
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 245

**Act of Adjournal (Criminal Procedure Rules 1996
Amendment) (No. 4) (Sheriff Appeal Court) 2015**

Amendment of Chapter 19 of the Criminal Procedure Rules 1996

2.—(1) Chapter 19 (appeals from summary proceedings) of the Criminal Procedure Rules 1996⁽¹⁾ is amended in accordance with this paragraph.

(2) In rule 19.1 (appeals relating to preliminary pleas)⁽²⁾—

(a) in each of paragraphs (6)(c), (7), (8), (9), (11) and (12) for “Clerk of Justiciary” substitute “Clerk of the Sheriff Appeal Court”;

(b) in each of paragraphs (8) and (9), for “High Court” in each place where it occurs substitute “Sheriff Appeal Court”.

(3) In rule 19.5 (abandonment of appeals by stated case), for “Clerk of Justiciary” substitute “Clerk of the Sheriff Appeal Court”.

(4) In rule 19.6 (abandoning appeals against conviction only), in each of paragraphs (4) and (5), for “Clerk of Justiciary” in each place where it occurs substitute “Clerk of the Sheriff Appeal Court”.

(5) In rule 19.8 (intimation of abandonment), for “Clerk of Justiciary” in each place where it occurs substitute “Clerk of the Sheriff Appeal Court”.

(6) In rule 19.9 (applications for suspension of disqualification from driving in appeals)—

(a) in each of paragraphs (1), (3), (7), (8) and (10), for “High Court” substitute “Sheriff Appeal Court”;

(b) in each of paragraphs (4), (6), (8) and (9), for “Clerk of Justiciary” substitute “Clerk of the Sheriff Appeal Court”;

(c) in paragraph (10), for “judge of the High Court” substitute “Appeal Sheriff”.

(7) In rule 19.10 (applications for suspension of disqualification from driving in bills of suspension), in paragraphs (2)(b)(ii) and (3) for “Clerk of Justiciary” substitute “Clerk of the Sheriff Appeal Court”.

(8) In rule 19.10A (suspension of sentence under section 193A of the Act of 1995)⁽³⁾—

(a) in each of paragraphs (1) and (3)(a) and (b), for “High Court” in each place where it occurs substitute “Sheriff Appeal Court”;

(b) in each of paragraphs (3)(a) and (b), for “Crown Agent” substitute “prosecutor”.

(9) For rule 19.11 (solicitor entering appearance etc.) substitute—

(1) The Criminal Procedure Rules 1996 are in Schedule 2 to the Act of Adjournal (Criminal Procedure Rules) 1996 (S.I. 1996/513, last amended by S.S.I. 2015/201). Chapter 19 was last amended by S.S.I. 2012/187.

(2) Rule 19.1 was amended by S.S.I. 2012/125.

(3) Rule 19.10A was inserted by S.I. 1997/1834.

“Solicitor entering appearance etc.

19.11.—(1) The solicitor for the appellant or the appellant, if unrepresented, must enter appearance—

- (a) at the same time as lodging a stated case in accordance with section 179(9); or
- (b) within 7 days after the Clerk of the Sheriff Appeal Court intimates that leave to appeal has been granted in accordance with section 187(9)(a).

(2) Appearance is entered by lodging Form 19.11–A with the Clerk of the Sheriff Appeal Court.

(3) Where an appellant is represented by a solicitor who does not practise in Edinburgh, that solicitor may appoint a solicitor who practises in Edinburgh to carry out the duties of solicitor for the appellant.

(4) If there is a change in representation of an appellant, the new solicitor for the appellant or the appellant, if unrepresented, must lodge Form 19.11–B with the Clerk of the Sheriff Appeal Court within 7 days of that change in representation.

(5) A change in representation occurs where—

- (a) an unrepresented appellant instructs a solicitor;
- (b) an appellant dismisses the appellant’s solicitor and—
 - (i) instructs another solicitor; or
 - (ii) intends to conduct the appeal in person.”.

(10) In rule 19.12 (duty to print stated case etc.)(4)—

- (a) in each of paragraphs (1)(b) and (c), (2), (3) and (4), for “Clerk of Justiciary” substitute “Clerk of the Sheriff Appeal Court”;
- (b) in paragraph (3), for “Justiciary Roll” substitute “Criminal Appeal Roll”.

(11) In rule 19.14 (list of appeals)(5)—

(a) for paragraph (1) substitute—

“(1) The Clerk of the Sheriff Appeal Court shall, after consultation with the President of the Sheriff Appeal Court, issue a list of appeals with the respective dates of hearing on the Criminal Appeal Roll.”;

(b) in paragraph (2), for “Clerk of Justiciary” substitute “Clerk of the Sheriff Appeal Court”.

(12) In rule 19.15 (diet for interim suspension)—

(a) in paragraph (a)—

- (i) for “judge” substitute “Appeal Sheriff”;
- (ii) for “counsel for each party” substitute “the parties”;

(b) in paragraph (b), for “Clerk of Justiciary” substitute “Clerk of the Sheriff Appeal Court”.

(13) In rule 19.16(1) (intimation of determination of appeal), for “Clerk of Justiciary” substitute “Clerk of the Sheriff Appeal Court”.

(14) In rule 19.17 (suspension of disqualification etc. under section 193 of the Act of 1995)(6), for “High Court” in each place where it occurs substitute “Sheriff Appeal Court”.

