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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 468**

**Act of Sederunt (Sheriff Appeal Court Rules) 2021**

**PART 6**

**INCIDENTAL PROCEDURE: SPECIAL PROCEDURES**

**CHAPTER 23**

**PRELIMINARY REFERENCES TO THE CJEU – CITIZENS’ RIGHTS**

**Interpretation of this Chapter**

**23.1.** In this Chapter, “reference” means a reference to the European Court for a preliminary ruling under Article 158 of the Agreement between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community<sup>(1)</sup>.

**Applications for a reference**

- 23.2.**—(1) An application for a reference by a party is to be made by motion.  
(2) The Court may make a reference of its own accord.

**Preparation of reference**

**23.3.**—(1) Where the Court decides that a reference is to be made, it must make an order specifying—

- (a) by whom the reference is to be drafted and adjusted;
- (b) the periods within which the reference is to be drafted and adjusted.

(2) A reference is to be drafted in Form 23.3 unless the Court directs otherwise when it makes an order under paragraph (1).

(3) In drafting and adjusting the reference, parties are to have regard to the Recommendations to national courts and tribunals in relation to the initiation of preliminary ruling proceedings issued by the European Court<sup>(2)</sup>.

(4) When the reference has been drafted and any adjustments required by the Court have been made, the Court must make and sign the reference.

- (5) When the reference is made, the Clerk must notify the parties.

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(1) OJ C 384, 12.11.2019, p. 81.  
(2) OJ C 380, 8.11.2019, p. 1.

### **Transmission of reference to European Court**

**23.4.** A copy of the reference is to be certified by the Clerk and sent to the Registrar of the European Court.

### **Sist of appeal**

**23.5.—**(1) When a reference is made, the Court is to sist the appeal until the European Court determines the reference, unless the Court orders otherwise.

(2) Where an appeal is sisted under paragraph (1), the Court may recall the sist for the purposes of making an interim order.