
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 340

Act of Sederunt (Sheriff Court Rules) (Equality Act 2010) 2010

Amendment of the Summary Cause Rules

4.—(1) Chapter 36 (equality enactments)(1) of the Summary Cause Rules is amended in accordance with the following subparagraphs.

(2) For Rule 36.1 (application and interpretation) substitute—

“Interpretation and application

36.1.—(1) In this Chapter—

“the Commission” means the Commission for Equality and Human Rights; and

“the 2010 Act” means the Equality Act 2010.

(2) This Chapter applies to claims made by virtue of section 114(1) of the 2010 Act including a claim for damages.”.

(3) For rule 36.5 (national security), substitute—

“National security

36.5.—(1) Where, on an incidental application under paragraph (3) or of the sheriff’s own motion, the sheriff considers it expedient in the interests of national security, the sheriff may—

(a) exclude from all or part of the proceedings—

(i) the pursuer;

(ii) the pursuer’s representatives;

(iii) any assessors;

(b) permit a pursuer or representative who has been excluded to make a statement to the court before the commencement of the proceedings or the part of the proceedings, from which he or she is excluded;

(c) take steps to keep secret all or part of the reasons for his or her decision in the proceedings.

(2) The sheriff clerk shall, on the making of an order under paragraph (1) excluding the pursuer or the pursuer’s representatives, notify the Advocate General for Scotland of that order.

(3) A party may make an incidental application for an order under paragraph (1).

(4) The steps referred to in paragraph (1)(c) may include the following—

(a) directions to the sheriff clerk; and

(b) orders requiring any person appointed to represent the interests of the pursuer in proceedings from which the pursuer or the pursuer’s representatives are excluded not to communicate (directly or indirectly) with any persons (including the excluded pursuer)—

- (i) on any matter discussed or referred to;
- (ii) with regard to any material disclosed,

during or with reference to any part of the proceedings from which the pursuer or the pursuer’s representatives are excluded.

(5) Where the sheriff has made an order under paragraph (4)(b), the person appointed to represent the interests of the pursuer may make an incidental application for authority to seek instructions from or otherwise communicate with an excluded person.

(6) The sheriff may, on the application of a party intending to lodge an incidental application in written form, reduce the period of notice of two days specified in rule 9.1(2) or dispense with notice.

(7) An application under paragraph (6) shall be made in the written incidental application, giving reasons for such reduction or dispensation.

Transfer to Employment Tribunal

36.6.—(1) On transferring proceedings to an employment tribunal under section 140(2) of the 2010 Act, the sheriff —

- (a) shall state his or her reasons for doing so in the interlocutor; and
- (b) may make the order on such conditions as to expenses or otherwise as he or she thinks fit.

(2) The sheriff clerk must, within 7 days from the date of such order—

- (a) transmit the relevant process to the Secretary of the Employment Tribunals (Scotland);
- (b) notify each party to the proceedings in writing of the transmission under subparagraph (a); and
- (c) certify, by making an appropriate entry in the Register of Summary Causes, that he or she has made all notifications required under subparagraph (b).

(3) Transmission of the process under paragraph (2)(a) will be valid notwithstanding any failure by the sheriff clerk to comply with paragraph (2)(b) and (c).

Transfer from Employment Tribunal

36.7.—(1) On receipt of the documentation in proceedings which have been remitted from an employment tribunal under section 140(3) of the 2010 Act, the sheriff clerk must—

- (a) record the date of receipt on the first page of the documentation;
- (b) fix a hearing to determine further procedure not less than 14 days after the date of receipt of the process; and
- (c) forthwith send written notice of the date of the hearing fixed under subparagraph (b) to each party.

(2) At the hearing fixed under paragraph (1)(b) the sheriff may make such order as he or she thinks fit to secure so far as practicable that the cause thereafter proceeds in accordance with these Rules.”.

(4) The title of Chapter 36 becomes “The Equality Act 2010”.