

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

**SCHEDULE 1**

*Initiation and progress of causes*

**CHAPTER 15 MOTIONS**

- [15.1.](#) Lodging of motions
- [15.2.](#) Intimation of motions
- [15.3.](#) Opposition to motions
- [15.4.](#) Consent to motions
- [15.5.](#) Hearing of motions
- [15.6.](#) Motions to sist
- [15.7.](#) Dismissal of action due to delay

**Lodging of motions**

15.1. (1) A motion may be made-

- (a) orally with leave of the court during any hearing of a cause; or
- (b) by lodging a written motion in Form G6.

(2) Subject to paragraph (3), a written motion shall be lodged with the sheriff clerk within 5 days after the date of intimation of the motion required by rule 15.2 (intimation of motions) with-

- (a) a certificate of intimation in Form G8; and
- (b) so far as practicable any document referred to in the written motion and not already lodged in process.

(3) Where the period for lodging opposition to the motion is varied under rule 15.2(4) (variation of and dispensing with period of intimation) to a period of 5 days or less, the written motion and certificate to be lodged in terms of paragraph (2) shall be lodged no later than the day on which the period for lodging opposition expires.

**Intimation of motions**

15.2. (1) Subject to paragraphs (4) and (7), a party intending to lodge a motion in accordance with rule 15.1(1)(b) (lodging written motion) shall intimate the motion in Form G7, and a copy of any document referred to in the motion, to every other party.

- (2) Intimation of a motion 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.

(3) Where intimation is given-

(a) under paragraph (2)(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 (2)(b)(iii) or (iv), it shall be deemed to have been given on the day after posting or delivery.

(4) The sheriff may, on the application of a party intending to lodge a written motion, vary the period of 7 days specified in rule 15.3(1)(c) for lodging opposition to the motion or dispense with intimation.

(5) An application under paragraph (4) shall be made in the written motion, giving reasons for such variation or dispensation.

(6) Where the sheriff varies the period within which notice of opposition is to be lodged under rule 15.3(1)(c), the form of intimation required under rule 15.2(1) (intimation of motion in Form G7) shall state the date by which such notice requires to be lodged.

(7) A joint motion by all parties lodged in Form G6 need not be intimated.

### **Opposition to motions**

15.3. (1) Where a party seeks to oppose a motion made in accordance with rule 15.1(1)(b) (written motion), he shall-

- (a) complete a notice of opposition in Form G9;
- (b) intimate a copy of that notice to every other party; and
- (c) lodge the notice with the sheriff clerk within 7 days after the date of intimation of the motion or such other period as the sheriff may have determined under rule 15.2(6).

(2) Paragraphs (2) and (3) of rule 15.2 (methods and time of intimation of motions) shall apply to the intimation of opposition to a motion under paragraph (1)(b) of this rule as they apply to intimation under that rule.

## **Consent to motions**

15.4. Where a party consents to a written motion, he shall endorse the motion, or give notice to the sheriff clerk in writing, of his consent.

## **Hearing of motions**

15.5. (1) Subject to paragraph (2), where no notice of opposition is lodged with the sheriff clerk within the period specified in rule 15.3(1)(c), or ordered by virtue of rule 15.2(4), the motion shall be determined by the sheriff in chambers without the appearance of parties, unless the sheriff otherwise directs.

(2) In accordance with any directions given by the sheriff principal, the sheriff clerk may determine any motion other than a motion which seeks a final interlocutor.

(3) Where the sheriff clerk considers that a motion dealt with by him under paragraph (2) should not be granted, he shall refer that motion to the sheriff who shall deal with it in accordance with paragraph (1).

(4) Where the sheriff requires to hear a party on a motion which is not opposed, 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.

(5) Where a notice of opposition is lodged in accordance with rule 15.3(1), the sheriff clerk shall-

(a) assign a date, time and place, on the first suitable court day after the lodging of the notice of opposition, for the motion to be heard; and

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

(6) Where a motion has been determined under paragraph (1) or (2), the sheriff clerk shall intimate the interlocutor determining that motion to all parties forthwith.

(7) Where the sheriff, under paragraph (4) of rule 15.2, dispenses with intimation required by paragraph (1) of that rule, he shall make such order as he thinks fit for intimation of his determination of the motion to every party to the action in respect of whom intimation has been so dispensed with.

(8) Subject to paragraph (4), where all parties consent to a written motion, the sheriff may determine the motion in chambers without the appearance of parties.

(9) Subject to paragraph (4) where a joint motion of all parties in Form G6 is lodged with the sheriff clerk, the sheriff may determine the motion in chambers without the appearance of parties.

## **Motions to sist**

15.6. (1) Where a motion to sist is made, either orally or in writing in accordance with rule 15.1(1)(a) or (b)-

- (a) the reason for the sist shall be stated by the party seeking the sist; and
- (b) that reason shall be recorded in the interlocutor.

(2) Where a cause has been sisted, the sheriff may, after giving parties an opportunity to be heard, recall the sist.

## **Dismissal of action due to delay**

15.7.—(1) Any party to an action may, while that action is depending before the court, apply by written motion for the court to dismiss the action due to inordinate and inexcusable delay by another party or another party's agent in progressing the action, resulting in unfairness.

(2) A motion under paragraph (1) shall—

- (a) include a statement of the grounds on which it is proposed that the motion should be allowed or as the case may be; and
- (b) be lodged in accordance with rule 15.1.

(3) A notice of opposition to the motion in Form G9 shall include a statement of the grounds of opposition to the motion.

(4) In determining an application made under this rule, the court may dismiss the action if it appears to the court that—

- (a) there has been an inordinate and inexcusable delay on the part of any party or any party's agent in progressing the action; and
- (b) such delay results in unfairness specific to the factual circumstances, including the procedural circumstances, of that action.

(5) In determining whether or not to dismiss an action under paragraph (4), the court shall take account of the procedural consequences, both for the parties and for the work of the court, of allowing the action to proceed.