

**2009 No. 323**

**COURT OF SESSION**

**SHERIFF COURT**

**Act of Sederunt (Devolution Issues) (Appeals and References to the Supreme Court) 2009**

*Made* - - - - *18th September 2009*

*Coming into force* - - *1st October 2009*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(a), section 5 of the Court of Session Act 1988(b), paragraph 37 of Schedule 6 to the Scotland Act 1998(c), paragraph 38 of Schedule 10 to the Northern Ireland Act 1998(d) and paragraph 32 of Schedule 9 to the Government of Wales Act 2006(e), and under and by virtue of all other powers enabling them in that behalf, having consulted and taken into consideration the views of the Sheriff Court Rules Council in accordance with section 33 of the said Act of 1971, do hereby enact and declare:

**Citation and commencement**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Devolution Issues) (Appeals and References to the Supreme Court) 2009 and comes into force on 1st October 2009.

(2) This Act of Sederunt is to be inserted in the Books of Sederunt.

**Amendment of the Rules of the Court of Session: devolution issues**

2.—(1) Chapter 25A (devolution issues) of the Rules of the Court of Session 1994(f) is amended in accordance with subparagraphs (2) to (9).

(2) In rule 25A.1 (interpretation) the definition of “the Judicial Committee” is omitted.

(3) In rule 25A.8 (reference of devolution issue to Judicial Committee)—

(a) in paragraph (1) for “Judicial Committee” substitute “Supreme Court”;

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- (a) 1971 c.58; section 32 was amended by the Law Reform (Miscellaneous Provisions (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12, the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4), the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2), the Adults with Incapacity (Scotland) Act 2000 (asp 4), Schedule 5, paragraph 13 and the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43 and was extended by the Child Support Act 1991 (c.48), sections 39(2) and 49, the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2) and the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), section 33.
- (b) 1988 c.36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 c.32, section 2(3), the Children (Scotland) Act 1995 c.36, Schedule 4, paragraph 45 and by the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(1).
- (c) 1998 c.46.
- (d) 1998 c.47.
- (e) 2006 c.32.
- (f) S.I. 1994/1443, last amended by S.S.I. 2009/283, Chapter 25A was inserted by S.I. 1999/1345 and amended by S.S.I. 2007/360.

- (b) in paragraph (3) for “rule 2.9 of the Judicial Committee (Devolution Issues) Rule 1999” substitute Practice Direction 10 of the Supreme Court; and
- (c) in paragraph (4) for “pursuance of rule 2.8 of the Judicial Committee (Devolution Issues) Rules 1999” substitute accordance with Practice Direction 10 of the Supreme Court”.
- (4) The heading of rule 25A.8 becomes “Reference of devolution issue to Supreme Court”.
- (5) In paragraph (1) of rule 25A.9 (sist of cause on reference to Judicial Committee) for “Judicial Committee” substitute “Supreme Court” in both places where that expression appears.
- (6) The heading of rule 25A.9 becomes “**Sist of cause on reference to Supreme Court**”.
- (7) In rule 25A.10 (transmission of reference)—
  - (a) in paragraph (1) for “Judicial Committee” substitute “Supreme Court”; and
  - (b) in paragraph (2) for “Judicial Committee” substitute “Supreme Court”.
- (8) In rule 25A.11 (appeals to the Judicial Committee)—
  - (a) in paragraph (1) for “Judicial Committee” substitute “Supreme Court” in both places where that expression appears; and
  - (b) in paragraph (2) for “Judicial Committee” substitute “Supreme Court”.
- (9) The heading of rule 25A.11 becomes “**Appeals to the Supreme Court**”.

### **Amendment of the Proceedings for Determination of Devolution Issues Rules 1999**

3.—(1) The Act of Sederunt (Proceedings for Determination of Devolution Issues Rules) 1999(a) is amended in accordance with subparagraphs (2) to (9).

(2) In rule 2 (interpretation) the definition of “the Judicial Committee” is omitted.

(3) In paragraph (1)(b) of rule 10 (reference of devolution issue to Inner House of the Court of Session or Judicial Committee) for “Judicial Committee” substitute “Supreme Court”.

(4) The heading of rule 10 becomes “**Reference of devolution issue to Inner House of the Court of Session or Supreme Court**”.

(5) The heading of rule 11 becomes “**Sist of cause on reference to Inner House of the Court of Session or Supreme Court**”.

(6) In paragraph (1) of rule 12 (interim orders) for “Judicial Committee” substitute “Supreme Court”.

(7) In paragraph (1)(b) of rule 13 (transmission of reference) for “Judicial Committee” substitute “Supreme Court”.

(8) In rule 14 (procedure following determination on reference or appeal)—

- (a) in paragraph (1) for “Judicial Committee” substitute “Supreme Court”; and
- (b) in paragraph (2) for “Judicial Committee” substitute “Supreme Court”.

(9) In the heading to Schedule 2 for “Judicial Committee” substitute “Supreme Court”.

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

Edinburgh  
18th September 2009

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(a) S.I. 1999/1347, amended by S.S.I. 2007/362.

## **EXPLANATORY NOTE**

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

This Act of Sederunt amends Chapter 25A of the Rules of the Court of Session (devolution issues). It also amends the Act of Sederunt (Proceedings for Determination of Devolution Issues Rules) 1999 which applies to devolution proceedings in civil proceedings in the sheriff court. Both are amended in consequence of the establishment of the Supreme Court by the Constitutional Reform Act 2005 and the transfer from the Judicial Committee of the Privy Council to the Supreme Court of jurisdiction in relation to devolution issues arising under the Scotland Act 1998, the Northern Ireland Act 1998 and the Government of Wales Act 2006.

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