



Courts Reform (Scotland) Act 2014

2014 asp 18

PART 3

CIVIL PROCEDURE

CHAPTER 1

SHERIFF COURT

Civil jury trials

63 Civil jury trials in an all-Scotland sheriff court

- (1) This section applies in relation to relevant proceedings in an all-Scotland sheriff court.
- (2) If the proceedings are remitted to probation, they must be tried by jury unless—
 - (a) the parties agree otherwise, or
 - (b) special cause is shown.
- (3) Facts or circumstances constitute special cause for the purposes of subsection (2)(b) only if they would constitute special cause for the purpose of section 9(b) of the Court of Session Act 1988 (allowing of proof by Lord Ordinary).
- (4) The questions to be put to the jury are to be—
 - (a) approved by the sheriff, and
 - (b) specified by the sheriff in an interlocutor.
- (5) The jury is to consist of 12 jurors.
- (6) Proceedings which are to be tried by jury under this section are referred to in this Chapter as “jury proceedings”.
- (7) In this section, “relevant proceedings” means proceedings—
 - (a) of a type specified in an order under section 41(1), and
 - (b) which would be a jury action within the meaning of section 11 of the Court of Session Act 1988 if the same proceedings were (disregarding section 39)—

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- (i) taken by an action in the Court of Session, and
- (ii) remitted to probation there.

64 Selection of the jury

- (1) The jurors for the trial in jury proceedings are to be selected in open court by ballot.
- (2) Each party to the proceedings may challenge the selection of any juror whose name is drawn in the ballot.
- (3) A party may, under subsection (2), at any time during the selection of jurors—
 - (a) challenge the selection of up to 4 jurors without having to give a reason, and
 - (b) challenge the selection of any other juror, provided a reason for the challenge is stated.

65 Application to allow the jury to view property

- (1) A party to jury proceedings may apply to the sheriff to allow the jury to view any heritable or moveable property relevant to the proceedings.
- (2) Where an application is made under subsection (1), the sheriff may grant the application if the sheriff considers it proper and necessary for the jury to view the property.

66 Discharge or death of juror during trial

- (1) In jury proceedings, the sheriff may, in the course of the trial, discharge a member of the jury from further service on the jury if satisfied that the juror—
 - (a) is, by reason of illness, unable to continue to serve on the jury, or
 - (b) should, for any other reason, be discharged from further service on the jury.
- (2) Subsections (3) and (4) apply where a member of the jury—
 - (a) is discharged under subsection (1), or
 - (b) dies.
- (3) So long as there remain at least 10 members of the jury—
 - (a) the remaining members of the jury are in all respects deemed to constitute the jury for the purpose of the trial, and
 - (b) any verdict returned by the remaining members of the jury, whether unanimous or by majority, is to have the same force and effect as if it were a unanimous or, as the case may be, majority verdict of the whole number of the jury.
- (4) If there remain fewer than 10 members of the jury, the sheriff must—
 - (a) discharge the jury, and
 - (b) order the proceedings to be tried by another jury.

67 Trial to proceed despite objection to opinion and direction of the sheriff

- In jury proceedings, despite any objection being taken in the course of the trial to the opinion and direction of the sheriff—
- (a) the trial is to proceed, and

- (b) the jury are to return their verdict and, where necessary, assess damages.

68 Return of verdict

- (1) In jury proceedings, the sheriff must, at the end of the sheriff's charge to the jury, direct the jury to select one of their members to speak for them when returning their verdict.
- (2) The jury may at any time return a verdict by a simple majority of their members.
- (3) Subsection (4) applies if the jury—
 - (a) have been enclosed for at least 3 hours, and
 - (b) at the end of that time are unable to agree a verdict or to return a verdict by majority.
- (4) The sheriff may—
 - (a) discharge the jury without their having returned a verdict, and
 - (b) order the proceedings to be tried by another jury.
- (5) When the verdict is returned, it is to be—
 - (a) declared orally in open court by the juror selected under subsection (1), and
 - (b) taken down in writing by the sheriff clerk before the jury is discharged.
- (6) In jury proceedings containing a claim for damages, where the jury return a verdict for the pursuer, the jury must also assess the amount of damages.
- (7) The verdict of the jury is final so far as relating to the facts found by the jury.
- (8) Subsection (7) is subject to sections 69 and 71.

