

2004 No. 350

SHERIFF COURT

**Act of Sederunt (Ordinary Cause Rules) Amendment
(Competition Appeal Tribunal) 2004**

Made - - - - *18th August 2004*

Coming into force - - *20th August 2004*

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) and section 16(4) of the Enterprise Act 2002^(b), and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the said Act of 1971, do hereby enact and declare:

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Ordinary Cause Rules) Amendment (Competition Appeal Tribunal) 2004, and shall come into force on 20th August 2004.

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

Amendment of the Ordinary Cause Rules

2.—(1) The Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907^(c) are amended in accordance with paragraph (2).

(2) After Chapter 41 (Protection from Abuse (Scotland) Act 2001), insert—

“CHAPTER 42

COMPETITION APPEAL TRIBUNAL

Interpretation

42.1. In this Chapter—

“the 1998 Act” means the Competition Act 1998^(d); and

^(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.

^(b) 2002 c.40.

^(c) 1907 c.51. Schedule 1 was substituted by S.I. 1993/1956 and amended by S.I. 1996/2167 and 2445, S.S.I. 2000/239 and 408, 2001/8 and 144, 2002/7, 128 and 566, and 2003/25 and 26.

^(d) 1998 c.41.

“the Tribunal” means the Competition Appeal Tribunal established by section 12 of the Enterprise Act 2002.

Transfer of proceedings to the Tribunal

42.2.—(1) A party in proceedings for a monetary claim to which section 47A of the 1998 Act(a) applies may apply by motion to the sheriff for an order transferring the proceedings, or any part of them, to the Tribunal.

(2) Where the sheriff orders that such proceedings (or any part of them) are transferred to the Tribunal, the sheriff clerk shall, within 7 days from the date of such order—

- (a) transmit the process (or the appropriate part) to the clerk of the Tribunal;
- (b) notify each party to the proceedings in writing of the transmission under sub paragraph (a); and
- (c) certify, by making an appropriate entry on the interlocutor sheet, that he has made all notifications required under sub-paragraph (b).

(3) Transmission of the process under paragraph (2)(a) shall be valid notwithstanding any failure by the sheriff clerk to comply with paragraph (2)(b) and (c).”.

Cullen of Whitekirk
Lord President
I.P.D.

Edinburgh
18th August 2004

(a) Section 47A was inserted by the Enterprise Act 2002, section 18.

EXPLANATORY NOTE

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

This Act of Sederunt further amends Schedule 1 to the Sheriff Courts (Scotland) Act 1971 (“the Ordinary Court Rules”).

Article 2 inserts a new Chapter 42 into the Ordinary Court Rules. The new Chapter provides rules of procedure for transfers of proceedings to the Competition Appeal Tribunal (the “Tribunal”) under the Enterprise Act 2002 (“the 2002 Act”).

In terms of the 2002 Act, the sheriff court may transfer to the Tribunal proceedings (or any part of proceedings) which relate to monetary claims to which section 47A of the Competition Act 1998 applies.

In the new Chapter—

- (a) rule 42.2(1) provides that a party to such proceedings may apply by motion to the sheriff for an order transferring the proceedings (or any part of them) to the Tribunal;
- (b) rule 42.2(2) provides that the sheriff clerk shall, within 7 days after the sheriff has ordered that proceedings (or any part of them) shall be transferred to the Tribunal, transmit the process to the clerk of the Tribunal, send written notice of the transfer to each party and certify on the interlocutor sheet that written notice has been sent to each party; and
- (c) rule 42.2(3) provides that transmission of the process shall be valid notwithstanding any failure by the sheriff clerk to notify each party of such transmission or certify on the interlocutor sheet that each party has been notified.

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