

CHAPTER 29

ABANDONMENT

Abandonment of actions

29.1.-(1) A pursuer may abandon an action by lodging a minute of abandonment in process and-

- (a) consenting to decree of absolvitor; or
- (b) seeking decree of dismissal.

(2) The court shall not grant decree of dismissal under paragraph (1)(b) unless-

- (a) full judicial expenses have been paid to the defender, and to any third party against whom the pursuer has directed any conclusions, within 28 days after the date of intimation of the report of the Auditor on the taxation of the account of expenses of that party; and
- (b) where abandonment is made in a proof or jury trial, the minute of abandonment is lodged before avizandum is made in the proof or the charge to the jury by the presiding judge has begun in the jury trial, as the case may be.

(3) If the pursuer fails to pay the expenses referred to in sub-paragraph (a) of paragraph (2) to the party to whom they are due within the period specified in that sub-paragraph, that party shall be entitled to decree of absolvitor with expenses.

Application of abandonment of actions to counterclaims

29.2. Rule 29.1 shall, with the necessary modifications, apply to the abandonment by a defender of his counterclaim as it applies to the abandonment of an action.

Abandonment of petitions, minutes and notes

29.3.-(1) A petition, minute or note may be abandoned by the petitioner, minuter or noter, as the case may be-

- (a) enrolling a motion for abandonment of the cause; and
- (b) intimating the motion to every person who lodged answers.

(2) The court may grant a motion under paragraph (1) subject to such conditions as to expenses or otherwise, if any, as it thinks fit.