

ALL SCOTLAND SHERIFF PERSONAL INJURY COURT
CORONAVIRUS CONTINGENCY ARRANGEMENTS AS AT 17 MARCH 2020

Introduction

[1] This note is intended to inform practitioners of certain practical arrangements which ASSPIC will operate until further notice.

Opposed E-motions – use of telephone conferencing facilities and/or written submissions

Telephone conferencing

[2] The court will seek to facilitate hearings by telephone conference, where parties agree to this, without the requirement for a formal motion under OCR 32.A.1.

[3] Where parties agree to an opposed motion being dealt with by way of telephone conference, this should be confirmed in the covering email submitting the Forms G6A and G9A and the names and contact numbers for all participants should be provided. The clerks will then seek to identify a suitable time and day for the motion to be dealt with.

Written submissions

[4] Parties may also wish to consider proceeding by way of written submissions.

[5] The timetable for intimation and lodging of E-motions set out in OCR Chapter 15A is short and as such it is not conducive to the use of written submissions.

[6] It is suggested that one way of proceeding would be for parties to agree a 'mini-timetable' for the preparation of written submissions prior to the E-motion being lodged with the court, e.g. the terms of the proposed motion are discussed between parties to determine whether it is to be opposed; and, if so, whether parties agree to it being dealt with by way of written submissions. The parties then agree how long (i.e. how many working days) each party will require to prepare their initial written submissions and any reply to the other party's written submissions once received and the date upon which the E-motion will be lodged. At the end of the agreed period, the exchange of written submissions having been completed, the Forms G6A and G9A and the written submissions are lodged with the court with the receiving party consenting to a shortened period of notice, so that the papers can be put before a sheriff as soon as possible for a decision.

Signing of documents

[7] The requirement for wet signatures on defences, NIDs, PIAS's, pursuers' offers; minutes of tender and acceptance; PTMs and Records is suspended and these may be lodged electronically in accordance with the timetable and by email to the court's email address (see below).

[8] Covering emails must confirm that intimation has been given to the other party/ies and vouched by the inclusion in the 'cc box' (in the covering email) of the email address of the firm to whom intimation has been given.

[9] Likewise, such emails must be sent or approved by a person who has a right of audience before the court. In the latter case, that person's email address should also be added to the 'cc box'.

Inventories of Productions

[10] The requirement to lodge productions, whether supporting statements of valuations or otherwise, is suspended. Inventories only should be lodged with the court. Exchange of productions between parties should continue.

Variations of timetable; sists; and discharge of proofs

[11] It is recognised that agents will face difficulty in numerous areas, including gathering evidence (precognitions and medical reports, for example); and getting parties and witnesses (both lay and professional) to attend court.

[12] In these circumstances, the court will be sympathetic to unopposed motions to vary timetables, sist actions and discharge proofs.

[13] Where an actual proof diet has been fixed, the court will accept motions to discharge the proof to a date to be afterwards fixed. This is open-ended, unlike a sist.

[14] In cases where there is only a provisional proof diet, actions will have to be sisted.

Conclusion

[15] As already noted, the foregoing will take effect immediately. Matters will be kept under review and further changes may be implemented in the light of experience and developments. If agents have any suggestions for other steps which the court might take to ease matters or particular problems which they wish the court to consider, please send these by email clearly headed '*CORONAVIRUS CONTINGENCY ARRANGEMENTS*'.

[16] Finally, an important reminder about communications with ASSPIC. All emails **must** be sent to the email address NationalPICourt@scotcourts.gov.uk - they should not be sent individuals given the possibility that people may be absent.

Sheriff K J McGowan,
Administrative Sheriff, ASPIC
17 March 2020