SCOTTISH STATUTORY INSTRUMENTS

2010 No. 16

COURT OF SESSION

Act of Sederunt (Rules of the Court of Session Amendment) (Transfer of Functions of the Asylum and Immigration Tribunal Order 2010) 2010

Made - - - -	*21st January 2010*
Coming into force - -	*15th February 2010*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 5 of the Court of Session Act 1988(**a**), and of all other powers enabling them in that behalf, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment) (Transfer of Functions of the Asylum and Immigration Tribunal Order 2010) 2010 and comes into force on 15th February 2010.

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

Transfer of functions of the Asylum and Immigration Tribunal

2.—(1) Chapter 41 of the Rules of the Court of Session 1994 (appeals under statute)(**b**) is to be read subject to the following provisions.

(2) Paragraph (2)(c) of rule 41.20 (lodging of appeal in court)(**c**) is revoked.

(3) In paragraph (2)(d) of that rule(**d**), the words following the words in parenthesis are omitted.

(4) Paragraph (2)(k) of rule 41.44 (appeals to be heard in the Outer House)(**e**) is revoked.

(5) Part XI (Nationality, Immigration and Asylum Act 2002)(**f**) is revoked.

(**a**) 1988 c.36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 (c.32), section 2(3); the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), Schedule 9; the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 45; the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(1); and the Judiciary and Courts (Scotland) Act 2008 (asp 6), section 46(3).
(**b**) S.I. 1994/1443, last amended by S.S.I. 2009/450.
(**c**) Rule 41.20(2)(c) was amended by S.S.I. 2004/331 and S.S.I. 2005/198.
(**d**) Rule 41.20(2)(d) was inserted by S.S.I. 2008/349.
(**e**) Rule 41.44 was inserted by S.I. 1996/2168 and amended by S.S.I. 2000/144 and S.S.I. 2008/349.
(**f**) Part XI was inserted by S.S.I. 2003/223 and substituted by S.S.I. 2005/198 and S.S.I. 2007/283.

(6) That Part continues to have effect, however, for the purpose of any matter under a provision referred to in that Part which continues before the court, or which may be brought before the court, in either case by virtue of Schedule 4 to the Transfer of Functions of the Asylum and Immigration Tribunal Order 2010(**a**).

A.C. HAMILTON
Lord President
I.P.D.

Edinburgh
21st January 2010

(**a**) S.I. 2010/21.

EXPLANATORY NOTE

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

This Act of Sederunt makes amendments to Chapter 41 of the Rules of the Court of Session 1994, in relation to asylum and immigration appeals.

The amendments result from the transfer of the functions of the Asylum and Immigration Tribunal to the First-tier Tribunal and Upper Tribunal established under the Tribunals, Courts and Enforcement Act 2007 (the "2007 Act"). The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21) (the "Transfer Order") makes provision for the transfer of those functions and also makes other consequential amendments to legislation relating to the Asylum and Immigration Tribunal. Those changes are to take effect on 15th February 2010.

Paragraph 2(2) omits rule 41.20(2)(c) as the statutory provisions which provide for the rights of appeal to the court, and are referred to in that rule, are being repealed or revoked by virtue of paragraph 25 of Schedule 1 to the Transfer Order. On the same basis paragraph 2(5) revokes Part XI of Chapter 41.

Paragraph 2(3) amends rule 41.20(2)(d) so that all appeals under section 13 of the 2007 Act will follow the same procedure.

Paragraph 2(4) revokes rule 41.44(2)(k) as the statutory provisions referred to in that rule have been repealed.

Paragraph 2(6) makes savings in relation to the application of Part XI in respect of appeals lodged with the court, or which may be brought before the court, by virtue of Schedule 4 to the Transfer Order.

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