



Courts Reform (Scotland) Act 2014

2014 asp 18

PART 4

PROCEDURE AND FEES

Procedure

103 Power to regulate procedure etc. in the Court of Session

- (1) The Court of Session may by act of sederunt make provision for or about—
 - (a) the procedure and practice to be followed in proceedings in the Court,
 - (b) any matter incidental or ancillary to such proceedings.
- (2) Without limiting that generality, the power in subsection (1) includes power to make provision for or about—
 - (a) execution or diligence following on such proceedings,
 - (b) avoiding the need for, or mitigating the length and complexity of, such proceedings, including—
 - (i) encouraging settlement of disputes and the use of alternative dispute resolution procedures,
 - (ii) action to be taken before such proceedings are brought by persons who will be party to the proceedings,
 - (c) other aspects of the conduct and management of such proceedings, including the use of technology,
 - (d) simplifying the language used in connection with such proceedings or matters incidental or ancillary to them,
 - (e) the form of any document to be used in connection with such proceedings, matters incidental or ancillary to them or matters specified in this subsection,
 - (f) appeals against a decision of the Court,
 - (g) applications that may be made to the Court,
 - (h) time limits in relation to proceedings mentioned in subsection (1), matters incidental or ancillary to them or matters specified in this subsection,
 - (i) the steps that the Court may take where there has been an abuse of process by a party to such proceedings,

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- (j) expenses that may be awarded [^{F1}in] such proceedings,
 - (k) other payments such parties [^{F2}or persons representing such parties] may be required to make in respect of their conduct relating to such proceedings,
 - (l) the payment, investment or application of any sum of money awarded in such proceedings to or in respect of a person under a legal disability,
 - (m) the representation of parties to such proceedings, and others, including representation by persons who—
 - (i) are neither solicitors nor advocates, or
 - (ii) do not have the right to conduct litigation, or a right of audience, by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990,
 - (n) the functions and rights of persons appointed by the Court in connection with such proceedings,
 - (o) witnesses and evidence, including modifying the rules of evidence as they apply to such proceedings,
 - (p) the quorum for a Division of the Inner House considering purely procedural matters and, in the case of an extra Division, as to which judge is to preside and to sign any judgment or interlocutor pronounced by the extra Division,
 - (q) such other matters as the Court thinks necessary or appropriate for the purposes of carrying out or giving effect to the provisions of any enactment (including this Act) relating to such proceedings or matters incidental or ancillary to them.
- (3) An act of sederunt under subsection (1) may make—
- (a) incidental, supplemental, consequential, transitional, transitory or saving provision,
 - (b) provision amending, repealing or revoking any enactment (including any provision of this Act) relating to matters with respect to which an act of sederunt may be made,
 - (c) different provision for different purposes.
- (4) This section is without prejudice to—
- (a) any enactment that enables the Court to make rules (by act of sederunt or otherwise) regulating the practice and procedure to be followed in proceedings to which this section applies, or
 - (b) the inherent powers of the Court.

Textual Amendments

- F1** Word in s. 103(2)(j) substituted (30.1.2019) by [Civil Litigation \(Expenses and Group Proceedings\) \(Scotland\) Act 2018 \(asp 10\), ss. 12\(3\)\(a\), 27\(3\); S.S.I. 2018/368, reg. 2\(e\)](#)
- F2** Words in s. 103(2)(k) inserted (30.1.2019) by [Civil Litigation \(Expenses and Group Proceedings\) \(Scotland\) Act 2018 \(asp 10\), ss. 12\(3\)\(b\), 27\(3\); S.S.I. 2018/368, reg. 2\(e\)](#)

Commencement Information

- I1** S. 103 in force at 1.4.2015 by [S.S.I. 2015/77, art. 2\(2\)\(3\), Sch.](#)

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104 Power to regulate procedure etc. in the sheriff court and the Sheriff Appeal Court

