
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 227

**Act of Sederunt (Rules of the Court of Session
1994 and Sheriff Court Rules Amendment)
(No. 2) (Personal Injury and Remits) 2015**

Amendment of the Rules of the Court of Session 1994: applications for new trial or to enter jury verdicts

- 4.—(1) The Rules of the Court of Session 1994 are amended in accordance with this paragraph.
- (2) In Chapter 39 (applications for new trial or to enter jury verdicts)(1)—
- (a) after rule 39.1 (applications for new trial)(2), insert—

“Applications for new trial: sheriff court cases

39.1A.—(1) An application under section 69(1) of the Act of 2014 (application for new trial) must be made to a procedural judge, by motion, within 7 days after the date on which the jury have returned their verdict.

(2) A motion under paragraph (1) must specify the grounds on which the application is made.

(3) An application under section 69(1) of the Act of 2014 may not be made unless in the case of an application specifying the ground in—

- (a) section 69(2)(a) of the Act of 2014 (misdirection by sheriff), the procedure in rule 36B.8 of the Ordinary Cause Rules (exceptions to sheriff’s charge) has been complied with;
- (b) section 69(2)(b) of the Act of 2014 (undue admission or rejection of evidence), objection was taken to the admission or rejection of evidence at the trial and recorded in the notes of evidence under the direction of the sheriff presiding at the trial; or
- (c) section 69(2)(c) of the Act of 2014 (verdict contrary to evidence), it sets out in brief specific numbered propositions the reasons the verdict is said to be contrary to the evidence.
- (4) On enrolling a motion for a new trial, the party enrolling it must lodge—
- (a) a print of the whole pleadings and interlocutors in the cause incorporating the issues and counter-issues;
- (b) the verdict of the jury; and
- (c) any exception and the determination on it of the sheriff presiding at the trial.

(5) In this rule—

“the Ordinary Cause Rules” means the Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907.”;

(1) Chapter 39 was substituted by [S.S.I. 2010/30](#) and amended by [S.S.I. 2011/303](#).

(2) Rule 39.1 was substituted by [S.S.I. 2010/30](#).

- (b) in rule 39.2 (applications out of time)(3)—
 - (i) in paragraph (1)—
 - (aa) after “1988” insert “or section 69(1) of the Act of 2014”;
 - (bb) after “39.1(1)” insert “or rule 39.1A(1)”;
 - (ii) in paragraph (2), at the end, insert “or rule 39.1A.”;
- (c) in rule 39.3(1) (objections to the competency of application)(4), after “1988” insert “or section 69(1) of the Act of 2014”;
- (d) in rule 39.4(2) (timetable in application for new trial)(5), after subparagraph (a), insert—
 - “(aa) the lodging of any appendices to the documents mentioned in rule 39.1A(4) or, as the case may be, the giving of notice that the applicant does not intend to lodge any appendices;”;
- (e) in rule 39.8 (lodging of appendix)(6) after “1988” insert “or section 69(1) of the Act of 2014”;
- (f) after rule 39.9 (applications to enter jury verdict)(7), insert—

“Application to enter jury verdict: sheriff court cases

39.9A.—(1) An application under section 71(2) of the Act of 2014 (verdict subject to opinion of the Court) must be made by motion to a procedural judge.

(2) On enrolling a motion under paragraph (1), the party enrolling it must lodge in process four copies of—

- (a) a print of the whole pleadings and interlocutors in the cause incorporating the issues and counter-issues;
- (b) any exception taken during the trial and the determination on it of the sheriff presiding at the trial; and
- (c) the verdict of the jury,

and send one copy of it to every other party.

(3) Unless the procedural judge otherwise directs, it will not be necessary for the purposes of such a motion to print the notes of evidence, but the notes of the sheriff presiding at the trial may be produced at any time if required.

(4) In the case of complexity or difficulty, the procedural judge may appoint an application referred to in paragraph (1) to the Summar Roll for hearing.”.

- (3) In the Appendix—
 - (a) in Form 39.3 (form of note of objection to competency of application for a new trial)(8) after the words “under section 29(1) of the Court of Session Act 1988” insert “[or section 69(1) of the Courts Reform (Scotland) Act 2014]”;
 - (b) in Form 39.4 (form of timetable in application for a new trial)(9), in each of paragraphs 2 and 3, after “mentioned in rule 39.1(4)” insert “[or rule 39.1A(4)]”.

(3) Rule 39.2 was substituted by [S.S.I. 2010/30](#).

(4) Rule 39.3 was substituted by [S.S.I. 2010/30](#).

(5) Rule 39.4 was inserted by [S.S.I. 2010/30](#).

(6) Rule 39.8 was substituted by [S.S.I. 2010/30](#).

(7) Rule 39.9 was substituted by [S.S.I. 2010/30](#).

(8) Form 39.3 was inserted by [S.S.I. 2010/30](#).

(9) Form 39.4 was inserted by [S.S.I. 2010/30](#), and substituted by [S.S.I. 2011/303](#).

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