

2019 No. 72

COURT OF SESSION

**Act of Sederunt (Rules of the Court of Session 1994
Amendment) (Sanctions and Anti-Money Laundering) 2019**

Made - - - - - *26th February 2019*

Laid before the Scottish Parliament *28th February 2019*

Coming into force - - - *29th March 2019*

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(a), the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council.

The Court of Session therefore makes this Act of Sederunt under the powers conferred by section 40 of the Sanctions and Anti-Money Laundering Act 2018(b), section 103(1) of the Courts Reform (Scotland) Act 2014(c) and all other powers enabling it to do so.

Citation and commencement, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session 1994 Amendment) (Sanctions and Anti-Money Laundering) 2019.

(2) It comes into force on 29th March 2019.

(3) A certified copy is to be inserted in the Books of Sederunt.

Amendment of the Rules of the Court of Session 1994

2.—(1) The Rules of the Court of Session 1994(d) are amended in accordance with this paragraph.

(2) In Chapter 96 (Counter-Terrorism Act 2008 – Financial Restrictions Proceedings)(e)—

(a) for the heading substitute “Financial Restrictions Proceedings and Sanctions Proceedings”; and

(b) for “the Treasury” where it occurs substitute “the appropriate Minister”.

(3) In rule 96.1 (interpretation and application of this Chapter)—

(a) in paragraph (1)—

(a) 2013 asp 3. Section 4 was amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 31(3) and by the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2), schedule 1, paragraph 1(4).

(b) 2018 c.13.

(c) 2014 asp 18.

(d) The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443, last amended by S.S.I. 2018/348).

(e) Chapter 96 was inserted by S.S.I. 2008/401 and amended by S.S.I. 2009/63 and S.S.I. 2009/450.

- (i) after the definition of “the 2008 Act” insert—
 - “the 2018 Act” means the Sanctions and Anti-Money Laundering Act 2018;
 - “appropriate Minister” means—
 - (a) in relation to sanctions proceedings in respect of a decision of the Secretary of State, the Secretary of State; or
 - (b) in relation to financial restrictions proceedings, or to sanctions proceedings in respect of a decision of the Treasury, the Treasury;”;
 - (ii) after the definition of “financial restrictions proceedings” insert—
 - “sanctions decision” means a decision mentioned in section 38(1) of the 2018 Act;
 - “sanctions decision proceedings” means proceedings in the Court of Session on an application under section 38(2) of the 2018 Act;”;
 - (iii) in the definition of “special advocate” after “proceedings” where it first occurs insert “or sanctions decision proceedings”; and
 - (b) in paragraph 3, after “financial restrictions proceedings”, both times it appears, insert “or sanctions decision proceedings”.
- (4) In rule 96.2 (application to set aside a financial restrictions decision)—
- (a) in the cross-heading after “**financial restrictions decision**” insert “**or sanctions decision**”;
 - (b) in paragraph (1) after “financial restrictions decision” insert “or under section 38(2) of the 2018 Act to set aside a sanctions decision”;
 - (c) in paragraph (2)(a) after “financial restrictions decision” insert “or sanctions decision”; and
 - (d) in paragraph (3)(a) after “financial restrictions decision” insert “or sanctions decision”.
- (5) In rule 96.3 (lodging of process) after “financial restrictions proceedings” insert “or sanctions decision proceedings”.
- (6) In rule 96.4 (disclosure) after “financial restrictions proceedings”, where it appears, insert “or sanctions decision proceedings”.
- (7) In rule 96.5(1) (applications for permission not to disclose material) after “financial restrictions proceedings” insert “or sanctions decision proceedings”.
- (8) In paragraphs (1), (4) and (6) of rule 96.9 (appointment of special advocates) after “financial restrictions proceedings” insert “or sanctions decision proceedings”.
- (9) In paragraphs (1) and (2) of rule 96.11 (exclusion from hearings) after “financial restriction proceedings” insert “or sanctions decision proceedings”.
- (10) In rule 96.12(1) (opinions of the court) after “financial restrictions proceedings” insert “or sanctions decision proceedings”.
- (11) In rule 96.13 (recording of financial restrictions proceedings)—
- (a) in the cross-heading after “**financial restrictions proceedings**” insert “**or sanctions decision proceedings**”; and
 - (b) in paragraph (1) after “financial restrictions proceedings” insert “or sanctions decision proceedings”.

Revocation

3.—(1) Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Terrorist Asset-Freezing etc. Act 2010) 2010(a) is revoked.

(2) Paragraph 6(6) of the Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Miscellaneous) 2011(a) is revoked.

Saving

4.—(1) Paragraph 3 does not apply to asset-freezing proceedings under the Terrorist Asset-Freezing etc. Act 2010(b) which were commenced and not concluded before 29th March 2019.

(2) In this paragraph “asset-freezing proceedings” means proceedings in the Court of Session on—

- (a) an application under section 27(2) of the Terrorist Asset-Freezing etc. Act 2010 (“the 2010 Act”), a reclaiming motion in respect of such an application or a claim arising from any matter to which 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.

CJM Sutherland
Lord President
I.P.D

Edinburgh
26th February 2019

(a) S.S.I. 2011/385.
(b) 2010 c 38.

EXPLANATORY NOTE

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

This Act of Sederunt extends the provisions of Chapter 96 (Counter-Terrorism Act 2008 – Financial Restrictions Proceedings) of the Rules of the Court of Session 1994 so as to extend its application to sanctions proceedings under the Sanctions and Anti-Money Laundering Act 2018.

Paragraph 2(2) to paragraph 2(11) insert references to sanctions proceedings into existing rules 96.1, 96.2, 96.3, 96.4, 96.5, 96.9, 96.11, 96.12 and 96.13.

Paragraph 3 revokes Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Terrorist Asset-Freezing etc. Act 2010) 2010 (“the 2010 instrument”) and paragraph 6(6) of the Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Miscellaneous) 2011 (“the 2011 instrument”).

Paragraph 4 saves the 2010 instrument and paragraph 6(6) of the 2011 instrument in respect of any asset-freezing proceedings which were commenced and not concluded before 29th March 2019.

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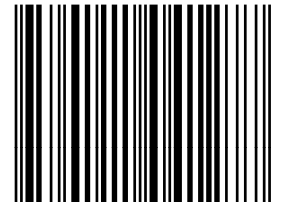
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