

SCHEDULE

RULES OF THE SCOTTISH LAND COURT 2014

Applications generally

Making an application: general

3.—(1) An application must be in, or as nearly as may be in, the appropriate form and is made by lodging it with the Principal Clerk.

(2) The court may provide a form special to a kind of application; and if it does then, for the purposes of paragraph (1), that form is the appropriate form for that kind of application.

(3) An application must comply with the requirements of any statutory provision under which it is brought.

(4) An application does not fail to be a valid application for the purposes of any statutory provision solely because it does not comply with all, or any, of the requirements of these rules.

Content of application

4. An application must—

- (a) identify the applicant clearly and any special capacity in which the applicant is acting;
- (b) provide the name and details of any agent acting for the applicant;
- (c) give a full postal address and postal code for communication with the applicant or agent, together with any appropriate email address and a telephone number for such communication;
- (d) list the persons who to the applicant's knowledge may have an interest to respond to the application and provide sufficient detail (including, where reasonably ascertainable, the persons' full postal addresses and postal codes)—
 - (i) for the nature of the interests to be identified by the Principal Clerk; and
 - (ii) to enable those persons to be clearly identified and to receive due intimation in terms of these rules;
- (e) adequately identify the land in issue (and in so far as practicable include an address for that land);
- (f) state clearly what the court is being asked to do or decide;
- (g) set out the facts and circumstances relied on in support of the application in short concise numbered paragraphs; and
- (h) provide such information as may be requisite for the purposes of any relevant statutory provision.

Abandonment or withdrawal

5.—(1) An application may not be abandoned or withdrawn without leave of the court.

(2) Where an application is abandoned or withdrawn the court may impose such conditions as to expenses or otherwise as it thinks fit.

Status: This is the original version (as it was originally made).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

Further procedure in application

6. After the application is lodged the court is to direct further procedure in the case by giving such intimation and making such orders as appear to it to be appropriate.

Inadequate or defective applications

7.—(1) If the Principal Clerk is not satisfied that an application gives full specification of all matters specified in rules 3 and 4 she may—

- (a) accept the application;
- (b) accept the application under reservation; or
- (c) place it before the court.

(2) Where an application is placed before the court, the court may determine that it be accepted or accepted under reservation, or, after hearing the applicant, may determine that it be rejected.

(3) Where an application is accepted under reservation—

- (a) it is to be intimated to the named respondents;
- (b) they and the applicant are to be advised that it will be sisted until the applicant provides information sufficient to satisfy the Principal Clerk that the application can be accepted without reservation; and
- (c) any respondent may move to have the sist recalled.

(4) Without prejudice to any statutory provision, an application accepted under reservation is to be taken as having been received on the date on which it was first lodged with the Principal Clerk.

(5) Where an application is rejected following procedure under paragraph (2), it is to be taken to have been accepted for the purposes of any appeal from the determination that it be rejected.

Call for clarification

8.—(1) In the circumstances mentioned in paragraph (2) the court may at any stage in a case call upon a party—

- (a) to lodge a statement dealing with such matter or matters as may be specified in the order;
- (b) to adjust that party's pleadings;
- (c) to provide greater specification in any statement in those pleadings which relates to disputed material facts; or
- (d) explicitly to admit or deny any statement in another party's pleadings which relates to material facts.

(2) The circumstances are that the court considers the statement, adjustment, specification, admission or denial to be needed in order to define or clarify what is really in dispute.

Call for specification of legal principles etc. upon which party relies

9. The court may at any stage in a case order a party to provide, within such period as is specified in the order, a statement of the legal propositions upon which the party relies together with details of the enactments and authorities cited by the party as founding or supporting those propositions.

Amendment of application

10.—(1) At any time before the issue of the final order in a case the court may, either at its own instance or on the motion of an interested person—

- (a) allow the specification of any order sought by a party to be amended;

- (b) where a person has improperly or unnecessarily been made a party to the case, strike out any reference to the person as a party;
 - (c) where a person—
 - (i) was not made a party who should have been; or
 - (ii) though made a party was not properly characterised (for example as applicant or respondent or as an individual),add the name of the person as a party or as the case may be properly characterise the person,
 - (d) add (whether or not in substitution) the name of any person as a party who by reason of—
 - (i) any assignation or renunciation by any of the parties;
 - (ii) the sequestration or death of any of the parties; or
 - (iii) any other event,has acquired a right or interest, or become subject to a liability, in respect of matters to which the case relates; or
 - (e) allow a party to amend any assertion of fact by that party in written pleadings.
- (2) Without prejudice to the generality of sub-paragraph (a) of paragraph (1), amendment under that sub-paragraph may include—
- (a) seeking an additional or alternative remedy;
 - (b) where a sum of money is sought, seeking a different sum; or
 - (c) subjecting an additional area of, or right in, land to the adjudication of the court.
- (3) A motion granted under paragraph (1) may be granted subject to such conditions as to expenses or otherwise as the court thinks fit.
- (4) Opportunity is to be given either—
- (a) if the motion is granted, for amendment in answer; or
 - (b) for answer before the motion is granted.

Conjunction etc. of applications

- 11.**—(1) Where—
- (a) the same or similar questions of law or fact arise in each of two or more applications; or
 - (b) two or more applications are in some way related,
- the court may take any step mentioned in paragraph (2).
- (2) The steps are—
- (a) to sist a case and appoint another to proceed;
 - (b) to direct that all or part of the evidence in one case is to be treated for all purposes (or for such purposes as the court may specify) as evidence in another;
 - (c) to make such arrangements for cases to be joined or otherwise heard together as seem to it appropriate;
 - (d) to dispose of cases together or separately, as it finds expedient.

Appointment of curator *ad litem*

- 12.** The court may, either at its own instance or on the motion of an interested person, appoint a curator *ad litem* to a party in a case.

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

Appointment of advocate or solicitor to assist the court

13.—(1) The court may, in any case, appoint an advocate or solicitor to assist it by presenting to it submissions on any issue or in respect of any interest.

(2) The court may order that the fee of the person appointed is, at such rate as the court may sanction, to be paid by one or more of the parties to the case.