
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 356

Act of Sederunt (Sheriff Appeal Court Rules) 2015

PART 7

SPECIAL APPEAL PROCEEDINGS

CHAPTER 29

APPEALS FROM SUMMARY CAUSES AND SMALL CLAIMS

Application of this Chapter

29.1. This Chapter applies to an appeal under section 38 of the Sheriff Courts (Scotland) Act 1971(1) arising from the decision of a sheriff in proceedings under—

- (a) the Summary Cause Rules 2002(2);
- (b) the Small Claim Rules 2002(3).

Transmission of appeal

29.2.—(1) Within 4 days after the sheriff has signed the stated case, the sheriff clerk must transmit to the Clerk—

- (a) the stated case;
- (b) all documents and productions in the case.

(2) On receipt of the stated case, the Clerk is to fix a hearing and intimate the date, time and place of that hearing to the parties.

Transmission of appeal: time to pay direction

29.3.—(1) Within 4 days after the sheriff states in writing the reasons for the sheriff's original decision in accordance with rule 25.4(4) of the Summary Cause Rules 2002 or rule 23.4(4) of the Small Claim Rules 2002, the sheriff clerk must transmit to the Clerk—

- (a) the appeal in Form 33 of the Summary Cause Rules 2002 or Form 22 of the Small Claim Rules 2002;
- (b) the sheriff's written reasons for the sheriff's original decision.

(2) On receipt of those documents, the Clerk is to fix a hearing and intimate the date, time and place of that hearing to the parties.

(1) 1971 c. 58. Section 38 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), section 18(4) and is prospectively modified by S.S.I. 2015/[xxxx], article [xx].

(2) The Summary Cause Rules 2002 are in Schedule 1 to the Act of Sederunt (Summary Cause Rules) 2002 (S.S.I. 2002/132, last amended by S.S.I. 2015/283).

(3) The Small Claim Rules 2002 are in Schedule 1 to the Act of Sederunt (Small Claim Rules) 2002 (S.S.I. 2002/133, last amended by S.S.I. 2015/283).

Hearing of appeal

29.4.—(1) The Court is to hear parties orally on all matters connected with the appeal, including liability for expenses.

(2) Any party may apply by motion for the question of liability for expenses to be heard after the Court gives its decision on the appeal.

(3) At the hearing, a party may only raise questions of law of which notice has not been given if the Court permits the party to do so.

(4) The Court may permit a party to amend any question of law or to add any new question of law.

(5) Where the Court grants permission under paragraph (3) or (4), it may do so on such conditions as to expenses or otherwise as the Court thinks fit.

Determination of appeal

29.5.—(1) At the conclusion of the hearing, the Court may either give its decision orally or reserve judgment.

(2) Where the Court reserves judgment, it must give its decision in writing within 28 days.

(3) The Court may—

(a) adhere to or vary the decision appealed against;

(b) recall the decision and substitute another decision for it;

(c) remit the matter to the sheriff for further procedure.

(4) The Court may not remit the matter to the sheriff in order that further evidence may be led.

Appeal to the Court of Session: certification

29.6.—(1) This rule applies where the Court has determined an appeal arising from the decision of a sheriff in proceedings under the Summary Cause Rules 2002.

(2) An application under section 38(b) of the Sheriff Courts (Scotland) Act 1971 for a certificate that a cause is suitable for appeal to the Court of Session is to be made in Form 29.6.

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

(4) An application may only be disposed of after the procedural Appeal Sheriff has heard parties on it.