

SCHEDULE

RULES OF THE SCOTTISH LAND COURT 2014

Restoration and recall

Restoration of a party

54.—(1) This rule applies where an order has been made—

- (a) dismissing the case;
- (b) granting all or any craves or counter-craves; or
- (c) repelling pleas, objections or claims,

and the reason for making the order is that the applicant, or respondent, has failed to comply timeously with an order of the court or has defaulted in some other way.

(2) The party who has so failed or defaulted may, within 4 weeks after the date of intimation of the order under paragraph (1), move the court to recall that order and restore the party to the process.

(3) The court, if satisfied that the failure or default occurred through mistake or inadvertence or was in the circumstances excusable, may on such terms and conditions as to expenses or further hearing or otherwise as it thinks fit—

- (a) recall the order under paragraph (1) (or any part of that order); and
- (b) make such order as is requisite to allow the case to proceed as if the failure or default had not occurred.

Recall for want of intimation

55. Where an application has not been intimated to a person who might properly have been called as respondent the court may recall any order (including a final decision) or any part of an order and appoint the case to proceed appropriately if it is satisfied that—

- (a) it would have been appropriate for the person to have received intimation;
- (b) the failure to intimate was not attributable to fault on the part of the person (or on the part of any agent of the person);
- (c) there has been no delay on the part of the person (or on the part of any agent of the person) in bringing the matter to the attention of the court; and
- (d) it is appropriate for it to do so having regard to all the circumstances (including the nature and consequences of any actings which there have been in reliance on the order or as the case may be on the part of the order).

Recall of decree in absence

56. An order granting decree in absence (in circumstances other than are mentioned in rule 55) may be recalled, and the case appointed to proceed appropriately, if the court is satisfied that it is just and fair in all the circumstances to do so having regard in particular to—

- (a) the reasons for failing to lodge an appropriate response in time;
- (b) the nature of the proposed response; and
- (c) the nature and consequences of any actings which there have been in reliance on the order.

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

Recall for non-compliance with terms or conditions

57. Where a party obtains an order but fails—

- (a) within a time specified by the order (or by any subsequent order); or
- (b) if no time is so specified, within such time as the court considers reasonable,

to comply with any terms or conditions set out in the order then, at any time (whether before or after the issue of the final order in the case), a party in whose interest the terms or conditions were imposed may move the court to recall or vary the order or make such further order as may seem necessary to compel compliance with the intention of the original order.