(15) In rule 19.18 (remits in applications for leave to appeal)(7), for “judge of the High Court” substitute “Appeal Sheriff”.

(4) Rule 19.12 was amended by [S.S.I. 2004/346](#).

(5) Rule 19.14 was last amended by [S.S.I. 2012/187](#).

(6) Rule 19.17 was amended by [S.S.I. 1997/1788](#).

(7) Rule 19.18 was inserted by [S.I. 1996/2147](#).

(16) For rule 19.18A (presentation of summary conviction appeals in writing)(8) substitute—

“Presentation of summary conviction appeals in writing

19.18A.—(1) Where the Sheriff Appeal Court considers that the circumstances of the case require it, it may direct that this rule and rule 19.18B apply to an appeal under section 175(2) (a) or (d) of the Act of 1995.

(2) Where in relation to any ground of appeal an appellant seeks to lead evidence—

- (a) this rule applies to that ground of appeal only in relation to the question of whether that evidence should be led;
- (b) the court may nevertheless make an order containing provision similar to this rule in relation to the presentation of submissions following the hearing of that evidence.

(3) The appellant must, within 42 days of the granting of leave to appeal in accordance with section 180 of the Act of 1995, lodge a case and argument.

(4) A case and argument must—

- (a) set out, for each ground of appeal, a succinct and articulate statement of the facts founded upon and the propositions of law being advanced;
- (b) contain an estimate of how long will be required for the hearing of the appeal; and
- (c) be signed—
 - (i) by the solicitor or counsel representing the appellant in the appeal; or
 - (ii) where the appellant intends to conduct the appeal personally, by the appellant.

(5) A case and argument must, when lodged, be accompanied by—

- (a) all documents, or a copy thereof, referred to or founded upon in the case and argument and not already lodged in the appeal process; and
- (b) all authorities, or a copy thereof, listed in the case and argument and not contained within a publication specified by the Lord Justice General by direction.

(6) The prosecutor—

- (a) may lodge a case and argument in response to the appellant’s case and argument if the prosecutor considers it appropriate;
- (b) must do so if the court, considering that the circumstances of the case require it, orders the prosecutor to do so.

(7) Where the court makes an order under paragraph (6)(b), the prosecutor must lodge the case and argument within 21 days of the making of that order.

(8) At the same time as a case and argument is lodged, a copy of it and all accompanying documents must be sent to the other party to the appeal.

(9) Where the Clerk of the Sheriff Appeal Court considers a case and argument to be unduly lengthy, the matter is to be referred to an Appeal Sheriff who is to give such directions as are considered appropriate.

(10) Where a case and argument is not lodged timeously, the Clerk of the Sheriff Appeal Court is to refer the matter to the President of the Sheriff Appeal Court, whom failing the Vice President of the Sheriff Appeal Court, for such action as is considered appropriate.

(11) The court may, on the application of the relevant party and on cause shown, extend the period for lodging a case and argument.

Hearing of appeal presented in writing

19.18B.—(1) This rule applies to the hearing of an appeal where a case and argument has been lodged by the appellant in accordance with rule 19.18A(3).

(2) At the hearing of the appeal—

- (a) the appellant’s case and argument and supporting documents constitute the principal submissions of the appellant;
- (b) unless it otherwise directs, the court will expect the appellant to rely on the case and argument without reading it over to the court;
- (c) the appellant may, subject to the control of the court, make supplementary comment to the case and argument;
- (d) the appellant may respond to any case and argument lodged by the prosecutor; and
- (e) the appellant is to answer any points raised by the court.

(3) Where the prosecutor lodges a case and argument, paragraph (2) applies with the necessary modifications to the prosecutor as it applies to the appellant.

(4) The appellant and the prosecutor have a duty to co-operate with each other and the court to ensure the completion of the hearing within the time allocated by the court.

(5) The court may, at any point during the hearing, set a timetable for the completion by a party of any submissions permitted in terms of paragraph (2)(b), (c), (d) or (e).

(6) On cause shown, the court may permit the appellant to introduce new information that has come to light in the period since the case and argument was lodged.

(7) Where the court permits the introduction of new information, it may at its discretion permit the lodging of additional documents in support of the new information.

(8) An appellant who wishes to introduce new information and lodge additional documents must send a copy of the information and documents to the Clerk of the Sheriff Appeal Court and the prosecutor as soon as the information and documents come into the appellant’s possession.

(9) An appellant who has sent new information and documents to the Clerk of the Sheriff Appeal Court must apply at the bar to allow it to be introduced or lodged, as the case may be.”.

(17) In rule 19.19 (presentation of summary sentence appeal in writing)(9)—

(a) in paragraph (3)(a), for “Form 19.18” substitute “Form 19.19”;

(b) for paragraph (4) substitute—

“(4) The case and argument referred to in paragraph (3) shall be signed—

- (a) by the solicitor or counsel representing the appellant in the appeal; or
- (b) where the appellant intends to conduct the appeal personally, by the appellant.”;

(c) in each of paragraphs (8) and (9), for “Clerk of Justiciary” substitute “Clerk of the Sheriff Appeal Court”;

(d) in paragraph (10)—

- (i) for “Deputy Principal Clerk of Justiciary” substitute “Clerk of the Sheriff Appeal Court”;
- (ii) for “Lord Justice-General” in each place where it occurs substitute “President of the Sheriff Appeal Court”;
- (iii) for “Lord Justice-Clerk” in each place where it occurs substitute “Vice President of the Sheriff Appeal Court”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
