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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 356**

**Act of Sederunt (Sheriff Appeal Court Rules) 2015**

**PART 4**

**DISPOSAL OF AN APPEAL**

**CHAPTER 8**

**REFUSAL OF APPEAL DUE TO DELAY**

**Application to refuse appeal due to delay**

**8.1.**—(1) Any party may apply to the procedural Appeal Sheriff to refuse the appeal if the conditions in paragraph (2) are met.

(2) The conditions are that—

- (a) there has been an inordinate and inexcusable delay by another party or another party's solicitor; and
- (b) unfairness has resulted from that delay.

(3) An application is to be made by motion.

(4) That motion must specify the grounds on which refusal of the appeal is sought.

**Determination of application to refuse appeal due to delay**

**8.2.**—(1) The procedural Appeal Sheriff may refuse the appeal if the procedural Appeal Sheriff considers that—

- (a) there has been an inordinate and inexcusable delay on the part of any party or any party's solicitor; and
- (b) such delay results in unfairness specific to the factual circumstances, including the procedural circumstances, of the appeal.

(2) The procedural Appeal Sheriff must take into account the procedural consequences of allowing the appeal to proceed for—

- (a) the parties to the appeal;
- (b) the efficient disposal of business in the Court.

**CHAPTER 9**

**ABANDONMENT OF APPEAL**

**Application to abandon appeal**

**9.1.**—(1) An appellant may apply to the Court to abandon an appeal by lodging a minute of abandonment.

(2) Where all of the parties consent to the abandonment of the appeal, the Court must refuse the appeal.

(3) Where the other parties do not consent to the abandonment of the appeal, the Court may—

(a) refuse the application;

(b) grant the application and refuse the appeal.

(4) If the Court refuses an appeal under this rule, it may make an order as to the expenses of the appeal.

(5) If the Court refuses an application, it may make an order as to the expenses of the application.

## CHAPTER 10

### REMIT TO THE COURT OF SESSION

#### **Application to remit appeal to the Court of Session**

**10.1.**—(1) An application under section 112 of the 2014 Act (remit of appeal from the Sheriff Appeal Court to the Court of Session) is to be made by motion.

(2) Within 4 days after the Court has made an order remitting an appeal to the Court of Session, the Clerk must—

(a) give notice of the remit to each party;

(b) certify on the interlocutor sheet that subparagraph (a) has been complied with;

(c) transmit the process to the Deputy Principal Clerk of Session.

(3) Failure by the Clerk to comply with paragraph (2)(a) or (b) does not affect the validity of a remit.

## CHAPTER 11

### APPLICATIONS FOR PERMISSION TO APPEAL TO THE COURT OF SESSION

#### **Application of this Chapter**

**11.1.** This Chapter applies where a party seeks the permission of the Court to appeal to the Court of Session against a decision of the Court constituting final judgment in civil proceedings under section 113 of the 2014 Act.

#### **Applications for permission to appeal**

**11.2.**—(1) An application to the Court for permission to appeal to the Court of Session is to be made in Form 11.2.

(2) Such an application must be lodged within 14 days after the date on which the Court gave its decision on the appeal.

(3) When an application is made, the Clerk is to fix a hearing and intimate the time and date of that hearing to the parties to the appeal.

(4) The hearing is, so far as reasonably practicable, to be before the Appeal Sheriff or Appeal Sheriffs who made the decision in respect of which permission to appeal is sought.