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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 356**

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

**PART 5**

**INCIDENTAL PROCEDURE: STANDARD PROCEDURES**

**CHAPTER 12**

**MOTIONS: GENERAL**

**Interpretation**

**12.1.**—(1) In this Chapter, Chapter 13 and Chapter 14—

“court day” means a day on which the office of the Clerk is open;

“court day 1” means the court day on which a motion is treated as being intimated under rule 13.1;

“court day 3” means the second court day after court day 1;

“court day 4” means the third court day after court day 1;

“lodging party” means the party lodging the motion;

“receiving party” means a party receiving the intimation of the motion from the lodging party;

“transacting motion business” means—

- (a) intimating and lodging motions;
- (b) receiving intimation of motions;
- (c) intimating consent or opposition to motions;
- (d) receiving intimation of opposition to motions.

(2) In this Chapter and Chapter 13, a reference to—

(a) the address of a party is a reference to the email address included in the list maintained under rule 12.5(4) of—

- (i) that party’s solicitor; or
- (ii) that party;

(b) the address of the court is a reference to the email address of the court included in that list under rule 12.5(5).

**Making of motions**

**12.2.** A motion may be made—

- (a) orally, in accordance with rule 12.3; or
- (b) in writing, in accordance with rule 12.4.

### **Oral motions**

- 12.3.**—(1) A motion may be made orally during any hearing.  
(2) Such a motion may only be made with leave of the Court.

### **Written motions**

**12.4.**—(1) A motion in writing is made by lodging it with the Clerk in accordance with Chapter 13 or Chapter 14.

(2) Chapter 13 (motions lodged by email) applies where each party to an appeal has provided to the Clerk an email address for the purpose of transacting motion business.

(3) Chapter 14 (motions lodged by other means) applies where a party to an appeal has not provided to the Clerk an email address for the purpose of transacting motion business.

### **Provision of email addresses to the Clerk**

**12.5.**—(1) A solicitor representing a party in an appeal must provide to the Clerk an email address for the purpose of transacting motion business.

(2) A solicitor who does not have suitable facilities for transacting motion business by email may make a declaration in writing to that effect, which must be—

- (a) sent to the Clerk; and
- (b) intimated to each of the other parties to the appeal.

(3) A party who is not represented by a solicitor may provide to the Clerk an email address for the purpose of transacting motion business.

(4) The Clerk must maintain a list of the email addresses provided for the purpose of transacting motion business, which must be published in up to date form on the website of the Scottish Courts and Tribunals Service.

(5) The Clerk must also include on that list an email address of the Court for the purpose of lodging motions.

### **Grounds for written motion**

**12.6.** A motion in writing must specify the grounds on which it is made.

### **Determination of unopposed motions in writing**

**12.7.**—(1) The Clerk may determine any unopposed motion in writing other than a motion which seeks a final interlocutor.

(2) Where the Clerk considers that such a motion should not be granted, the Clerk must refer the motion to the procedural Appeal Sheriff.

(3) The procedural Appeal Sheriff is to determine—

- (a) a motion referred under paragraph (2);
- (b) an unopposed motion which seeks a final interlocutor,

in chambers without the appearance of parties, unless the procedural Appeal Sheriff otherwise determines.

### **Issuing of orders by email**

**12.8.** Where the Court makes an order determining a motion which was lodged in accordance with Chapter 13, the Clerk must email a copy of the order to the addresses of the lodging party and every receiving party.