child Support Commissioner or a Social Security Commissioner to the Upper Tribunal;” and
- (b) for subparagraph (j) substitute—
  - “(j) an appeal under section 15 of the Social Security Act 1998 (appeal from a Social Security Commissioner)”.
- (6) After Part XIII of Chapter 41 (references and appeals under an ACAS arbitration scheme), insert—

## **“PART XIV**

### **APPEALS UNDER THE TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007**

#### **Permission to appeal against decisions of the Upper Tribunal**

**41.59.**—(1) This rule applies where an application is made to the court under section 13(4) of the Tribunals, Courts and Enforcement Act 2007<sup>(1)</sup> for permission to appeal a decision of the Upper Tribunal which falls within section 13(7) of that Act and for which the relevant appellate court is the Court of Session.

- (2) Permission shall not be granted on the application unless the court considers that—
  - (a) the proposed appeal would raise some important point of principle or practice; or
  - (b) there is some other compelling reason for the court to hear the appeal.”.

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<sup>(1)</sup> 2007 c. 15.