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STATUTORY INSTRUMENTS

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**1999 No. 1220**

**Act of Sederunt (Rules of the Court of Session Amendment No. 3) (External Orders Affecting Proceeds of Crime) 1999**

**Amendment of the Rules of the Court of Session**

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

(2) In chapter 62 (recognition, registration and enforcement of foreign judgments etc.), the heading to Part VII shall be “RECIPROCAL ENFORCEMENT OF ORDERS IN RELATION TO CONFISCATION OF PROCEEDS OF CRIME AND TO FORFEITURE OF PROPERTY USED IN CRIME”.

(3) In rule 62.47 (interpretation of Part VII)—

(a) after the definition of “the Order of 1995” there shall be inserted the following definition—

““the Order of 1999” means the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) (Scotland) Order 1999;”;

(b) in the definition of “relevant enactment”, for the words “or the Order of 1995” there shall be substituted “, the Order of 1995 or the Order of 1999”.

(4) In rule 62.48 (applications for registration under the relevant enactment)—

(a) in sub-paragraph (d), after the words “forfeiture order” there shall be inserted “in relation to terrorism”; and

(b) after sub-paragraph (e) there shall be added—

“(f) article 5(1) of the Order of 1999 (application for registration of external forfeiture order other than in relation to terrorism).”.

(5) After rule 62.51 there shall be inserted—

**“Further provision as respects warrant for registration**

**62.51A.** Where an interlocutor granting warrant for the registration of an external confiscation order is pronounced and the order falls to be remitted for enforcement to the Sheriff of Lothian and Borders at Edinburgh, the Deputy Principal Clerk shall send a certified copy of the interlocutor, within four days after it is pronounced, to the sheriff clerk at Edinburgh.”.

(6) In rule 76.3 (applications for restraint orders), at the end there shall be added—

“(3) Where the application is made under the said section as applied by article 4 of the Confiscation of the Proceeds of Crime (Designated Countries and Territories) (Scotland) Order 1999 (application in relation to certain external confiscation orders etc.) or by article 4 of the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) (Scotland) Order 1999 (application in relation to certain external forfeiture orders etc.), there shall be appended to the petition a certificate in

conformity with paragraph (b) of subsection (3) of the section as so applied by the article in question; but that certificate, as so appended, shall not include a statement of information or belief with the sources and grounds thereof if the prayer includes an application for a direction under that paragraph.

(4) Where the court grants the prayer of the petition in an application such as is mentioned in paragraph (3) but declines to make such direction as is so mentioned, the petitioner shall forthwith lodge in process, as an addendum to the certificate which was appended to the petition, a statement of information or belief with the sources and grounds thereof.”.

(7) In rule 76.4 (applications in relation to protective measures)—

- (a) in paragraph (3), the words “under paragraph (1) by the prosecutor” shall be omitted;
- (b) in paragraph (4), after the words “section 32(1)” there shall be inserted “or 33(1)”;
- (c) in paragraph (6)(a), for the words “section 8(1)” there shall be substituted “section 28(1)”;
- (d) after paragraph (7) there shall be inserted—

“(7A) Where the court, having pronounced an interlocutor making a restraint order, interdicts a person not subject to that order from dealing with property affected by it while it is in force, the Lord Advocate shall so intimate to that person.”; and

(e) at the end there shall be added—

“(9) At the time at which he complies with section 31(6) of the Act of 1995 (informing of persons interdicted in relation to a restraint order that the order is recalled), the clerk of court (or as the case may be the Deputy Principal Clerk) shall record in the process when and how the person in question was so informed.”.