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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 459**

**COURT OF SESSION**

**Act of Sederunt (Rules of the Court of Session Amendment  
No. 6) (Terrorist Asset-Freezing etc. Act 2010) 2010**

*Made* - - - - *17th December 2010*

*Coming into force* - - *21st December 2010*

The Lords of Council and Session, under and by virtue of the powers conferred by section 5 of the Court of Session Act 1988(1), sections 66 and 67 of the Counter-Terrorism Act 2008(2) and all other powers enabling them in that behalf, do hereby enact and declare:

**Citation, commencement etc.**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Terrorist Asset-Freezing etc. Act 2010) 2010 and comes into force on 21st December 2010.

(2) A certified copy of this Act of Sederunt is to be inserted in the Books of Sederunt.

**Terrorist Asset-Freezing etc. Act 2010**

2.—(1) The Rules of the Court of Session 1994(3) are amended in accordance with the following subparagraph.

(2) After Chapter 100 (arbitration)(4), insert the following Chapter—

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(1) 1988 c.36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 (c.32), section 2(3); the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), Schedule 9; the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 45; the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(1); and the Judiciary and Courts (Scotland) Act 2008, (asp 6), section 46(3).

(2) 2008 c.28. Sections 66 and 67 of the Counter-Terrorism Act 2008 are applied by section 28(4) of the Terrorist Asset-Freezing etc. Act 2010 (c. 38).

(3) S.I. 1994/1443, last amended by S.S.I. 2010/417.

(4) Chapter 100 was inserted by S.S.I. 2010/205.

## “CHAPTER 101 TERRORIST ASSET-FREEZING

### Interpretation of this Chapter

**101.1.** In this Chapter—

“the 2010 Act” means the Terrorist Asset-Freezing etc. Act 2010(5);

“asset-freezing proceedings” means proceedings in the Court of Session on—

- (a) an application under section 27(2) of the 2010 Act, a reclaiming motion in respect of such an application or a claim arising from any matter to which such an application relates; or
- (b) an appeal under section 26(2) of the 2010 Act or a claim arising from any matter to which such an appeal relates.

### Application to set aside an asset-freezing decision

**101.2.**—(1) An application under section 27(2) of the 2010 Act shall be made by lodging a petition with the Deputy Principal Clerk.

(2) The petition shall include, in numbered paragraphs, statements of reasons setting out—

- (a) the details of the decision to be set aside; and
- (b) the grounds on which the petitioner seeks to set aside that decision.

(3) There shall be lodged with the petition—

- (a) a copy of the decision; and
- (b) all relevant documents in the petitioner’s possession and within the petitioner’s control.

### Appeal in relation to designations

**101.3.** Notwithstanding rule 41.20(1) (lodging of appeal in the General Department), an appeal under section 26(2) of the 2010 Act shall be lodged with the Deputy Principal Clerk.

### Lodging of process

**101.4.**—(1) A process lodged under rule 4.3 in an application under section 27(2) of the 2010 Act or on a claim arising from any matter to which such an application relates shall be lodged with the Deputy Principal Clerk.

(2) A process lodged in an appeal under section 26(2) of the 2010 Act or on a claim arising from any matter to which such an appeal relates shall be lodged with the Deputy Principal Clerk.

### Application of Chapter 96 to asset-freezing proceedings

**101.5.**—(1) Subject to paragraphs (2) and (3), rules 96.4 to 96.13 apply to asset-freezing proceedings as they apply to financial restrictions proceedings, as defined in rule 96.1(1).

(2) In the application of rules 96.4 to 96.13 under paragraph (1)—

- (a) “special advocate” means, in relation to asset-freezing proceedings, a person who is appointed under section 68 of the Counter-Terrorism Act 2008<sup>(6)</sup> to represent the interests of a party to those proceedings;
  - (b) references to a party to the proceedings do not include the Treasury;
  - (c) references to a party’s legal representative do not include a person appointed as a special advocate;
  - (d) references to financial restrictions proceedings shall be read as references to asset-freezing proceedings; and
  - (e) references to the petitioner shall include references to the appellant.
- (3) In the application of rule 96.4 under paragraph (1), the reference to a petition shall include a reference to an appeal.”.

Edinburgh  
17th December 2010

*A.C. HAMILTON*  
Lord President  
I.P.D.

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<sup>(6)</sup> 2008 c.28. Section 68 of the 2008 Act is applied by section 28(4) of the 2010 Act.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

This Act of Sederunt makes amendments to the Rules of the Court of Session 1994.

It inserts a new Chapter 101 and rules in respect of terrorist asset-freezing proceedings under the Terrorist Asset-Freezing etc. Act 2010. The new Chapter applies to applications for review of certain asset-freezing decisions and appeals against decisions to designate persons for the purposes of Part 1 of the 2010 Act.

Rule 101.1 sets out various definitions.

Rules 101.2 to 101.4 specify procedure in relation to making applications, lodging appeals and lodging processes in asset-freezing proceedings.

Rule 101.5 provides for rules 96.4 to 96.13 to apply, with modification, to asset-freezing proceedings as they apply to financial restrictions proceedings under the Counter-Terrorism Act 2008.