the People Act, 1949(a), and of all other powers competent to them in that behalf, do hereby enact as follows:—

1. The appellate jurisdiction conferred by paragraph (*b*) of subsection (8) of the said section 45 shall be exercised by the Registration Appeal Court consisting of Lord Keith, Lord Patrick and Lord Sorn.

2. The procedure in appeals to the Registration Appeal Court shall, subject to any directions which may be given by that Court, be regulated *mutatis mutandis* by Rule 290 of the Rules of the Court of Session(b).

3. This Act of Sederunt may be cited as the Act of Sederunt (Registration Appeal Court), 1952, and shall come into operation on the 11th day of July, 1952.

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

T. M. Cooper,
I.P.D.

Edinburgh.
11th July, 1952.

1952 No. 117 (S. 9)

Act of Sederunt (Reserve and Auxiliary Forces (Protection of Civil Interests)), 1952

Made - - - -	22*nd January*, 1952
Coming into Operation	1*st March*, 1952

The Lords of Council and Session in exercise of the powers conferred upon them by section eleven of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951(c) and of all other powers enabling them in that behalf, do hereby enact and declare as follows:—

Citation and commencement

1. This Act of Sederunt may be cited as the Act of Sederunt (Reserve and Auxiliary Forces (Protection of Civil Interests)), 1952, and shall come into operation on the first day of March, 1952.

Interpretation

2.—(1) In this Act of Sederunt, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them that is to say:—

" the Act " means the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951;

" declaratory order " means an order under paragraph (*c*) of subsection (1) of section nine of the Act;

" leave " means leave of the appropriate court under the Act.

(2) Any reference in this Act of Sederunt to a numbered form shall be construed as a reference to the form of that number in the Schedule to this Act of Sederunt or a form to the like effect.

(3) The Interpretation Act, 1889(d) shall apply to the interpretation of this Act of Sederunt as it applies to the interpretation of an Act of Parliament.

(a) 12, 13 & 14 Geo. 6. c. 68.
(b) S.I. 1948/1691; 1948 I, p. 3778.
(c) 14 & 15 Geo. 6. c. 65.
(d) 52 & 53 Vict. c. 63.

Appropriate Court

3.—(1) The appropriate court in relation to an application for leave to enforce, or for a declaratory order relating to, a decree, shall be—

(*a*) the court which pronounced the decree : or

(*b*) if the judgment has been obtained in a court outside Scotland and is registered in a court in Scotland for the purpose of enforcement, the court in which the judgment is registered.

(2) The appropriate court in relation to an application for leave to exercise any right or remedy mentioned in subsection (2) of section eight or in paragraph (*b*) of subsection (1) of section twenty-five of the Act, or for a declaratory order relating to the exercise of any such right or remedy, shall be any court which according to present practice has jurisdiction to deal with causes or matters of the nature and value involved in the application.

(3) The appropriate court for the giving of directions for restoration of property, repayment of money or other measures under subsection (4) of section thirteen of the Act shall be—

(*a*) where there has been an omission to obtain leave required under section eight or section twenty-five of the Act, the court having jurisdiction to give such leave ;

(*b*) where there has been a failure to observe a restriction subject to which leave so required was given, the court which imposed the restriction or condition : and

(*c*) where there has been a contravention of the prohibition in subsection (2) of section ten of the Act against dealing with the goods, the court having jurisdiction to make a declaratory order in respect of the taking possession of the goods:

Provided that where any proceedings which lie by virtue of any such omission, failure or contravention have been instituted in any court, that court shall have jurisdiction to give such directions as aforesaid.

Form of, and procedure on, applications

4.—(1) Subject as hereinafter provided an application under the Act shall be initiated by a document (hereinafter referred to as an " application ") in the forms, as nearly as may be,—

(*a*) in the case of an application for leave to enforce a decree, or to present a petition for sequestration or a winding up petition founded on the non-payment of money due under a decree, of Form 1,

(*b*) in the case of an application for a declaratory order relating to a decree, of Form 2,

(*c*) in the case of an application for leave to exercise any right or remedy mentioned in subsection (2) of section eight or in paragraph (*b*) of subsection (1) of section twenty-five of the Act, of Form 3, and

(*d*) in the case of an application for a declaratory order relating to the exercise of any such right or remedy as aforesaid, of Form 4.

