



Court of Session Act 1988

1988 CHAPTER 36

PART V

APPEAL AND REVIEW

Appeals to House of Lords

40 **Appealable interlocutors**

- (1) Subject to the provisions of any other Act restricting or excluding an appeal to the House of Lords and of sections 27(5) and 32(5) of this Act, it shall be competent to appeal from the Inner House to the House of Lords—
 - (a) without the leave of the Inner House, against a judgment on the whole merits of the cause, or against an interlocutory judgment where there is a difference of opinion among the judges or where the interlocutory judgment is one sustaining a dilatory defence and dismissing the action;
 - (b) with the leave of the Inner House, against any interlocutory judgment other than one falling within paragraph (a) above.
- (2) An interlocutor of the Court granting or refusing a new trial, on an application under section 29 of this Act, shall be appealable without the leave of the Court to the House of Lords; and on such an appeal the House of Lords shall have the same powers as the Court had on the application and in particular the powers specified in sections 29(3) and 30(3) of this Act.
- (3) It shall be incompetent to appeal to the House of Lords against an interlocutor of a Lord Ordinary unless the interlocutor has been reviewed by the Inner House.
- (4) On an appeal under this section all the prior interlocutors in the cause shall be submitted to the review of the House of Lords.

41 Interim possession, execution and expenses

- (1) On an appeal to the House of Lords under section 40 of this Act, a copy of the petition of appeal shall be laid by the respondent before the Inner House which may regulate all matters relating to interim possession, execution and expenses already incurred as it thinks fit, having regard to the interests of the parties to the cause as they may be affected by the upholding or reversal of the judgment against which the appeal has been taken.
- (2) It shall not be competent by appeal to the House of Lords in respect of regulations made under subsection (1) above to stop the execution of those regulations; but when the House of Lords hears the appeal under section 40 of this Act, it may make such order or give such judgment respecting any matter which has been done or taken place in pursuance or in consequence of the regulations as it thinks fit.

42 House of Lords may make order on payment of interest

The House of Lords in hearing an appeal under section 40 of this Act may make such order with regard to payment of interest, simple or compound, by any of the parties, as it thinks fit.

43 Interest and expenses where appeal dismissed for want of prosecution

Where an appeal to the House of Lords under section 40 of this Act is dismissed for want of prosecution, the Inner House may, on an application made to it by any respondent in the appeal, order the appellant to pay to that respondent such interest, simple or compound, as it thinks fit, together with the expenses which have been incurred in consequence of the appeal.