

## CHAPTER 32

### TRANSMISSION AND REMIT OF CAUSES

#### Remits to sheriff court

**32.1.**-(1) An application by a party under section 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1988(a) (remit from court to sheriff) shall be made by motion.

(2) Where an action is remitted to a sheriff under section 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, the Deputy Principal Clerk shall, within 4 days after the interlocutor remitting the cause has been pronounced, transmit the process to the sheriff clerk of the sheriff court specified in the interlocutor.

(3) When transmitting a process under paragraph (2), the Deputy Principal Clerk shall-

- (a) give written intimation of the transmission to the parties; and
- (b) certify on the interlocutor sheet that such written intimation has been given.

(4) Failure by the Deputy Principal Clerk to comply with paragraph (3) shall not affect the validity of a remit made under paragraph (1).

#### Transmissions on contingency

**32.2.**-(1) An application under section 33 of the Act of 1988(b) (transmission from sheriff on ground of contingency) shall be made-

- (a) by motion at the instance of a party to the cause depending before the court; or
- (b) by minute at the instance of any other person having an interest (including a party to the cause depending before the sheriff).

(2) A copy of the pleadings and the interlocutors in the cause depending before the sheriff, certified by the sheriff clerk, shall be lodged with any motion enrolled or any minute lodged under paragraph (1).

(3) A decision made on an application under paragraph (1) may not be reclaimed; but where an application has been refused, a subsequent application may be made where there has been a change of circumstances.

#### Intimation of receipt of process transmitted from sheriff court

**32.3.** On receipt of a process transmitted by a sheriff clerk by virtue of an order made under any enactment to remit a cause to the court, the Deputy Principal Clerk shall-

- (a) write the date of receipt on the interlocutor sheet of the sheriff court process; and
- (b) give written intimation of that date to each party.

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(a) 1985 c.73.

(b) 1988 c.36.

### **Lodging of process and motion for further procedure**

**32.4.**-(1) Within 14 days after the date of receipt of a process referred to in rule 32.3 (intimation of receipt of process transmitted from sheriff court)-

- (a) the party on whose motion the remit was made, or
- (b) in a cause remitted by the sheriff at his own instance, the pursuer or first pursuer, shall make up and lodge in the General Department a process incorporating the sheriff court process.

(2) On lodging a process under paragraph (1), the party lodging it shall apply by motion for an order for such further procedure as he desires; and the cause shall proceed as if it had been an action in the court initiated by a summons.

(3) A motion under paragraph (2) shall be disposed of by the Lord Ordinary.

### **Reponing against failure to comply with rule 32.4(1) or (2)**

**32.5.**-(1) Where-

- (a) the party on whose motion the remit was made, or
- (b) in a cause remitted by the sheriff at his own instance, the pursuer or first pursuer, fails to comply with the requirements of rule 32.4(1) or (2) (lodging of process and motion for further procedure), he may, within seven days after the expiry of the period specified in rule 32.4(1), apply by motion to be reponed.

(2) The party enrolling a motion under paragraph (1), where the failure is a failure to lodge a process under rule 32.4(1), shall on enrolling the motion, lodge such a process and shall apply by motion for an order for such further procedure as he desires.

(3) A motion under paragraph (1) shall be granted only on cause shown and on such conditions, if any, as to expenses or otherwise as the court thinks fit.

### **Insistence in remit by another party**

**32.6.** Where-

- (a) the party on whose motion the remit was made, or
- (b) in a cause remitted by the sheriff at his own instance, the pursuer or first pursuer, has failed to comply with the requirements of paragraphs (1) or (2) of rule 32.4 (lodging of process and motion for further procedure), any other party to the cause may, within seven days after the expiry of the period specified in rule 32.4(1) comply with the requirements of those paragraphs himself and insist in the remit.

### **Re-transmission to sheriff clerk**

**32.7.** Where, on the expiry of 21 days after the date of receipt of the process referred to in rule 32.3 (intimation of receipt of process transmitted from sheriff court), no motion has been enrolled under rule 32.5(1) (reponing against failure to comply with rule 32.4(1) or (2)) and no motion has been enrolled under rule 32.6 (insistence in remit by another party), the remit shall be deemed to be abandoned and the Deputy Principal Clerk shall-

- (a) write on the interlocutor sheet the words "Re-ransmitted in respect that the remit has been abandoned.";
- (b) add his signature and the date; and
- (c) transmit the process to the sheriff clerk.