



Sheriff Courts (Scotland) Act 1907

1907 CHAPTER 51 7 Edw 7

APPEALS

27 Appeal to sheriff.

Subject to the provisions of this Act an appeal to the [^{F1}sheriff principal] shall be competent against all final judgments of the [^{F1}sheriff] and also against interlocutors—

- (A) Granting or refusing interdict, interim or final;
- (B) Granting interim decree for payment of money other than a decree for expenses, or making an order ad factum præstandum;
- (C) Sisting an action;
- (D) Allowing or refusing or limiting the mode of proof . . . ^{F2};
- (E) [^{F3}Refusing a reponing note; or
- (F)] Against which the [^{F1}sheriff] either ex proprio motu or on the motion of any party grants leave to appeal;

Provided always that notwithstanding the death, resignation, or removal of a [^{F1}sheriff principal] appeals may be taken from the judgment of the [^{F1}sheriff], which appeals shall be heard by the succeeding [^{F1}sheriff principal] when he shall enter upon office.

[^{F3}It shall be competent for the [^{F1}sheriff principal]. when the action is before him on appeal on any point, to open the record ex proprio motu, if the record shall appear to him not to have been properly made up, or to allow further proof.]

Textual Amendments

- F1** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **s. 4**
- F2** Words repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 36:3, 72:2\)](#) ss. 11, 28(2), Sch. 3
- F3** Words inserted by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1**

Status: Point in time view as at 22/04/2009.

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[^{F4}28 Appeal to Court of Session.

- (1) Subject to the provisions of this Act, it shall be competent to appeal to the Court of Session against a judgment either of a [^{F5}sheriff principal or sheriff] if the interlocutor appealed against is a final judgment or is an interlocutor—
- (a) Granting interim decree for payment of money other than a decree for expenses; or
 - (b) Sisting an action; or
 - (c) Refusing a reponing note; or
 - (d) Against which the [^{F5}sheriff principal or sheriff] either ex proprio motu or on the motion of any party, grants leave to appeal:

... ^{F6}

- (2) Nothing in this section nor in section twenty-seven of this Act contained shall affect any right of appeal or exclusion of such right provided by any Act of Parliament in force for the time being.]

Textual Amendments

F4 S. 28 substituted by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), s. 2

F5 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

F6 S. 28 proviso repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. II

Modifications etc. (not altering text)

C1 S. 28 applied (1.5.2003) by 2000 asp 7, ss. 22(7), 26(6), 37(2) (with s. 31); S.S.I. 2003/74, art. 2(2)(b)

29 Effect of appeal.

An appeal shall be effectual to submit to review the whole of the interlocutors pronounced in the cause, and shall be available to and may be insisted in by all other parties in the cause notwithstanding they may not have noted separate appeals. An appeal shall not prevent immediate execution ^{F7}. . . of warrants to take inventories, or place effects in custody ad interim, or warrants for interim preservation, and an interim interdict, although appealed against shall be binding till recalled.

Textual Amendments

F7 Words in s. 29 repealed (22.4.2009) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 226, 227, Sch. 6 (with s. 223); S.S.I. 2009/67, art. 3 (with arts. 4-6)

30 ^{F8}

Textual Amendments

F8 S. 30 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 72:2), s. 28(2), Sch. 3

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31 F9

Textual Amendments
F9 S. 31 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3, 72:2), ss. 11, 28(2), Sch. 3

32 F10

Textual Amendments
F10 S. 32 repealed by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), s. 1

33 F11

Textual Amendments
F11 S. 33 repealed by Juries Act 1949 (c. 27), Sch. 3

Status:

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