SCOTTISH STATUTORY INSTRUMENTS

2000 No. 317

COURT OF SESSION

Act of Sederunt (Rules of the Court of Session Amendment No. 5) (Public Interest Intervention in Judicial Review) 2000

Made - - - -	*7th September 2000*
Coming into force - -	*2nd October 2000*

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(**1**) 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 No. 5) (Public Interest Intervention in Judicial Review) 2000 and shall come into force on 2nd October 2000.

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

Amendment of the Rules of the Court of Session

2.—(1) The Rules of the Court of Session 1994(**2**) shall be amended in accordance with the following sub-paragraphs.

(2) In paragraph (2) of rule 58.8 (compearing parties), after "to be made" there shall be inserted ", and who is directly affected by any issue raised,".

(3) After that rule there shall be inserted–

"**Applications for public interest intervention**

58.8A.—(1) A person to whom rule 58.8(2) does not apply may make an application to the Court for leave to intervene–

(a) in a petition for judicial review;

(b) in an appeal in connection with such a petition.

(**1**) 1988 c. 36; section 5 was amended by section 2(3) of the Civil Evidence (Scotland) Act 1988 (c. 32) and by the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 45.
(**2**) S.I.1994/1443.

(2) An application for leave to intervene shall be by way of a Minute of Intervention in Form 58.8, and the applicant shall–

(a) send a copy of it to all the parties; and

(b) lodge it with the Court, certifying that sub-paragraph (a) above has been complied with.

(3) A Minute of Intervention shall set out briefly–

(a) the name and description of the applicant;

(b) any issue in the proceedings which the applicant wishes to address and the applicant's reasons for believing that any such issue raises a matter of public interest; and

(c) the propositions to be advanced by the applicant and the applicant's reasons for believing that they are relevant to the proceedings and that they will assist the Court.

(4) The Court may–

(a) refuse leave without a hearing;

(b) grant leave without a hearing unless a hearing is requested under paragraph (5) below; or

(c) refuse or grant leave after such a hearing.

(5) A hearing, at which the applicant and the parties may address the Court on the matters referred to in paragraph (6)(c) below, may be held if, within 14 days of the Minute of Intervention being lodged, any of the parties lodges a request for a hearing.

(6) The Court may grant leave only if it is satisfied that–

(a) the proceedings raise, and an issue in the proceedings which the applicant wishes to address raises, a matter of public interest;

(b) the propositions to be advanced by the applicant are relevant to the proceedings and are likely to assist the Court; and

(c) the intervention will not unduly delay or otherwise prejudice the rights of the parties, including their potential liability for expenses.

(7) In granting leave, the Court may impose such terms and conditions as it considers desirable in the interests of justice, including making provision in respect of any additional expenses incurred by the parties as a result of the intervention.

(8) Where leave is granted–

(a) an intervention shall be by way of a written submission which (including any appendices) does not exceed 5000 words; and

(b) the applicant shall lodge the submission and send a copy of it to all the parties by such time as the Court may direct.

(9) The Court may in exceptional circumstances–

(a) allow a longer written submission to be made;

(b) direct that an oral submission is to be made.

(10) The Clerk of Court shall notify a grant or refusal of leave to the applicant and all the parties.

(11) Any diet in pursuance of paragraph (5) or (9)(b) above shall be fixed by the Keeper of the Rolls and intimated to the applicant and all the parties.

(12) Nothing in this Rule shall affect the power of the Court to make such other direction as it considers appropriate in the interests of justice.

(13) Any decision of the court in proceedings under this rule shall be final.".