EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt but is intended to indicate its general purport.)

This Act of Sederunt amends the Rules of Court with respect to procedure in actions of divorce, nullity of marriage and separation so as to enable effect to be given to the provisions of Part II of the Matrominial Proceedings (Children) Act 1958.

1959 No. 585 (S. 28)

Act of Sederunt (Rules of Court Amendment No. 2) 1959

Made - - - -	10*th March*, 1959
Coming into Operation	10*th March*, 1959

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act, 1933(**a**), section 9 of the Tribunals and Inquiries Act, 1958(**b**), and of all other powers competent to them in that behalf do hereby enact as follows :—

1. The Rules of the Court of Session(**c**) shall be amended by the insertion after Rule 296 of the following :—

296A. *Special Cases under the Tribunals and Inquiries Act, 1958, Section 9 (2).*

(1) Special cases under the Tribunals and Inquiries Act, 1958 Section 9 (2) which have been stated upon the application of a party to proceedings depending before a tribunal, shall be subject to the provisions of Rules 286 to 289.

(2) It shall be competent for a Tribunal, of its own motion, to state a case for the opinion of the Court of Session on any question arising in the course of proceedings before it, in which event the following provisions shall have effect :—

(*a*) When the Tribunal decides to state a case it shall cause its decision to be intimated to the parties and within fourteen days after the dispatch of such intimation it shall cause the case to be prepared and submitted in draft to the parties ; within twenty-one days from the receipt of the draft case each party shall return it to the Clerk of the Tribunal with a note of any additions, alterations or amendments which he may desire to have made thereon and thereafter the Tribunal shall finally adjust the case.

(*b*) The case shall bear to be stated by the Tribunal and shall be authenticated by the Clerk thereof who shall thereupon :—

(i) send a copy of the case to each party to the proceedings, and

(ii) lodge the principal case in the General Department (which may be done by transmission to the Deputy Principal Clerk of Session of the said Department) together with a certificate under the hand of himself or his solicitor certifying that a copy thereof has been sent to each party to the proceedings.

(a) 23 & 24 Geo. 5 c. 41. (b) 6 & 7 Eliz. 2. c. 66. (c) S.I. 1948/1691 (1948 I, p. 3778).

(*c*) The Clerk to the Tribunal shall within fourteen days after the principal case has been received by the said Deputy Principal Clerk lodge in the General Department a copy of the case along with a Process and copies of productions for the use of the Court in terms of Rules 23 and 29 (2) and shall at the same time intimate the lodging of the case to each party to the proceedings and shall deliver to each party five copies of the case.

(*d*) Rules 288 and 289 shall apply to Special Cases under this Rule.

296B. *Appeals under the Tribunals and Inquiries Act, 1958, section 9 (1).*

(*a*) where such appeals appear in the printed rolls of Court in the single bills of one or other Division of the Inner House for an order for intimation (in terms of Rule 295 (*e*)) such intimation shall be not only to the persons mentioned in Rule 295 (*e*) but also to any other party to the proceedings before the Tribunal and to the Chairman of the Tribunal.

(*b*) Subject to the foregoing paragraph Rule 295 shall apply to such appeals.

296C. *Appeals under the Tribunals and Inquiries Act, section 9 (5).*

(*a*) Where such appeals from a decision of the Minister of Transport and Civil Aviation appear in the printed rolls of Court in the single bills of one or other Division of the Inner House for an order for intimation (in terms of Rule 295 (*e*)) such intimation shall be to the Minister and to every person who had or if aggrieved would have had a right to appeal to the Minister (whether or not he has exercised that right).

(*b*) The Minister shall be entitled to take such part in the proceedings as he may think fit.

(*c*) If the Court is of opinion that the decision of the Minister was erroneous in point of law, it shall not set aside or vary the order of the Minister but may remit the matter to him for determination in accordance with the decision of the Court on the point of law.

(*d*) Subject to the foregoing paragraph Rule 295 shall apply to such appeals.

2. This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 2) 1959, and shall come into operation on 10th March, 1959.

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

J. L. Clyde,
I.P.D.

Edinburgh,
10th March, 1959.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt but is intended to indicate its general purport.)

This Act of Sederunt amends the Rules of the Court of Session by making provision for appeals and special cases from certain tribunals under the Tribunals and Inquiries Act, 1958.