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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 162**

**COURT OF SESSION**

**Act of Sederunt (Rules of the Court of Session  
Amendment No. 4) (Miscellaneous) 2013**

*Made - - - - 22nd May 2013  
Laid before the Scottish  
Parliament - - - - 23rd May 2013  
Coming into force in accordance with paragraph 1(2)  
and (3)*

The Lords of Council and Session, under and by virtue of the powers conferred by section 5 of the Court of Session Act 1988(1), section 282D(11) of the Proceeds of Crime Act 2002(2) and of 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. 4) (Miscellaneous) 2013.

(2) Subject to subparagraph (3) it comes into force on 4th June 2013.

(3) Paragraph 3 comes into force on 24th June 2013.

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

(5) The Rules of the Court of Session(3) are amended in accordance with the following paragraphs.

**Change of name of a party**

2. After rule 24.5 (effect of amendment on diligence) insert—

**“Applications to amend the name of a party in more than one cause**

**24.6.—(1) This rule applies where a party—**

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(1) 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) and the Legal Services (Scotland) Act 2010 (asp 16), section 126(a).  
(2) 2002 c.29; section 282D(11) was inserted by the Crime and Courts Act 2013 (c.22), section 48(6)(b) and Schedule 18.  
(3) 1994 S.I. 1994/1443, last amended by S.S.I. 2013/120.

- (a) is a party to more than one cause depending before the court; and
  - (b) wishes the pleadings in those causes to be amended to reflect a change in the party's name.
- (2) A party mentioned in paragraph (1) may apply to the court for the pleadings in each of the affected causes to be amended by the substitution of the new name for the old name—
- (a) in the instance or, as the case may be, address;
  - (b) in any averments or, as the case may be, statement of facts which have the sole purpose of identifying or designating that party by name.
- (3) The application shall be made by motion and include—
- (a) a list of all of the affected causes;
  - (b) official evidence of the change of name (for example, an extract of an entry in the register of companies or an extract of an entry in a register held by the National Records of Scotland);
  - (c) a statement that the applicant has informed all other parties in the affected causes of the applicant's intention to make the application and that the other parties have been given a reasonable opportunity to object to the amendment of the pleadings.
- (4) Subject to paragraph (3), the motion shall be placed before a Lord Ordinary in chambers for determination.
- (5) Where any of the affected causes is in the Inner House, the application shall be placed before an Inner House judge in chambers for determination.
- (6) An interlocutor pronounced under this rule shall have effect as an interlocutor in each of the affected causes.
- (7) A party to any of the affected causes may apply to the court for a determination made under this rule to be reconsidered in respect of that cause.”

### **Children's Hearings (Scotland) Act 2011**

3. Subject to paragraph 7, in Chapter 41 (appeals under statute)—
- (a) the title of Part V becomes “APPEALS UNDER PART 15 OF THE CHILDREN'S HEARINGS (SCOTLAND) ACT 2011”;
  - (b) in rule 41.35 (application of Part II of Chapter 41 of Part V)(4), for “section 51(11)(b) of the Act of 1995” substitute “sections 163, 164 or 165 of the Act of 2011(5)”;
  - (c) for rule 41.36 (interpretation of Part V of Chapter 41) substitute—

#### **“Interpretation of this Part**

##### **41.36. In this Part—**

“the Act of 2011” means the Children's Hearings (Scotland) Act 2011;

“the Principal Reporter” means the Principal Reporter appointed under paragraph 8 of Schedule 3 to the Act of 2011 or any person to whom there is delegated, under paragraph 10(1) of Schedule 3 to the Act of 2011, any function of the Principal Reporter under that Act.”

- (d) in rule 41.37 (lodging of reports and statements with sheriff), in paragraph (1)—

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(4) Rule 41.35 was substituted by [S.S.I. 2011/303](#).

(5) [2011 asp 1](#).