- (1) The Court of Session may by act of sederunt make provision for or about—
- (a) the procedure and practice to be followed in civil proceedings in the sheriff court or in the Sheriff Appeal Court,
 - (b) any matter incidental or ancillary to such proceedings.
- (2) Without limiting that generality, the power in subsection (1) includes power to make provision for or about—
- (a) execution or diligence following on such proceedings,
 - (b) avoiding the need for, or mitigating the length and complexity of, such proceedings, including—
 - (i) encouraging settlement of disputes and the use of alternative dispute resolution procedures,
 - (ii) action to be taken before such proceedings are brought by persons who will be party to the proceedings,
 - (c) other aspects of the conduct and management of such proceedings, including the use of technology,
 - (d) simplifying the language used in connection with such proceedings or matters incidental or ancillary to them,
 - (e) the form of any document to be used in connection with such proceedings, matters incidental or ancillary to them or matters specified in this subsection,
 - (f) appeals against a decision of a sheriff or the Sheriff Appeal Court,
 - (g) applications that may be made to a sheriff or the Sheriff Appeal Court,
 - (h) time limits in relation to proceedings mentioned in subsection (1), matters incidental or ancillary to them or matters specified in this subsection,
 - (i) the steps that a sheriff or the Sheriff Appeal Court may take where there has been an abuse of process by a party to such proceedings,
 - (j) expenses that may be awarded [^{F3}in] such proceedings,
 - (k) other payments such parties [^{F4}or persons representing such parties] may be required to make in respect of their conduct relating to such proceedings,
 - (l) the payment, investment or application of any sum of money awarded in such proceedings to or in respect of a person under a legal disability,
 - (m) the representation of parties to such proceedings, and others, including representation by persons who—
 - (i) are neither solicitors nor advocates, or
 - (ii) do not have the right to conduct litigation, or a right of audience, by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990,
 - (n) the functions and rights of persons appointed by a sheriff or the Sheriff Appeal Court in connection with such proceedings,
 - (o) witnesses and evidence, including modifying the rules of evidence as they apply to such proceedings,
 - (p) the quorum for sittings of the Sheriff Appeal Court,
 - (q) determining which Appeal Sheriff is to preside at such sittings where the Court is constituted by more than one Appeal Sheriff,
 - (r) such other matters as the Court of Session thinks necessary or appropriate for the purposes of carrying out or giving effect to the provisions of any enactment

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(including this Act) relating to such proceedings or matters incidental or ancillary to them.

- (3) Nothing in an act of sederunt under subsection (1) is to derogate from the provisions of sections 72 to 82 (simple procedure).
- (4) An act of sederunt under subsection (1) may make—
 - (a) incidental, supplemental, consequential, transitional, transitory or saving provision,
 - (b) provision amending, repealing or revoking any enactment (including any provision of this Act) relating to matters with respect to which an act of sederunt under subsection (1) may be made,
 - (c) different provision for different purposes.
- (5) Before making an act of sederunt under subsection (1) with respect to any matter, the Court of Session must—
 - (a) consult the Scottish Civil Justice Council, and
 - (b) take into consideration any views expressed by the Council with respect to that matter.
- (6) Subsection (5) does not apply in relation to an act of sederunt that embodies, with or without modifications, draft rules submitted by the Scottish Civil Justice Council to the Court of Session.
- (7) This section is without prejudice to—
 - (a) any enactment that enables the Court of Session to make rules (by act of sederunt or otherwise) regulating the practice and procedure to be followed in proceedings to which this section applies, or
 - (b) the inherent powers of a sheriff or the Sheriff Appeal Court.

Textual Amendments

- F3** Word in s. 104(2)(j) substituted (30.1.2019) by [Civil Litigation \(Expenses and Group Proceedings\) \(Scotland\) Act 2018 \(asp 10\)](#), **ss. 12(4)(a)**, 27(3); S.S.I. 2018/368, reg. 2(e)
- F4** Words in s. 104(2)(k) inserted (30.1.2019) by [Civil Litigation \(Expenses and Group Proceedings\) \(Scotland\) Act 2018 \(asp 10\)](#), **ss. 12(4)(b)**, 27(3); S.S.I. 2018/368, reg. 2(e)

Commencement Information

- I2** S. 104 in force at 1.4.2015 by [S.S.I. 2015/77](#), art. 2(2)(3), **Sch.**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. 1 para. 5A and cross-heading inserted by [2020 asp 9 s. 9](#)
- sch. 1 para. 2(g)(h) inserted by [2021 asp 16 s. 15\(8\)](#)