



Sheriff Courts (Scotland) Act 1971

1971 CHAPTER 58

PART III

CIVIL JURISDICTION, PROCEDURE AND APPEALS

Regulation of procedure in civil proceedings

32 Power of Court of Session to regulate civil procedure in sheriff court.

- (1) Subject to the provisions of this section, the Court of Session may by act of sederunt regulate and prescribe the procedure and practice to be followed in any civil proceedings in the sheriff court (including any matters incidental or relating to any such procedure or practice), and, without prejudice to the generality of the foregoing words, the power conferred on the Court of Session by this section shall extend to—
- (a) regulating the procedure to be followed in connection with execution or diligence following on any civil proceedings;
 - (b) prescribing the manner in which, the time within which, and the conditions on which, an appeal may be taken to the sheriff principal from an interlocutor of a sheriff, or to the Court of Session from an interlocutor of a sheriff principal or a sheriff (including an interlocutor applying the verdict of a jury), or any application may be made to the sheriff court, or anything required or authorised to be done in relation to any civil proceedings shall or may be done;
 - (c) prescribing the form of any document to be used in, or for the purposes of, any civil proceedings or any execution or diligence following thereon, and the person by whom, and the manner in which, any such document as aforesaid is to be authenticated;
 - (d) regulating the procedure to be followed in connection with the production and recovery of documents;
 - [^{F1}(e) providing in respect of any category of civil proceedings for written statements (including affidavits) and reports, admissible under section 2(1)(b) of the Civil Evidence (Scotland) Act 1988, to be received in evidence, on such conditions as may be prescribed, without being spoken to by a witness;]

Status: Point in time view as at 28/05/2013.

Changes to legislation: There are currently no known outstanding effects for the Sheriff Courts (Scotland) Act 1971, Cross Heading: Regulation of procedure in civil proceedings. (See end of Document for details)

- [^{F2}(ea) regulating the procedure to be followed in connection with the making of orders under sections 12(1) and (6) and 13(2) of the Vulnerable Witnesses (Scotland) Act 2004 (asp 3) (“ the 2004 Act ”);
- (eb) regulating, so far as not regulated by the 2004 Act, the use of special measures authorised by virtue of that Act to be used;]
- (f) making such provision as may appear to the Court of Session to be necessary or expedient with respect to the payment, investment or application of any sum of money awarded to or in respect of a person under legal disability in any action in the sheriff court;
- (g) regulating the summoning, remuneration and duties of assessors;
- (h) making such provision as may appear to the Court of Session to be necessary or expedient for carrying out the provisions of this Act or of any enactment conferring powers or imposing duties on sheriffs principal or sheriffs or relating to proceedings in the sheriff courts:
- [^{F3}(i) regulating the expenses which may be awarded by the sheriff to parties in proceedings before him:]
- [^{F4}(j) permitting a person who is not an advocate or solicitor and is not represented by an advocate or solicitor to transmit, whether orally or in writing, the views of a child to the sheriff for the purposes of any enactment which makes provision (however expressed) for the sheriff to have regard to those views.]
- [^{F5}(k) prescribing the procedure to be followed in appointing a person under section 3(4) of the Adults with Incapacity (Scotland) Act 2000 (asp 4) and the functions of such a person.]
- [^{F6}(l) permitting a party to proceedings which relate to [^{F7}an interim attachment, an attachment, a money attachment, a land attachment or a residual attachment] to be represented, in such circumstances as may be specified in the act of sederunt, by a person who is neither an advocate nor a solicitor.]
- [^{F8}(m) permitting the debtor or hirer in proceedings for—
 - (i) a time order under section 129 of the Consumer Credit Act 1974 (time orders), or
 - (ii) variation or revocation, under section 130(6) of that Act (variation and revocation of time orders), of a time order made under section 129, to be represented by a person who is neither an advocate nor a solicitor.]
- [^{F9}(m) permitting a debtor appearing before a sheriff under section 12 of the Bankruptcy (Scotland) Act 1985 (c. 66) (award of sequestration) to be represented, in such circumstances as may be specified in the act of sederunt, by a person who is neither an advocate nor a solicitor.]
- [^{F10}(n) permitting a lay representative, when appearing at a hearing in any category of civil proceedings along with a party to the proceedings, to make oral submissions to the sheriff on the party's behalf.]