69 Application for new trial

- (1) After the jury have returned their verdict in jury proceedings, any party to the proceedings may, on any ground specified in subsection (2), apply to the Sheriff Appeal Court for a new trial.
- (2) The grounds are—
 - (a) the sheriff misdirected the jury,
 - (b) undue admission or rejection of evidence,
 - (c) the verdict is contrary to the evidence,
 - (d) damages awarded are excessive or inadequate,
 - (e) new evidence or information has come to light since the trial,
 - (f) any other ground essential to the justice of the case.
- (3) On an application under subsection (1), the Sheriff Appeal Court may grant or refuse a new trial.
- (4) Subsection (3) is subject to section 70.
- (5) Where the Court grants a new trial—
 - (a) the verdict of the jury is set aside, and
 - (b) the proceedings are to be tried by another jury.
- (6) Subsection (7) applies where—

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- (a) an application is made under subsection (1) on the ground that the verdict is contrary to the evidence, and
 - (b) after hearing the parties, the Sheriff Appeal Court is of the opinion that—
 - (i) the ground is established, and
 - (ii) it has before it all the relevant evidence that could reasonably be expected to be obtained in relation to the proceedings.
- (7) The Court may, instead of granting a new trial—
 - (a) set aside the verdict of the jury, and
 - (b) enter judgment for the party unsuccessful at the trial.
- (8) In a case where the Court is constituted by more than one Appeal Sheriff, the opinion referred to in subsection (6)(b) must be the opinion of all of them.

70 Restrictions on granting a new trial

- (1) Subsection (2) applies where—
 - (a) an application is made under section 69(1) on the ground of undue admission of evidence, and
 - (b) the Sheriff Appeal Court is of the opinion that exclusion of the evidence in question could not have led to a different verdict from the one actually returned.
- (2) The Court must refuse to grant a new trial.
- (3) Subsection (4) applies where—
 - (a) an application is made under section 69(1) on the ground of undue rejection of documentary evidence, and
 - (b) the Sheriff Appeal Court is of the opinion that the documents in question would not have affected the jury's verdict.
- (4) The Court must refuse to grant a new trial.
- (5) Subsection (6) applies where—
 - (a) an application is made under section 69(1), and
 - (b) the Sheriff Appeal Court is of the opinion that—
 - (i) the only ground for granting a new trial is that damages awarded are excessive or inadequate, and
 - (ii) a new trial is essential to the justice of the case.
- (6) The Court may grant a new trial restricted to the question of the amount of damages only.
- (7) On an application under section 69(1), where the Sheriff Appeal Court is constituted by more than one Appeal Sheriff—
 - (a) the Court may not grant a new trial except in conformity with the opinion of a majority of the Appeal Sheriffs hearing the application, and
 - (b) in the case of equal division, the Court must refuse to grant a new trial.

71 Verdict subject to opinion of the Sheriff Appeal Court

- (1) This section applies in relation to any jury proceedings in which the sheriff has directed the jury on any matter.
- (2) A party against whom the verdict of the jury is returned may apply to the Sheriff Appeal Court for the verdict instead to be entered in the party's favour.
- (3) On an application under subsection (2), the Court may—
 - (a) set aside the verdict and exercise either of the powers in subsections (4) and (6), or
 - (b) refuse the application.
- (4) Where the Court is of the opinion—
 - (a) that the sheriff's direction was erroneous, and
 - (b) that the party making the application was entitled to the verdict in whole or in part,it may direct the verdict to be entered in that party's favour.
- (5) The Court may direct the verdict to be so entered—
 - (a) either in whole or in part, and
 - (b) either absolutely or on such terms as the Court thinks fit.
- (6) Where the Court is of the opinion that it is necessary to do so, it may order the proceedings to be tried by another jury.