(2) An application under the foregoing sub-paragraph shall be lodged in the case of an application to the Court of Session, in the Petition Department and, in the case of an application to the sheriff court, with the sheriff clerk. Every such application so lodged shall have attached to it a blank sheet of process paper.

(3) Upon the lodging of any application as aforesaid the clerk in charge of the Petition Department, or the sheriff clerk, as the case may be, shall appoint a diet for appearance and shall grant a warrant for intimation in

Form 5, and a copy of the application, of the warrant for intimation and (except in the case of an application for a declaratory order) of the note set forth in Form 6 or Form 7, as the case may require, shall, not later than two days after the granting of the said warrant, be served upon the person liable to implement the decree or perform the obligation in question, or upon the proper person as defined in subsection (3) of section nine of the Act, as the case may be.

(4) A certificate of service in Form 8 shall be endorsed by or on behalf of the applicant on the process copy of the application before the date appointed in the warrant for intimation for the diet for appearance.

(5) At the diet for appearance appointed in the warrant for intimation the appropriate court shall dispose of the application, or appoint such further procedure as it may deem necessary.

Application for leave to enforce a decree made at the same time as motion for decree

5. An application for leave to enforce a decree may be made by verbal motion at the time when the motion for decree is made, and the appropriate court may, then, if it thinks fit, dispose of the application if—

(*a*) in the case of a defended action, the court is satisfied that due intimation of the intention so to apply has been made to the defender;

(*b*) in the case of an undefended action in the Court of Session or an ordinary cause in the sheriff court in which no notice of appearance has been lodged or in which the defender does not answer, a notice as nearly as may be in the form of Form 9 has been sent to the defender at least six clear days before the application is made; and

(*c*) in the case of a summary cause or small debt action in the sheriff court, there has been sent to the defender, either along with the initial writ or summons or at least six clear days before the application is made, a notice as nearly as may be in the form of Form 10.

Intimation to persons affected in certain cases

6. In the case of an application for leave to enforce a decree or for leave to exercise any right or remedy mentioned in subsection (2) of section eight or in paragraph (*b*) of subsection (1) of section twenty-five of the Act the appropriate court, before considering the application, may order intimation thereof to any person whom the court considers to be interested therein, including the spouse of the person liable to implement the decree or perform the obligation in question, and may give to any person to whom intimation is so made an opportunity to be heard.

Service of application or notice on representative of service man

7. Where any person upon whom an application or notice is to be served under this Act of Sederunt (in this paragraph referred to as " the respondent ") is for the time being performing a period of relevant service, the appropriate court may, if, in view of any special circumstances, it considers it expedient to do so, authorise the application or notice to be served instead on any person (including the spouse of the respondent) who appears to the court to have been entrusted with the management of the respondent's affairs in general or of the premises or property to which the application or notice relates.

Application by representative on behalf of service man

8. Where a person who would be entitled to apply for a declaratory order is for the time being performing a period of relevant service, the appropriate court may, if, in view of any special circumstances, it considers it expedient

to do so, treat as an application made by him for a declaratory order an application for that purpose made on his behalf by his spouse or by any other person acting in good faith in his interest.

Appearance of representative of service man

9.—(1) Where an application or notice is served in the manner provided by paragraph seven of this Act of Sederunt or an application is made in the manner provided by the last foregoing paragraph of this Act of Sederunt, the person on whom the application or notice is served or by whom the application is made, as the case may be (in this paragraph referred to as " the representative "), shall be entitled to attend and be heard at that hearing of the application as if he were the respondent, or the person on whose behalf the application is made, as the case may be.

(2) If the appropriate court is of opinion that the representative has acted unreasonably in opposing, making or presenting the application, the appropriate court may make an order for payment by him of the expenses of any other party, but save as aforesaid the representative shall not be personally liable for any such expenses.

Recall of variation of orders

10. Any order made on any application referred to in this Act of Sederunt may, should subsequent circumstances render it just so to do, be recalled, suspended, discharged, or otherwise varied or altered on a motion to the court which made such order, after written intimation to all parties interested of the intention to make such motion.

Application may be heard and disposed of in chambers

11. Any application under this Act of Sederunt to the Court of Session or to the sheriff court may be heard and disposed of by a judge or by the sheriff, as the case may be, either in court or in chambers, whether during session, vacation or recess, and any such application may be heard in *camera* if a judge or the sheriff so orders.