Provided that nothing contained in an act of sederunt made under this section shall derogate from—

- (i) the provisions of sections 35 to 38 of this Act [^{F11}(as amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985)] with respect to summary causes, or
- (ii) the provisions of subsection (8) of section 20 of the ^{M1}Race Relations Act 1968 with respect to the remuneration to be paid to assessors appointed under subsection (7) of that section.

Status: Point in time view as at 28/05/2013.

Changes to legislation: There are currently no known outstanding effects for the Sheriff Courts (Scotland) Act 1971, Cross Heading: Regulation of procedure in civil proceedings. (See end of Document for details)

- (2) An act of sederunt under this section may contain such incidental, supplemental or consequential provisions as appear to the Court of Session to be necessary or expedient for the purposes of that act, including, but without prejudice to the generality of the foregoing words, provisions amending, repealing or revoking any enactment (whether passed or made before or after the commencement of this Act) relating to matters with respect to which an act of sederunt may be made under this section.
- (3) Before making an act of sederunt under this section with respect to any matter the Court of Session shall (unless that act embodies, with or without modifications, draft rules submitted to them by the [^{F12} Scottish Civil Justice Council]) consult the said Council, and shall take into consideration any views expressed by the Council with respect to that matter.
- (4) Section 34 of the ^{M2}Administration of Justice (Scotland) Act 1933 (power of Court of Session to regulate civil procedure in sheriff court) shall cease to have effect, but any act of sederunt made under or having effect by virtue of that section shall, if and so far as it is in force immediately before the commencement of this Act, continue in force and shall have effect, and be treated, as if it had been made under this section.

Textual Amendments

- F1** S. 32(1)(e) substituted by [Civil Evidence \(Scotland\) Act 1988 \(c. 32, SIF 47\)](#), **ss. 2(2)(4)**, 10(3)
- F2** S. 32(1)(ea)(eb) inserted (1.4.2005, 30.11.2005 and 1.4.2006 for certain purposes, otherwise 1.11.2007) by [Vulnerable Witnesses \(Scotland\) Act 2004 \(asp 3\)](#), **ss. 14(2)**, 25 (with s. 17(1)); [S.S.I. 2005/168](#), **art. 2**, Sch. (with art. 4); [S.S.I. 2005/590](#), **art. 2**, Sch. (with art. 4); [S.S.I. 2006/59](#), **art. 2**, Sch. (with art. 4(1)(2)); [S.S.I. 2007/447](#), **art. 3**, Sch. (with art. 4)
- F3** S. 32(1)(i) inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 36:1\)](#), **s. 59**, **Sch. 2 para. 12(a)**
- F4** S. 32(1)(j) inserted (1.11.1995) by 1995 c. 36, s. 105(4), **Sch. 4 para. 18(2)** (with s. 103(1)); [S.I. 1995/2787](#), **art. 3**, **Sch.**
- F5** S. 32(1)(k) inserted (2.4.2001) by 2000 asp 4, s. 88(2), **Sch. 5 para. 13**; [S.S.I. 2001/81](#), **art. 2**, **Sch. 1**
- F6** S. 32(1)(l) inserted (17.12.2002) by 2002 asp 17, **s. 43** (with s. 63)
- F7** Words in s. 32(1)(I) substituted (1.4.2008 and 23.11.2009 for certain purposes, otherwise prosp.) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 226, 227**, **Sch. 5 para. 10** (with s. 223); [S.S.I. 2008/115](#), **art. 3(1)(h)(2)(3)**, Sch. 1 (with arts. 4-6, 10); [S.S.I. 2009/369](#), **art. 3(1)(b)(2)(3)**, Sch. 1 (with art. 4)
- F8** S. 32(1)(m) inserted (1.10.2008) by [Consumer Credit Act 2006 \(c. 14\)](#), **ss. 16(4)**, 71(2); [S.I. 2007/3300](#), **art. 3(3)**, **Sch. 3**
- F9** S. 32(1)(m) inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 33, 227** (with s. 223); [S.S.I. 2008/115](#), **art. 3(1)(a)** (with arts. 4-6, 10)
- F10** S. 32(1)(n) inserted (1.9.2011) by [Legal Services \(Scotland\) Act 2010 \(asp 16\)](#), **ss. 127(a)**, 150(2); [S.S.I. 2011/180](#), **art. 7**
- F11** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 36:1\)](#), **ss. 23, 59**, **Sch. 2 para. 12(b)**
- F12** Words in s. 32(3) substituted (28.5.2013) by [Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 \(asp 3\)](#), **ss. 15(2)**, 25(2); [S.S.I. 2013/124](#), **art. 2** (with art. 3)

