

2010 No. 459

COURT OF SESSION

**Act of Sederunt (Rules of the Court of Session Amendment
No. 6) (Terrorist Asset-Freezing etc. Act 2010) 2010**

Made - - - - *17th December 2010*

Coming into force - - *21st December 2010*

The Lords of Council and Session, under and by virtue of the powers conferred by section 5 of the Court of Session Act 1988(a), sections 66 and 67 of the Counter-Terrorism Act 2008(b) and all other powers enabling them in that behalf, do hereby enact and declare:

Citation, commencement etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment No. 6) (Terrorist Asset-Freezing etc. Act 2010) 2010 and comes into force on 21st December 2010.

(2) A certified copy of this Act of Sederunt is to be inserted in the Books of Sederunt.

Terrorist Asset-Freezing etc. Act 2010

2.—(1) The Rules of the Court of Session 1994(c) are amended in accordance with the following subparagraph.

(2) After Chapter 100 (arbitration)(d), insert the following Chapter—

“CHAPTER 101

TERRORIST ASSET-FREEZING

Interpretation of this Chapter

101.1. In this Chapter—

“the 2010 Act” means the Terrorist Asset-Freezing etc. Act 2010(e);

“asset-freezing proceedings” means proceedings in the Court of Session on—

(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) 2008 c.28. Sections 66 and 67 of the Counter-Terrorism Act 2008 are applied by section 28(4) of the Terrorist Asset-Freezing etc. Act 2010 (c. 38).

(c) S.I. 1994/1443, last amended by S.S.I. 2010/417.

(d) Chapter 100 was inserted by S.S.I. 2010/205.

(e) 2010 c.38.

- (a) an application under section 27(2) of the 2010 Act, a reclaiming motion in respect of such an application or a claim arising from any matter to which such an application relates; or
- (b) an appeal under section 26(2) of the 2010 Act or a claim arising from any matter to which such an appeal relates.

Application to set aside an asset-freezing decision

101.2.—(1) An application under section 27(2) of the 2010 Act shall be made by lodging a petition with the Deputy Principal Clerk.

(2) The petition shall include, in numbered paragraphs, statements of reasons setting out—

- (a) the details of the decision to be set aside; and
- (b) the grounds on which the petitioner seeks to set aside that decision.

(3) There shall be lodged with the petition—

- (a) a copy of the decision; and
- (b) all relevant documents in the petitioner’s possession and within the petitioner’s control.

Appeal in relation to designations

101.3. Notwithstanding rule 41.20(1) (lodging of appeal in the General Department), an appeal under section 26(2) of the 2010 Act shall be lodged with the Deputy Principal Clerk.

Lodging of process

101.4.—(1) A process lodged under rule 4.3 in an application under section 27(2) of the 2010 Act or on a claim arising from any matter to which such an application relates shall be lodged with the Deputy Principal Clerk.

(2) A process lodged in an appeal under section 26(2) of the 2010 Act or on a claim arising from any matter to which such an appeal relates shall be lodged with the Deputy Principal Clerk.

Application of Chapter 96 to asset-freezing proceedings

101.5.—(1) Subject to paragraphs (2) and (3), rules 96.4 to 96.13 apply to asset-freezing proceedings as they apply to financial restrictions proceedings, as defined in rule 96.1(1).

(2) In the application of rules 96.4 to 96.13 under paragraph (1)—

- (a) “special advocate” means, in relation to asset-freezing proceedings, a person who is appointed under section 68 of the Counter-Terrorism Act 2008(a) to represent the interests of a party to those proceedings;
- (b) references to a party to the proceedings do not include the Treasury;
- (c) references to a party’s legal representative do not include a person appointed as a special advocate;
- (d) references to financial restrictions proceedings shall be read as references to asset-freezing proceedings; and
- (e) references to the petitioner shall include references to the appellant.

(a) 2008 c.28. Section 68 of the 2008 Act is applied by section 28(4) of the 2010 Act.

(3) In the application of rule 96.4 under paragraph (1), the reference to a petition shall include a reference to an appeal.”

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

Edinburgh
17th December 2010

EXPLANATORY NOTE

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

This Act of Sederunt makes amendments to the Rules of the Court of Session 1994.

It inserts a new Chapter 101 and rules in respect of terrorist asset-freezing proceedings under the Terrorist Asset-Freezing etc. Act 2010. The new Chapter applies to applications for review of certain asset-freezing decisions and appeals against decisions to designate persons for the purposes of Part 1 of the 2010 Act.

Rule 101.1 sets out various definitions.

Rules 101.2 to 101.4 specify procedure in relation to making applications, lodging appeals and lodging processes in asset-freezing proceedings.

Rule 101.5 provides for rules 96.4 to 96.13 to apply, with modification, to asset-freezing proceedings as they apply to financial restrictions proceedings under the Counter-Terrorism Act 2008.

© Crown Copyright 2010

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.