1980 No. 1801 (S.161)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 9) (Remits from Sheriff Court) 1980

Made - - - -	*25th November* 1980
Coming into Operation	*22nd December,* 1980

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act 1933 (**a**), and of all other powers enabling them in that behalf, do hereby enact and declare:-

Citation and commencement

1. (1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 9) (Remits from Sheriff Court) 1980 it shall come into operation on 22nd December 1980.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Remits from Sheriff Court

2. In the Rules of Court (**b**), for rules 274 and 275 (procedure in remits) there are substituted the following rules—

"**274. Process on remit** The Deputy Principal Clerk shall, on receiving the process in a case transmitted to him by a sheriff clerk, cause the date of receipt to be entered on the interlocutor sheet.

275. Procedure on remit (1) Subject to paragraph (2), rules 269, 271 and 272 shall apply with any necessary modifications to an action remitted to the Court of Session from the sheriff, as they apply to appeals from the sheriff.

(2) Rule 269 shall apply to an action so remitted subject to the substitution for paragraph (c) of the following paragraph—

"(c) In an action remitted from the sheriff to the Court of Session—

(i) the party on whose motion the remit was made, or

(ii) in an action remitted by the sheriff of his own accord, the pursuer or first pursuer in the action,

shall on the process in the action being transmitted to the Court of Session, enrol a motion for an order for hearing and intimate it to the other party or parties to the action.

(**a**) 1933 c.41. (**b**) S.I. 1965/321.

(3) If —

(a) the party on whose motion the remit was made, or

(b) in an action remitted by the sheriff of his own accord, the pursuer in the action,

fails to comply with any requirement of rule 269 as applied by this rule —

(i) he may nevertheless, within the period of 7 days following the period of 28 days mentioned in rule 269, apply by way of motion to the Court or the Vacation Judge, as the case may be, to be reponed on cause shown, in the same manner and subject to the same conditions as apply under rule 271 to an appeal;

(ii) any other party to the action may, within the said period of 7 days, proceed with the action in accordance wlith the provisions of rule 272.

(4) If, in a case to which paragraph (3) applies, the said period of 7 days expires without any such action as is mentioned under heads (i) and (ii) of that paragraph being taken, the remit shall be treated as abandoned, and the Deputy Principal Clerk shall cause —

(a) the words "Retransmitted in respect that the remit has been abandoned" to be entered on the interlocutor sheet; and

(b) the process to be transmitted back to the Sheriff Clerk."

Emslie,
Lord President
I.P.D.

Edinburgh
25th November 1980.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt gives effect to section 16 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55) (remit from Sheriff Court to Court of Session) by amending the Rules of the Court of Session relating to remits from the Sheriff Court to make provision for remits on the motion of a party to the action and by making consequential amendments.

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