Modifications etc. (not altering text)

- C1** S. 32 amended by [Social Work \(Scotland\) Act 1968 \(c. 49\)](#), **ss. 18A(2)**, 34A(2) (as inserted by [Children Act 1975 \(c. 72\)](#), **ss. 66, 78, 108(2)**), [Maintenance Orders \(Reciprocal Enforcement\) Act 1972 \(c. 18\)](#), **ss. 19, 31(3)**, [Administration of Justice \(Scotland\) Act 1972 \(c. 59\)](#), **s. 1(3)** and [Presumption of Death \(Scotland\) Act 1977 \(c. 27\)](#), **s. 15**

Status: Point in time view as at 28/05/2013.

Changes to legislation: There are currently no known outstanding effects for the Sheriff Courts (Scotland) Act 1971, Cross Heading: Regulation of procedure in civil proceedings. (See end of Document for details)

- C2** S. 32 extended by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), ss. 97, 108(2), Sch. 7 paras. 5, **9(1)**
C3 S. 32 amended (2.4.2001) by 2000 asp 4, s. **2(4)**; S.S.I. 2001/81, art. 2, **Sch. 1**
C4 S. 32 extended (17.6.1992) by Child Support Act 1991 (c.48), ss. **39(2)**, 49; S.I. 1992/1431, art. 2, **Sch.**
C5 S. 32 extended (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), ss. **71(2)**, 128(2) (with ss. 71(1), 127); S.S.I. 2009/319, art. **2(a)**, Sch. 1

Marginal Citations

- M1** 1968 c. 71.
M2 1933 c. 41.

[^{F13}32A Rules for lay representation

- (1) Rules under section 32(1)(n)—
- (a) are to apply to situations in which the party is not otherwise represented,
 - (b) may specify other conditions by reference to which the rules are to apply.
- (2) Section 32(1)(n)—
- (a) does not restrict the operation of section 36(1),
 - (b) is subject to any enactment (apart from section 36(1)) under which special provision may be made for a party to a particular type of case before the Court to be represented by a lay representative.
- (3) In section 32(1)(n) and this section, a “lay representative” is a person who is not—
- (a) a solicitor,
 - (b) an advocate, or
 - (c) one having a right to conduct litigation, or a right of audience, by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.]

Textual Amendments

- F13** S. 32A inserted (1.9.2011) by Legal Services (Scotland) Act 2010 (asp 16), ss. **127(b)**, 150(2); S.S.I. 2011/180, art. 7

^{F14}33 Sheriff Court Rules Council.

.....

Textual Amendments

- F14** S. 34 repealed (28.5.2013) by Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), ss. **14(4)**, 25(2); S.S.I. 2013/124, art. 2 (with art. 3)

^{F14}34 Functions of Sheriff Court Rules Council.

.....

Status: Point in time view as at 28/05/2013.

Changes to legislation: There are currently no known outstanding effects for the Sheriff Courts (Scotland) Act 1971, Cross Heading: Regulation of procedure in civil proceedings. (See end of Document for details)

.....

Textual Amendments

F14 S. 34 repealed (28.5.2013) by [Scottish Civil Justice Council and Criminal Legal Assistance Act 2013](#) (asp 3), [ss. 14\(4\), 25\(2\)](#); S.S.I. 2013/124, art. 2 (with art. 3)

Status:

Point in time view as at 28/05/2013.

Changes to legislation:

There are currently no known outstanding effects for the Sheriff Courts (Scotland) Act 1971,
Cross Heading: Regulation of procedure in civil proceedings.