
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: remits

- 3.—(1) The Rules of the Court of Session 1994 are amended in accordance with this paragraph.
- (2) In rule 32.1 (remits to sheriff court)—
- (a) in paragraph (1), for “section 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (remit from court to sheriff)” substitute “section 93 of the Act of 2014 (remit of cases from the Court of Session)”;
 - (b) in paragraph (2), omit “under section 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985”.
- (3) After rule 32.2 (transmissions on contingency), insert—

“Form of remit request

32.2A.—(1) A request under section 92(4) of the Act of 2014 (request for remit to the Court of Session) is made by interlocutor.

(2) Within 14 days of the issuing of that interlocutor, the party seeking the remit must lodge—

- (a) a remit request, consisting of—
 - (i) the whole pleadings and interlocutors in the cause;
 - (ii) the note of the sheriff mentioned in rule 26.2A(2) of the Ordinary Cause Rules 1993 in Schedule 1 to the Sheriff Courts (Scotland) Act 1907;
- (b) a process in accordance with rule 4.4 (steps of process).

Determination of remit request

32.2B.—(1) Where a remit request is lodged, the court is to put the request out on the By Order roll in order that the party seeking the remit and any other party to the sheriff court proceedings may make submissions about whether the proceedings should be remitted.

(2) The Lord Ordinary, having heard parties, may—

- (a) refuse the request; or
- (b) make an order under section 92(5) of the Act of 2014 allowing the proceedings to be remitted.

(3) The Deputy Principal Clerk must, within 4 days after the interlocutor has been pronounced under paragraph (2), send a copy of the interlocutor to the sheriff clerk of the sheriff court specified in the interlocutor.”

(4) For rules 32.4 (lodging of process and motion for further procedure), 32.5 (reponing against failure to comply with rule 32.4(1) or (2)) and 32.6 (insistence in remit by another party) substitute—

“Lodging of process and motion for further procedure

32.4.—(1) Within 14 days after the date of receipt of the sheriff court process, the party who sought the remit must make up and lodge in the General Department a process incorporating the sheriff court process.

(2) Where that party has already lodged a process under rule 32.2A(b), the party must incorporate the sheriff court process in that process within the same period.

(3) When the party who sought the remit has complied with paragraph (1) or (2)—

(a) that party must apply by motion for an order for such further procedure as that party thinks fit,

(b) the cause is to proceed as if it had been an action in the court initiated by a summons.

(4) A motion under paragraph (3)(a) is to be disposed of by the Lord Ordinary.

Reponing against failure to comply with rule 32.4

32.5.—(1) Where the party who sought the remit fails to comply with the requirements of rule 32.4(1), (2), or (3)(a) (lodging of process and motion for further procedure), that party may apply by motion to be reponed within 7 days after the expiry of the period specified in rule 32.4(1).

(2) Paragraph (3) applies where the failure mentioned in paragraph (1) is a failure to lodge a process under rule 32.4(1), or incorporate a process in accordance with rule 32.4(2).

(3) The party enrolling a motion under paragraph (1) must, on enrolling that motion—

(a) lodge a process in accordance with rule 32.4(1), or, as the case may be, incorporate a process under rule 32.4(2);

(b) apply by motion for an order for such further procedure as that party thinks fit.

(4) A motion under paragraph (1) is to be granted only on cause shown and on such conditions, if any, as to expenses or otherwise as the court thinks fit.

Insistence in remit by another party

32.6. — Where the party who sought the remit has failed to comply with the requirements of rule 32.4(1), (2), or (3)(a) (lodging of process and motion for further procedure), any other party to the cause may, within 7 days after the expiry of the period specified in rule 32.4(1), comply with the requirements of those paragraphs and insist in the remit.”

(5) In rule 32.7 (re-transmission to sheriff clerk), for “rule 32.4(1) or (2)” substitute “rule 32.4”.