Postal services

12. Where the service of any document is required by this Act of Sederunt to be made, and the service is made by post, the date of making it shall be reckoned as the day after that on which the document was posted.

Fee fund dues

13. No fee fund dues or court fees shall be payable in proceedings on any application referred to in this Act of Sederunt.

Expenses

14. The expenses of proceedings on any application referred to in this Act of Sederunt shall be in the discretion of the appropriate court; and the appropriate court, if it think fit, may award no expenses or modify the amount thereof.

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

T. M. Cooper,
I.P.D.

Edinburgh.

22nd January, 1952.

SCHEDULE

FORM 1

RESERVE AND AUXILIARY FORCES (PROTECTION OF CIVIL INTERESTS) ACT, 1951

Unto [specify court]

Application
for
A.B. [designation]

A.B. applies to the court for leave to enforce a decree of the court dated [date] against the therein designed C.D., a copy of which decree is appended hereto [or otherwise competently produced and referred to] *or* [as the case may be] to present a petition for sequestration of the estate of C.D. [designation] or for the winding up of [specify company].

[Signature of applicant or solicitor or counsel.]

[Place and date.]

FORM 2

RESERVE AND AUXILIARY FORCES (PROTECTION OF CIVIL INTERESTS) ACT, 1951

Unto [specify court]

Application
for
A.B. [designation]

A.B. applies to the court for an order under paragraph (*c*) of subsection (1) of section nine of the said Act directing that subsection (1) of section eight of the said Act shall apply in relation to a decree by the court dated [date] against him in favour of the therein designed C.D., a copy of which decree is appended hereto [or otherwise competently produced and referred to].

[Signature of applicant or solicitor or counsel.]

[Place and date.]

FORM 3

RESERVE AND AUXILIARY FORCES (PROTECTION OF CIVIL INTERESTS) ACT, 1951

Unto [specify court]

Application
for
A.B. [designation]

A.B. applies to the court for leave to exercise the following right [or remedy] that is to say [specify right or remedy by reference to subsection (2) of section eight or to paragraph (*b*) of subsection (1) of section twenty-five of the Act] against C.D. [designation] who is under the following obligation to the said A.B. [give brief particulars of obligation in question].

[Signature of applicant or solicitor or counsel.]

[Place and date.]

FORM 4

RESERVE AND AUXILIARY FORCES (PROTECTION OF CIVIL INTERESTS) ACT, 1951

Unto [specify court]

Application

for

A.B. [designation]

A.B. applies to the court for an order under paragraph (*c*) of subsection (1) of section nine of the said Act directing that subsection (2) of section eight of the said Act shall apply in relation to the following obligation which the said A.B. is alleged to be liable to perform in favour of C.D. [designation] that is to say [give brief particuars of obligation].

[Signature of applicant or solicitor or counsel.]

[Place and date.]

FORM 5

RESERVE AND AUXILIARY FORCES (PROTECTION OF CIVIL INTERESTS) ACT, 1951

[Place and date.]

The court grants warrant for intimation and appoints parties to appear on the day of at o'clock in [place].

[Signature of clerk of court.]

NOTE.—The clerk in fixing the induciae shall have regard to the period necessary to enable the respondent to appear and shall, if necessary, consult the court.

FORM 6

NOTE ON THE EFFECT OF THE RESERVE AND AUXILIARY FORCES (PROTECTION OF CIVIL INTERESTS) ACT, 1951

(For use with an application for leave to enforce a decree.)

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, prevents the enforcement of the decree to which the application herewith applies if the court is of opinion that you are unable immediately to obey the order of the court contained in the decree by reason of circumstances directly or indirectly attributable to service to which the Act applies. If you desire to take advantage of the Act you should attend the court by yourself or by your solicitor (or, in the Court of Session, your Counsel) on the date specified in the warrant for intimation, and satisfy the court that your inability to obey the order contained in the decree is due to the circumstances aforesaid. If the application has been served on your wife or other person entrusted with the management of your affairs or of the property to which the decree relates, the court will hear such person on your behalf.

FORM 7

NOTE ON THE EFFECT OF THE RESERVE AND AUXILIARY FORCES (PROTECTION OF CIVIL INTERESTS) ACT, 1951

(For use with application for leave to exercise any right or remedy of the kind mentioned in subsection (2) of section eight or in paragraph (*b*) of subsection (1) of section twenty-five of the Act.)

