STATUTORY INSTRUMENTS

1961 No. 1708 (S. 103)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 2), 1961

Made - - - - *5th September*, 1961
Coming into Operation *5th September*, 1961

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 27 of the Trusts (Scotland) Act, 1921(a), by section 16 of the Administration of Justice (Scotland) Act, 1933(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 as follows:—

(1) By adding at the end of Rule 207 (iii)—
"but excluding Petitions for the variation of trust purposes under section 1 of the Trusts (Scotland) Act, 1961;"

(2) By adding after class (xi) in Rule 208—
"(xii) Petitions under section 1 of the Trusts (Scotland) Act, 1961,"

(3) By adding after Rule 269 B—

"*Section* 12

Petitions under the Trusts (Scotland) Act, 1961

269. C.—(*a*) all applications for the variation of trust purposes under section 1 of the Trusts (Scotland) Act, 1961, shall be made by Petition presented to the Inner House and lodged in the Petition Department.

(*b*) The provisions of Rules 209 to 216 shall apply, *mutatis mutandis*, to such Petitions.

(*c*) The Prayer of the Petition shall crave warrant for service on the Keeper of the Records of Scotland, or on the Sheriff Clerk of the Sheriffdom in which the Deed is registered.

(*d*) In an application in which the Petitioner craves the Court to authorise an arrangement under subsection (4) of section 1 of the Act, it shall not be necessary to set forth in the Petition the amount of the income of an alimentary beneficiary from all sources, or the details thereof.

(*e*) Where a truster or settlor or any other person who has contributed, or is liable to contribute, to the trust estate is alive at the date of the presentation of a Petition for the variation of the trust purposes, then, in addition to such other intimation, service and advertisement as may be necessary having regard to the nature of the Petition, the Court may order intimation to be made to such person."

(a) 11 & 12 Geo. 5. c. 58. (b) 23 & 24 Geo. 5. c. 41. (c) S.I. 1948/1691 (1948 I, p. 3778).

2. This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 2), 1961, and shall come into operation on 5th September, 1961.

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

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

Edinburgh,
5th September, 1961.

EXPLANATORY NOTE

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

This Act of Sederunt regulates the procedure in applications to the Court of Session for the variation of trust purposes under section 1 of the Trusts (Scotland) Act, 1961(a).

(a) 9 & 10 Eliz. 2. c. 57.