1972 No. 1981 (S. 155)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 5) 1972

Made - - - - 15*th December* 1972
Coming into Operation 1*st January* 1973

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 and declare as follows:—

1. The Rules of Court(**b**) are hereby amended as follows:

(1) After Chapter V there shall be added a new Chapter in the following terms:

"CHAPTER V A"

"EUROPEAN COURT"

"296A. Interpretation:

In this Chapter:

(i) any expression defined in Schedule 1 to the European Communities Act 1972(**c**) has the meaning there given to it.

(ii) "reference" means a reference to the European Court for a preliminary ruling under Article 177 of the E.E.C. Treaty, Article 150 of the Euratom Treaty or Article 41 of the E.C.S.C. Treaty.

(iii) "pursuer" shall include petitioner, reclaimer or appellant.

(iv) "appeal" shall include reclaiming motion.

"296B. Form of Reference:

A reference shall be made by the Court in the form of a Case, as nearly as may be in terms of Form 52, having annexed thereto a certified copy of the interlocutor making the reference. When the Court decides that a preliminary ruling should be sought the Court shall give directions to the parties as to the manner in which the case is to be stated, drafted and adjusted.

"296C. Sist of Proceedings:

If the Court makes a reference the proceedings shall, unless the Court when making such a reference otherwise orders, be sisted until the European Court has given a preliminary ruling on the question or questions referred to it.

(a) 1933 c. 41. (b) S.I. 1965/321 (1965 I, p. 803). (c) 1972 c. 68.

" 296D. Transmission of reference to the European Court:

(*a*) When a reference has been drafted and adjusted at the sight of the Court, the Court shall then by interlocutor order the reference to be made and the pursuer shall prepare and lodge in process one copy thereof for each of the parties to the proceedings, one copy for transmission to the European Court and one process copy.

(*b*) The Principal Clerk shall send a copy of the reference to the Registrar of the European Court but, unless the Court otherwise directs, a copy thereof shall not be sent to the Registrar so long as an appeal or further appeal against the interlocutor making the reference is pending, and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal.

" 296E. Save in the case of Summary Trial an interlocutor making a reference may be appealed against, without leave, not later than the fourteenth day whether in Session, vacation or recess, after the day on which the said Interlocutor is pronounced.

(2) After Form 51 there shall be added a new Form in the following terms:

" Form 52

Case for the European Court

[Here set out a statement of the case for the European Court, giving brief particulars of the case and the issues between the parties, any relevant facts found by the Court, any relevant rules and provisions of Scots Law, and the relevant Treaty provisions, acts, instruments or rules of Community law giving rise to the reference.]

The preliminary ruling of the Court of Justice of the European Communities is accordingly sought on the following questions—1., 2. etc. [insert the questions on which the ruling is sought.]

Dated the day of 19 ."

2.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 5) 1972, and shall come into operation on 1st January 1973.

(2) The Interpretation Act 1889(**a**) shall apply to the interpretation of this Act of Sederunt as it applies to the interpretation of an Act of Parliament.

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

G. C. Emslie,
I.P.D.

Edinburgh.

15th December 1972.

(**a**) 1889 c. 63.

EXPLANATORY NOTE

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

This Act of Sederunt prescribes the procedure in references to the European Court for preliminary rulings under Article 177 of the European Economic Community Treaty, Article 150 of the Euratom Treaty and Article 41 of the European Coal and Steel Community Treaty.

SI 1972/1981
ISBN 0-11-021981-3