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, prevents the exercise of certain rights including the right specified in the application herewith if the court is of opinion that by reason of circumstances directly or indirectly attributable to service to which the Act applies you are unable to perform the obligation in respect of which the aforesaid right arises. If you desire to take advantage of the Act you should attend the court by yourself or by your solicitor (or, in the Court of Session, your Counsel) on the date specified in the warrant of intimation, and satisfy the court that your inability to perform your obligation is due to the circumstances aforesaid. If the application has been served on your wife or other person having the management of your affairs in general or of the property to which the right relates, the court will hear such person on your behalf.

FORM 8

CERTIFICATE OF SERVICE

I, [name, designation and address], solicitor for the applicant hereby certify that I have intimated the forgoing application, in terms of the foregoing warrant for intimation, to [name and designate persons upon whom service has been made] by posting on [date] between the hours of and at the Post Office a copy of the same to him *or* [them], together with a copy of a note in the terms of Form 6 (or, as the case may require, Form 7), in a registered letter addressed as follows [address] and the post office receipt for the said registered letter accompanies this certificate.

[Signature of solicitor for applicant.]

[Date.]

FORM 9

RESERVE AND AUXILIARY FORCES (PROTECTION OF CIVIL INTERESTS) ACT, 1951

In the Court of Session *or* [Sheriff Court of at .]

..... Pursuer

v.

..... Defender

To ..... Defender above designed.

Take note that when decree is granted in the above cause [which will be enrolled in the Undefended Roll before the Hon. Lord for the day of at 10 a.m. within the Parliament House, Edinburgh]

or

[in the Sheriff Court at before Sheriff on the day of at] the pursuer will make application to the Court for leave to enforce the decree immediately in conformity with the above recited Acts and relative Act of Sederunt dated , 1952.

[Signature of applicant or officer of Court or solicitor.]

[Place and date.]

NOTE.—The Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, prevents the enforcement of the decree if the court is of opinion that you are unable immediately to obey the order of the court contained in the decree by reason of circumstances directly or indirectly attributable to service to which the Act applies. If you desire to take advantage of the Act you should attend the court by yourself or by your solicitor (or, in the Court of

Session, your Counsel) on the date when the motion for decree will be moved, and satisfy the court that your inability to obey the order of the court contained in the decree is due to the circumstances aforesaid. If the notice has been served on your wife or other person entrusted with the management of your affairs in general or of the property to which the action relates, the court will hear such person on your behalf.

FORM 10

RESERVE AND AUXILIARY FORCES (PROTECTION OF CIVIL INTERESTS) ACT, 1951

Sheriff Court of at .

..... Pursuer

v.

..... Defender

To ..... Defender above designed.

Take notice that when the above cause is called at the time and place specified in the [Initial Writ] *or* [summons] served herewith *or* [already served on you] application will be made, in the event of decree being granted, for leave to enforce the decree immediately in conformity with the above recited Acts and relative Act of Sederunt dated , 1952.

[Signature of applicant or officer of Court or solicitor.]

[Place and date.]

NOTE.—The Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, prevents the enforcement of the decree if the court is of opinion that you are unable immediately to obey the order of the court contained in the decree by reason of circumstances directly or indirectly attributable to service to which the Act applies. If you desire to take advantage of the Act you should attend the court by yourself or by your solicitor on the date when the motion for decree will be moved, and satisfy the court that your inability to obey the order of the court contained in the decree is due to the circumstances aforesaid. If the notice has been served on your wife or other person entrusted with the management of your affairs in general or of the property to which the action relates, the court will hear such person on your behalf.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt, but is intended to indicate its general purport.)

This Act of Sederunt provides the procedural machinery required for giving effect to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, in the Court of Session and the Sheriff Courts.

1952 No. 893 (S. 38)

Act of Sederunt (Rules of Court Amendment) 1952

Made - - - -	1*st May*, 1952
Coming into Operation	5*th May*, 1952

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, considering that it has been agreed by the Treasury that certain increases in the fees payable to shorthand writers for extending Notes etc. require to be made, do hereby enact and declare that the fees prescribed to be charged

(a) 23 & 24 Geo. 5. c. 41.