- (i) for “on an application being made under subsection (13) of section 51 of the Act of 1995 to state a case for the purposes of an appeal under subsection (11)(b) of that section” substitute “on an appeal being made to the court by stated case under section 163, 164 or 165 of the Act of 2011”;
- (ii) in subparagraph (a), for “subsection (2), or report lodged under subsection (3), of that section” substitute “section 155(2), or report lodged under section 155(6) of that Act”.

#### **Appeals to be heard in the Outer House**

- 4. In rule 41.52(4) (appeals to be heard in the Outer House)(**6**), omit subparagraph (g).

#### **Companies**

- 5.—(1) In rule 74.1 (application and interpretation of this Chapter)(**7**)—
  - (a) after paragraph (1)(d) insert—
    - “(e) Chapter 5 of Part 2 of the Energy Act 2011”;
  - (b) in paragraph (2)—
    - (i) after the definition of “the Act of 2009” insert—
      - ““the Act of 2011” means the Energy Act 2011”;
    - (ii) after the definition of “the Energy Administration Rules” insert—
      - ““the 2013 Rules” means the Energy Supply Company Administration (Scotland) Rules 2013”(**8**).
  - (c) in paragraph (3)—
    - (i) after “Parts 2 or 3 of the Act of 2009,” insert “Chapter 5 of Part 2 of the Act of 2011,”;
    - (ii) after “the Bank Administration Rules” omit “or”;
    - (iii) after “the Energy Administration Rules” insert “or the 2013 Rules”.
- (2) In rule 74.3 (notices and reports, etc., sent to the court)(**9**)—
  - (a) after “the Act of 2009”, insert “the Act of 2011,”;
  - (b) after “the Bank Administration Rules” omit “or”;
  - (c) after “the Energy Administration Rules” insert “or the 2013 Rules”.
- (3) In rule 74.11 (notice of petition)—
  - (a) after “the Act of 2004” omit “or”;
  - (b) after “the Energy Administration Rules” insert “or rule 6(1) of the 2013 Rules”.

#### **Civil Recovery Investigations**

- 6. After rule 76.37 (disclosure orders)(**10**) insert—

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(**6**) Rule 41.52(4) was substituted by [S.S.I. 2011/303](#).  
(**7**) Rule 74.1 last amended by [S.S.I. 2011/385](#).  
(**8**) [S.I. 2013/1047 \(S.3\)](#).  
(**9**) Rule 74.3 last amended by [S.S.I. 2009/63](#).  
(**10**) Rule 76.37 last amended by [S.S.I. 2012/275](#).

**“Evidence overseas**

**76.37A.** An application under section 282D(4) of the Act of 2012 (evidence overseas: interim receiver or interim administrator) shall be made by note in process.”.

**Savings**

7.—(1) The provisions of Part V of Chapter 41 (appeals under section 51 of the Children (Scotland) Act 1995) as they applied immediately before 24th June 2013 shall continue to have effect—

- (a) for the purpose of any appeal made under section 51 of the Children (Scotland) Act 1995 and not yet determined before that date; and
- (b) in relation to any further right of appeal which follows on from the determination of an appeal mentioned in paragraph (a).

Edinburgh  
22nd May 2013

*BRIAN GILL*  
Lord President  
I.P.D.

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## 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.

Paragraph 2 inserts new rule 24.6 to make provision for applications to amend the name of a party in more than one cause.

Paragraph 3 amends rules in Part V of Chapter 41, in consequence of the repeal of provisions in the Children (Scotland) Act 1995 and the re-enactment of those provisions in the Children's Hearing (Scotland) Act 2011.

Paragraph 4 amends rule 41.52(4) (appeals to be heard in the Outer House) to remove the reference to the Restrictive Practices Court; on account of that court no longer existing.

Paragraph 5 amends Chapter 74 (companies) in consequence of the coming into force of the Energy Act 2011 and the Energy Supply Company Administration (Scotland) Rules 2013.

Paragraph 6 inserts new rule 76.37A (evidence overseas) in respect of a new application that can be made to the court under Part 5 of the Proceeds of Crime Act 2002.

Paragraph 7 contains a saving provision in respect of the changes made by paragraph 3.