



Courts Reform (Scotland) Act 2014

2014 asp 18

PART 3

CIVIL PROCEDURE

CHAPTER 2

COURT OF SESSION

89 Judicial review

After section 27 of the Court of Session Act 1988, insert—

“Applications to the supervisory jurisdiction of the Court

27A Time limits

- (1) An application to the supervisory jurisdiction of the Court must be made before the end of—
 - (a) the period of 3 months beginning with the date on which the grounds giving rise to the application first arise, or
 - (b) such longer period as the Court considers equitable having regard to all the circumstances.
- (2) Subsection (1) does not apply to an application to the supervisory jurisdiction of the Court which, by virtue of any enactment, is to be made before the end of a period ending before the period of 3 months mentioned in that subsection (however that first-ending period may be expressed).

27B Requirement for permission

- (1) No proceedings may be taken in respect of an application to the supervisory jurisdiction of the Court unless the Court has granted permission for the application to proceed.

Status: This is the original version (as it was originally enacted).

- (2) Subject to subsection (3), the Court may grant permission under subsection (1) for an application to proceed only if it is satisfied that—
 - (a) the applicant can demonstrate a sufficient interest in the subject matter of the application, and
 - (b) the application has a real prospect of success.
- (3) Where the application relates to a decision of the Upper Tribunal for Scotland in an appeal from the First-tier Tribunal for Scotland under section 46 of the Tribunals (Scotland) Act 2014, the Court may grant permission under subsection (1) for the application to proceed only if it is satisfied that—
 - (a) the applicant can demonstrate a sufficient interest in the subject matter of the application,
 - (b) the application has a real prospect of success, and
 - (c) either—
 - (i) the application would raise an important point of principle or practice, or
 - (ii) there is some other compelling reason for allowing the application to proceed.
- (4) The Court may grant permission under subsection (1) for an application to proceed—
 - (a) subject to such conditions as the Court thinks fit,
 - (b) only on such of the grounds specified in the application as the Court thinks fit.
- (5) The Court may decide whether or not to grant permission without an oral hearing having been held.

27C Oral hearings where permission refused, etc.

- (1) Subsection (2) applies where, in relation to an application to the supervisory jurisdiction of the Court—
 - (a) the Court—
 - (i) refuses permission under subsection 27B(1) for the application to proceed, or
 - (ii) grants permission for the application to proceed subject to conditions or only on particular grounds, and
 - (b) the Court decides to refuse permission, or grant permission as mentioned in paragraph (a)(ii), without an oral hearing having been held.
- (2) The person making the application may, within the period of 7 days beginning with the day on which that decision is made, request a review of the decision at an oral hearing.
- (3) A request under subsection (2) must be considered by a different Lord Ordinary from the one who refused permission or granted permission as mentioned in subsection (1)(a)(ii).
- (4) Where a request under subsection (2) is granted, the oral hearing must be conducted before a different Lord Ordinary from the one who refused or so granted permission.

- (5) At a review following a request under subsection (2), the Court must consider whether to grant permission for the application to proceed; and subsections (2), (3) and (4) of section 27B apply for that purpose.
- (6) Section 28 does not apply—
 - (a) where subsection (2) applies, or
 - (b) in relation to the refusal of a request made under subsection (2).

27D Appeals following oral hearings

- (1) Subsection (2) applies where, after an oral hearing to determine whether or not to grant permission for an application to the supervisory jurisdiction of the Court to proceed, the Court—
 - (a) refuses permission for the application to proceed, or
 - (b) grants permission for the application to proceed subject to conditions or only on particular grounds.
- (2) The person making the application may, within the period of 7 days beginning with the day on which the Court makes its decision, appeal under this section to the Inner House (but may not appeal under any other provision of this Act).
- (3) In an appeal under subsection (2), the Inner House must consider whether to grant permission for the application to proceed; and subsections (2), (3) and (4) of section 27B apply for that purpose.
- (4) In subsection (1), the reference to an oral hearing is to an oral hearing whether following a request under section 27C(2) or otherwise.”.

90 Interim orders

In section 47 of the Court of Session Act 1988 (interim interdict and other interim orders), after subsection (2) insert—

“(2A) The power under subsection (2) to make an order includes, in particular, power to make an order *ad factum praestandum* (including an interim order).”.

91 Warrants for ejection

After section 47 of the Court of Session Act 1988, insert—

“47A Power to grant warrant for ejection

In any proceedings where the Court has competence to grant a decree of removing, it also has competence to grant a warrant for ejection.”.