
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 356

Act of Sederunt (Sheriff Appeal Court Rules) 2015

PART 5

INCIDENTAL PROCEDURE: STANDARD PROCEDURES

CHAPTER 17

WITHDRAWAL OF SOLICITORS

Interpretation of this Chapter

17.1. In this Chapter, “peremptory hearing” means a hearing at which a party whose solicitor has withdrawn from acting must appear or be represented in order to state whether or not the party intends to proceed.

Giving notice of withdrawal to the Court

17.2.—(1) Where a solicitor withdraws from acting on behalf of a party, the solicitor must give notice in writing to the Clerk and to every other party.

(2) Paragraph (1) does not apply if the solicitor withdraws from acting at a hearing in the presence of the other parties or their representatives.

(3) Paragraph (4) applies if a solicitor who withdraws from acting is aware that the address of the party for whom the solicitor acted has changed from that specified in the instance of the note of appeal or answers to the note of appeal.

(4) The solicitor must disclose to the Clerk and every other party the last known address of the party for whom the solicitor acted.

Arrangements for peremptory hearing

17.3.—(1) On the first available court day after notice is given under rule 17.2(1), the procedural Appeal Sheriff is to make an order—

- (a) ordaining the party whose solicitor has withdrawn from acting to appear or be represented at a peremptory hearing;
- (b) fixing a date and time for the peremptory hearing;
- (c) appointing any other party to the appeal to intimate the order and a notice in Form 17.3 to that party within 7 days after the date of the order.

(2) A peremptory diet is to be fixed no sooner than 14 days after the date on which an order is made under paragraph (1).

(3) The procedural Appeal Sheriff may vary the period of 7 days mentioned in paragraph (1) or the period of 14 days mentioned in paragraph (2)—

- (a) of the procedural Appeal Sheriff’s own accord; or

(b) on cause shown, on the application of any other party to the appeal.

(4) Where any previously fixed hearing is to occur within 14 days after the date on which the procedural Appeal Sheriff is to make an order under paragraph (1), the procedural Appeal Sheriff may continue consideration of the matter to the previously fixed hearing instead of making an order under paragraph (1).

(5) Where an order and a notice in Form 17.3 are intimated under this rule, the party appointed to intimate them must lodge a certificate of intimation in Form 6.5—

(a) within 14 days after the date of intimation; or

(b) before the peremptory hearing,

whichever is sooner.

Peremptory hearing

17.4.—(1) At a peremptory hearing, the party whose solicitor has withdrawn from acting must appear or be represented in order to state whether the party intends to proceed.

(2) Where the party fails to comply with paragraph (1), the Court may make an order mentioned in paragraph (3) only if it is satisfied that the order and notice in Form 17.3 have been intimated to that party.

(3) The orders are—

(a) if the party is the appellant, an order refusing the appeal; or

(b) if the party is the respondent and the condition in paragraph (4) is satisfied, an order allowing the appeal.

(4) The condition is that the appellant must show cause why the appeal should be allowed.

(5) If the Court is not satisfied that the order and notice in Form 17.3 have been intimated to that party, it may make—

(a) an order fixing a further peremptory hearing;

(b) any other order that the Court considers appropriate to secure the expeditious disposal of the appeal.