STATUTORY INSTRUMENTS

1964 No. 1623 (S. 104)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 3) 1964

Made - - - -	1*st October* 1964
Coming into Operation	1*st October* 1964

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) and of all other powers competent to them in that behalf do hereby enact as follows:—

1. The Rules of the Court of Session(b) shall be amended as follows:—

(1) By adding after Rule of Court 172A a new Rule of Court as follows:

"172B. (*a*) An application to the Court in terms of section 26(1) of the Succession (Scotland) Act 1964(c) for payment to a pursuer of a capital sum or a periodical allowance or both, or an application for an order varying the terms of a settlement, shall be made either by concluding for the same in the conclusions of the Summons or by a separate minute, and by setting forth in the condescendence of the summons or of the minute a statement of facts in support of the application.

(*b*) An application to the Court in terms of section 26(3) of the Succession (Scotland) Act 1964 for an order for payment of a periodical allowance, or in terms of section 26(4) of that Act for an order varying or recalling an order for a periodical allowance, shall be made by minute which shall contain a statement of facts in support of the application.

(*c*) An application for any order under section 26 of the Succession (Scotland) Act 1964 shall specify the nature of the order which the pursuer or minuter seeks to have pronounced by the Court."

(2) By deleting Rule of Court 178A and by substituting a new Rule of Court as follows:

"178A. (*a*) In any action for divorce, nullity of marriage or separation where the only matter in dispute is the amount of aliment payable by the defender, and in any action of divorce where the only matters in dispute are the amount of such aliment and the nature of any order which the Court should make under section 26(1) of the Succession (Scotland) Act 1964, it shall not be necessary for the defender to lodge defences. Instead the defender shall lodge a minute setting forth as appropriate the amount of aliment which he claims should be payable by him, or the nature of the order which he claims the Court should make, along with a statement of

(a) 23 & 24 Geo. 5. c. 41. (b) S.I. 1948/1691 (1948 I, p. 3778). (c) 1964 c. 41.

facts in support of his claim: Provided that where an application for an order under section 26(1), (3) and (4) of the Succession (Scotland) Act 1964 is made by separate minute, the other party shall, if so advised, answer such minute in ordinary form within such time as the Court may allow.

(*b*) When such a minute as is referred to in the last foregoing paragraph is lodged by a defender, the pursuer may lodge answers thereto within such period as the Court may allow."

2. This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 3) 1964, and shall come into operation on 1st October 1964.

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

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

Edinburgh.
1st October 1964.

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 by providing procedure for applications for orders under section 26 of the Succession (Scotland) Act 1964.