

**ACT OF SEDERUNT (SHERIFF COURT ORDINARY CAUSE RULES) 1993
No.1956 (S.223)**

SCHEDULE 1

Initiation and progress of causes

CHAPTER 14 APPLICATIONS BY MINUTE

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Application of this Chapter

14.1. (1) Where an application may be made by minute, the form of the minute and the procedure to be adopted shall, unless otherwise provided in these Rules, be in accordance with this Chapter.

- (2) This Chapter shall not apply to-
 - (a) a minute of amendment;
 - (b) a minute of abandonment; or
 - (c) a joint minute.

Form of minute

14.2. A minute to which this Chapter applies shall contain-

- (a) a crave;
- (b) where appropriate, a condescence in the form of a statement of facts supporting the crave; and
- (c) where appropriate, pleas-in-law.

Lodging of minutes

14.3. (1) Before intimating any minute, the minuter shall lodge the minute in process.

(2) On the lodging of a minute, and any document under rule 21.1(1)(b) (lodging documents founded on or adopted), the sheriff-

(a) may make an order for answers to be lodged;

(b) may order intimation of the minute without making an order for answers; or

(c) where he considers it appropriate for the expeditious disposal of the minute or for any other specified reason, may fix a hearing.

(3) Any answers ordered to be lodged under paragraph (2)(a) shall, unless otherwise ordered by the sheriff, be lodged within 14 days after the date of intimation of the minute.

(4) Where the sheriff fixes a hearing under paragraph (2)(c), the interlocutor fixing that hearing shall specify whether-

(a) answers are to be lodged;

(b) the sheriff will hear evidence at that hearing; and

(c) the sheriff will allow evidence by affidavit.

(5) Any answers or affidavit evidence ordered to be lodged under paragraph (4) shall be lodged within such time as shall be specified in the interlocutor of the sheriff.

(6) The following rules shall not apply to any hearing fixed under paragraph (2)(c):-

rule 14.7 (opposition where no order for answers made),

rule 14.8 (hearing of minutes where no opposition or no answers lodged),

rule 14.10 (notice of opposition or answers lodged).

(7) The sheriff clerk shall forthwith return the minute to the minuter with any interlocutor pronounced by the sheriff.

Intimation of minutes

14.4. (1) The party lodging a minute shall, on receipt from the sheriff clerk of the minute, intimate to every other party including any person referred to in rule 14.13(1)-

(a) a notice in Form G7A, G7B or G7C, as the case may be, by any of the methods provided for in rule 14.5 (methods of intimation); and

(b) a copy of-

(i) the minute;

- (ii) any interlocutor; and
 - (iii) any document referred to in the minute.
- (2) The sheriff may, on cause shown, dispense with intimation.

Methods of intimation

- 14.5. (1) Intimation of a minute may be given by-
- (a) any of the methods of service provided for in Chapter 5 (citation, service and intimation); or
 - (b) where intimation is to a party represented by a solicitor, by-
 - (i) personal delivery,
 - (ii) facsimile transmission,
 - (iii) first class ordinary post, or
 - (iv) delivery to a document exchange,to that solicitor.
- (2) Where intimation is given-
- (a) under paragraph (1)(b)(i) or (ii), it shall be deemed to have been given-
 - (i) on the day of transmission or delivery where it is given before 5.00 p.m. on any day; or
 - (ii) on the day after transmission or delivery where it is given after 5.00 p.m. on any day; or
 - (b) under paragraph 1(b)(iii) or (iv), it shall be deemed to have been given on the day after the date of posting or delivery.

Return of minute with evidence of intimation

14.6. Where intimation of any minute has been given, the minute and a certificate of intimation in Form G8 shall be returned to the sheriff clerk within 5 days after the date of intimation.

Opposition where no order for answers made

- 14.7. (1) Where a party seeks to oppose a minute lodged under rule 14.3 (lodging of minutes) in which no order for answers has been made under paragraph (2)(a) of that rule, that party shall, within 14 days after the date of intimation of the minute to him-
- (a) complete a notice of opposition in Form G9;
 - (b) lodge the notice with the sheriff clerk; and
 - (c) intimate a copy of that notice to every other party.

(2) Rule 14.5 (methods of intimation) and rule 14.6 (return of minute with evidence of intimation) shall apply to intimation of opposition to a minute under paragraph (1)(c) of this rule as they apply to intimation of a minute.

(3) The sheriff may, on cause shown, reduce or dispense with the period for lodging the notice mentioned in paragraph (1)(b).

Hearing of minutes where no opposition or no answers lodged

14.8. (1) Where no notice of opposition is lodged or where no answers have been lodged to the minute within the time allowed, the minute shall be determined by the sheriff in chambers without the attendance of parties, unless the sheriff otherwise directs.

(2) Where the sheriff requires to hear a party on a minute, the sheriff clerk shall-

(a) fix a date, time and place for the party to be heard; and

(b) inform that party-

(i) of that date, time and place; and

(ii) of the reasons for the sheriff wishing to hear him.

Intimation of interlocutor

14.9. Where a minute has been determined in accordance with rule 14.8 (hearing of minutes where no opposition or no answers lodged), the sheriff clerk shall intimate the interlocutor determining that minute to the parties forthwith.

Notice of opposition or answers lodged

14.10. (1) Where a notice of opposition has, or answers have, been lodged to the minute, the sheriff clerk shall-

(a) assign a date, time and place for a hearing on the first suitable court day after the date of the lodging of the notice of opposition or answers, as the case may be; and

(b) intimate that date, time and place to the parties.

(2) The interlocutor fixing a hearing under paragraph (1) shall specify whether the sheriff will hear evidence at the hearing or receive evidence by affidavit.

Procedure for hearing

14.11. (1) A certified copy of the interlocutor assigning a hearing under this Chapter and requiring evidence to be led shall be sufficient warrant to a sheriff officer to cite a witness on behalf of a party.

(2) At the hearing, the sheriff shall hear parties on the minute and any answers lodged, and may determine the minute or may appoint such further procedure as he considers necessary.

Consent to minute

14.12. Subject to paragraph (2) of rule 14.8 (hearing of minutes where no opposition or no answers lodged), where all parties to the action indicate to the sheriff, by endorsement of the minute or otherwise in writing, their intention to consent to the minute, the sheriff may forthwith determine the minute in chambers without the appearance of parties.

Procedure following grant of minute

14.13. (1) Where the minute includes a crave seeking leave-

(a) for a person-

(i) to be sisted as a party to the action, or

(ii) to appear in the proceedings, or

(b) for the cause to be transferred against the representatives of a party who has died or is under a legal incapacity,

the sheriff, on granting the minute, may order a hearing under rule 9.12 (Options Hearing) to be fixed or may appoint such further procedure as he thinks fit.

(2) Where an Options Hearing is ordered under paragraph (1), the sheriff clerk shall-

(a) fix a date and time for such hearing, which date, unless the sheriff otherwise directs, shall be on the first suitable court day occurring not sooner than 10 weeks after the date of the interlocutor of the sheriff ordering such hearing be fixed;

(b) forthwith intimate to the parties in Form G5-

(i) where appropriate, the last date for lodging defences;

(ii) where appropriate, the last date for adjustment; and

(iii) the date of the Options Hearing; and

(c) prepare and sign an interlocutor recording those dates.

(3) For the purpose of fixing the date for the Options Hearing referred to in paragraph (1), the date of granting the minute shall be deemed to be the date of expiry of the period of notice.