

SCOTTISH STATUTORY INSTRUMENTS

2021 No. 468

Act of Sederunt (Sheriff Appeal Court Rules) 2021

PART 4

DISPOSAL OF AN APPEAL

CHAPTER 9

REFUSAL OF APPEAL DUE TO DELAY

Application to refuse appeal due to delay

9.1.—(1) Any party may apply to the procedural Appeal Sheriff to refuse the appeal if the conditions in paragraph (2) are met.

(2) The conditions are that—

(a) there has been an inordinate and inexcusable delay by—

(i) another party;

(ii) another party's solicitor, lay representative or other agent; and

(b) unfairness has resulted from that delay.

(3) An application is to be made by motion.

(4) That motion must specify the grounds on which refusal of the appeal is sought.

Commencement Information

II Para. 9.1 in force at 6.1.2022, see [para. 1.1\(2\)](#)

Determination of application to refuse appeal due to delay

9.2.—(1) The procedural Appeal Sheriff may refuse the appeal if the procedural Appeal Sheriff considers that—

(a) there has been an inordinate and inexcusable delay on the part of—

(i) any party;

(ii) any party's solicitor, lay representative or other agent; and

(b) such delay results in unfairness specific to the factual circumstances, including the procedural circumstances, of the appeal.

(2) The procedural Appeal Sheriff must take into account the procedural consequences of allowing the appeal to proceed for—

(a) the parties to the appeal;

(b) the efficient disposal of business in the Court.

Commencement Information

I2 Para. 9.2 in force at 6.1.2022, see [para. 1.1\(2\)](#)

CHAPTER 10

ABANDONMENT OF APPEAL

Application to abandon appeal

10.1.—(1) An appellant may apply to the Court to abandon an appeal by lodging a minute of abandonment.

(2) The appellant must, at the same time as lodging a minute of abandonment, apply by motion to abandon in terms of the minute of abandonment.

(3) Where all of the parties consent to the abandonment of the appeal, the Court must refuse the appeal.

(4) Where the other parties do not consent to the abandonment of the appeal, the Court may either—

- (a) refuse the application; or
- (b) grant the application and refuse the appeal.

(5) If the Court refuses an appeal under this rule, it may make an order as to the expenses of the appeal.

(6) If the Court refuses an application, it may make an order as to the expenses of the application.

Commencement Information

I3 Para. 10.1 in force at 6.1.2022, see [para. 1.1\(2\)](#)

CHAPTER 11

REMIT TO THE COURT OF SESSION

Application to remit appeal to the Court of Session

11.1.—(1) An application under section 112 of the 2014 Act (remit of appeal from the Sheriff Appeal Court to the Court of Session) is to be made by motion.

(2) Within 4 days after the Court has made an order remitting an appeal to the Court of Session, the Clerk must—

- (a) give notice of the remit to each party;
- (b) certify on the interlocutor sheet that sub-paragraph (a) has been complied with;
- (c) transmit the process to the Deputy Principal Clerk of Session.

(3) Failure by the Clerk to comply with paragraph (2)(a) or (b) does not affect the validity of a remit.

Commencement Information

I4 Para. 11.1 in force at 6.1.2022, see [para. 1.1\(2\)](#)

CHAPTER 12

APPLICATIONS FOR PERMISSION TO APPEAL TO THE COURT OF SESSION

Application of this Chapter

12.1. This Chapter applies where a party seeks the permission of the Court to appeal to the Court of Session against a decision of the Court constituting final judgment in civil proceedings under section 113 of the 2014 Act (appeal from the Sheriff Appeal Court to the Court of Session).

Commencement Information

I5 Para. 12.1 in force at 6.1.2022, see [para. 1.1\(2\)](#)

Applications for permission to appeal

12.2.—(1) An application to the Court for permission to appeal to the Court of Session is to be made in Form 12.2.

(2) Such an application must be lodged within 14 days after the date on which the Court gave its final judgment on the appeal.

(3) When an application is made, the Court must order the Clerk to either—

- (a) fix a hearing and intimate the time and date of that hearing to the parties to the appeal; or
- (b) intimate to parties that the application is to be considered on written submissions and specify the date by which such submissions are to be lodged.

(4) The application is, so far as reasonably practicable, to be considered by the Appeal Sheriff or Appeal Sheriffs who made the decision in respect of which permission to appeal is sought.

Commencement Information

I6 Para. 12.2 in force at 6.1.2022, see [para. 1.1\(2\)](#)

Applications for leave to appeal

12.3.—(1) In any appeal to which section 113(4) of the Courts Reform (Scotland) Act 2014 applies and leave to appeal is required, a motion seeking leave of the Court must be lodged within 14 days after the date on which the Court gave its final judgment on the appeal.

(2) When such a motion is lodged, the Court must order the Clerk to either—

- (a) fix a hearing and intimate the time and date of that hearing to the parties to the appeal; or
- (b) intimate to parties that the motion is to be considered on written submissions and specify the date by which such submissions are to be lodged.

(3) The motion is, so far as reasonably practicable, to be considered by the Appeal Sheriff or Appeal Sheriffs who made the decision in respect of which leave to appeal is sought.

Commencement Information

I7 Para. 12.3 in force at 6.1.2022, see [para. 1.1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Act of Sederunt (Sheriff Appeal Court Rules) 2021, PART 4.