
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 349

**Act of Sederunt (Rules of the Court of Session
Amendment No. 5) (Miscellaneous) 2008**

Dismissal of claims due to delay

- 4.—(1) In rule 15.1 (applications by minute), in paragraph (6)—
- (a) after subparagraph (d), omit “or”; and
 - (b) after subparagraph (e), insert—
 - “; or
 - (f) a minute to dismiss a claim under rule 21A.”.
- (2) After Chapter 21 (summary decrees) insert—

“CHAPTER 21A

DISMISSAL OF A CLAIM DUE TO DELAY

21A.—(1) Any party to a claim may, while that claim is depending before the court, apply by minute for the court to dismiss the claim due to inordinate and inexcusable delay by another party or another party’s agent in progressing the claim, resulting in unfairness.

- (2) A minute under paragraph (1) shall—
 - (a) include a statement of the grounds on which dismissal of the claim is sought; and
 - (b) be lodged in the process of the action to which it relates.
- (3) On lodging a minute under paragraph (2)(b), the party seeking dismissal of the claim shall enrol a motion for—
 - (a) intimation of the minute on any other parties to the claim; and
 - (b) an order for answers to the minute to be lodged in process within the period of 21 days from the date of intimation.
- (4) On the expiry of the period referred to in paragraph (3)(b), the party seeking dismissal of the claim shall enrol a motion for further procedure.
- (5) In determining an application made under this rule, the court may dismiss the claim if it appears to the court that—
 - (a) there has been an inordinate and inexcusable delay on the part of any party or any party’s agent in progressing the claim; and
 - (b) such delay results in unfairness specific to the factual circumstances, including the procedural circumstances, of that claim.
- (6) In determining whether or not to dismiss a claim under paragraph (5), the court shall take account of the procedural consequences, both for the parties and for the work of the court, of allowing the claim to proceed.”.