

2024 No. 84

COURT OF SESSION

**Act of Sederunt (Rules of the Court of Session 1994
Amendment) (National Security Prevention and Investigation)
2024**

<i>Made</i> - - - -	<i>19th March 2024</i>
<i>Laid before the Scottish Parliament</i>	<i>21st March 2024</i>
<i>Coming into force</i> - -	<i>19th April 2024</i>

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 103(1) of the Courts Reform (Scotland) Act 2014(b), paragraphs 2, 3, 4 and 6 of schedule 4 of the Terrorism Prevention and Investigation Measures Act 2011(c), section 86(2)(c) and paragraphs 2, 3, 4 and 6 of schedule 10 of the National Security Act 2023(d) 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) (National Security Prevention and Investigation) 2024.

(2) It comes into force on 19th April 2024.

(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) Chapter 89 (terrorism prevention and investigation measures)(e) of the Rules of the Court of Session 1994(f) is amended in accordance with this paragraph.

(2) For the chapter heading “**TERRORISM PREVENTION AND INVESTIGATION MEASURES**” substitute “**TERRORISM AND NATIONAL SECURITY**”.

(3) In each place where it occurs for “the Act of 2011” substitute “the 2011 Act”.

(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) 2014 asp 18.

(c) 2011 c. 23.

(d) 2023 c. 32.

(e) Chapter 89 was inserted by S.S.I. 2005/153 and substituted by S.S.I. 2011/441.

(f) The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) (S.I. 1994/1443), last amended by S.S.I. 2024/75.

- (4) In each place where it occurs omit “TPIM”.
- (5) In each place where it occurs for “Schedule” substitute “schedule”.
- (6) In rule 89.1 (interpretation and application of this Chapter)—
- (a) in paragraph (1)—
 - (i) after the definition of “the 2011 Act” insert—
 - ““the 2023 Act” means the National Security Act 2023(a);”;
 - (ii) in the definition of “affected persons” omit “by means of a notice”;
 - (iii) after the definition of “appeal proceedings” insert—
 - ““application” means an application made under section 6(1)(b) of the 2011 Act or section 42(1)(b) of the 2023 Act;”;
 - (iv) in the definition of “legal representative” after “2011 Act” insert “or paragraph 4(4)(b) of schedule 10 of the 2023 Act”;
 - (v) in the definition of “measures” after “2011 Act”) insert “or prevention and investigation measures (which has the meaning given in section 39(2) of the 2023 Act)”;
 - (vi) after the definition of “measures” insert—
 - ““notice” has the same meaning as in section 2(1) of the 2011 Act or section 39(1) of the 2023 Act;
 - “proceedings” means “TPIM proceedings” as defined in section 30(1) of the 2011 Act or “relevant proceedings” as defined in section 62(1) of the 2023 Act;
 - “reference” means a reference made by the Secretary of State under paragraph 3(1) of schedule 2 of the 2011 Act or paragraph 3(1) of schedule 8 of the 2023 Act;”;
 - (vii) in the definition of “special advocate” after “2011 Act” add “or under paragraph 10(1) of schedule 10 of the 2023 Act”;
 - (viii) omit the definition of “TPIM notice”;
 - (ix) omit the definition of “TPIM proceedings”;
 - (b) for paragraph (2) substitute—
 - “(2) This Chapter applies to proceedings and appeal proceedings under the 2011 Act and the 2023 Act.”.
- (7) In rule 89.2 (TPIM orders and imposed measures: petitions)—
- (a) for the heading “**TPIM orders and imposed measures: petitions**” substitute “**Petitions**”;
 - (b) in paragraph (1)—
 - (i) in sub-paragraph (a) omit “made under section 6(1)(b) of the Act of 2011”;
 - (ii) in sub-paragraph (b) omit “under paragraph 3(1) of the Act of 2011”;
 - (c) in paragraph (5)—
 - (i) in sub-paragraph (b) omit “under section 6(1)(b) of the Act of 2011”;
 - (ii) in sub-paragraph (c) omit “under paragraph 3(1) of Schedule 2 to the Act of 2011”.
- (8) In rule 89.3 (initial diets)—
- (a) in paragraph (1) omit “notices and imposed measures.”;
 - (b) in paragraph (5)—
 - (i) after “2011 Act” where it first occurs insert “or section 44 of the 2023 Act”;
 - (ii) after “2011 Act” where it second occurs insert “or section 45 of the 2023 Act”;

- (c) in paragraph (6)—
 - (i) for “shall include such order for further procedure as he or she” substitute “or section 44 of the 2023 Act shall include such order for further procedure as the Lord Ordinary”;
 - (ii) after “2011 Act” where it second occurs insert “or section 44 of the 2023 Act”;
- (d) in paragraph (7)—
 - (i) for “shall include such order for further procedure as he or she” substitute “or section 45 of the 2023 Act shall include such order for further procedure as the Lord Ordinary”;
 - (ii) after “2011 Act” where it second occurs insert “or section 45 of the 2023 Act”.
- (9) In rule 89.4 (appeals relating to terrorism prevention and investigation measures)—
 - (a) for the heading “**Appeals relating to terrorism prevention and investigation measures**” substitute “**Appeals**”;
 - (b) in paragraph (1) omit from “under” to the end;
 - (c) in paragraph (2) omit “under section 16 of the 2011 Act”;
 - (d) in paragraph (3) omit “under section 16 of the 2011 Act”.
- (10) In rule 89.8 (anonymity), in paragraph (2) after “2011 Act” insert “or paragraph 6 of schedule 10 of the 2023 Act”.
- (11) In rule 89.10 (recording of TPIM and appeal proceedings)—
 - (a) for the heading “**Recording of TPIM and appeal proceedings**” substitute “**Recording**”;
 - (b) in paragraph (1) for “proceedings” substitute “Proceedings”.

CJM SUTHERLAND
Lord President
I.P.D.

Edinburgh
19th March 2024

EXPLANATORY NOTE

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

This Act of Sederunt amends Chapter 89 (terrorism prevention and investigation measures) of the Rules of the Court of Session 1994 in consequence of the national security prevention and investigation measures that can be taken under the National Security Act 2023 (c. 32).

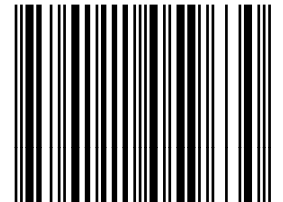
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