

Scottish Courts and Tribunals Service



GUIDANCE FOR SUPREME COURT USERS

This guidance has been prepared in consultation with the Lord President and the Lord Justice Clerk.

Following a review of the operating arrangements in the Supreme Courts, the following measures will be applicable from 25 April 2022 until further notice.

1. The High Court of Justiciary

1.1 Bail appeal court

The bail appeal court will continue to hear cases using Webex as per current arrangements. Cases will call on the dates assigned. Where appropriate, the personal attendance of parties and the appellant may be required at a bail appeal hearing, and accused persons may appear by video link.

1.2 High Court adjourned diets (for sentence) and Section 76 diets

All sentencing diets will call on the dates assigned with the accused appearing remotely if in custody and in person if on bail, unless otherwise directed by the Court.

All diets assigned in terms of section 76 of the Criminal Procedure (Scotland) Act 1995 will call on the dates assigned. Accused persons (whether in custody or on bail) will attend in person unless otherwise directed by the Court.

1.3 Preliminary and continued preliminary hearings

Preliminary and continued preliminary hearings will revert to a presumption of being heard in person. However, it will still be open to parties to seek leave of the Court to appear by remote means in advance of the hearing if considered appropriate and in the interests of expediency. All preliminary and continued preliminary hearings will call on the dates assigned unless adjourned administratively. The attendance of the accused whether in custody or on bail is expected, unless their attendance has been excused by the court in terms of section 72D of the Criminal Procedure (Scotland) Act 1995. An accused person who is in custody may participate through live television link in terms of High Court of Justiciary Direction No.3 of 2021

1.4 High Court trials

All solemn trials will call on the dates assigned or within the float period. A programme of de-commissioning of the majority of Remote Jury Centres (RJC) is planned to take place during the period July to September 2022. This will depend upon the nature of Scottish Government regulation and guidance. The remote balloting of jurors will continue. As the programme progresses, balloted jurors will be required to attend the appropriate location, that being either the courtroom location or the RJC. However, RJC will remain for trials proceeding in Parliament House courts 3 and 9 for the duration of 2022/23.

1.5 Evidence on Commission hearings and miscellaneous business

All hearings will call on the dates assigned with parties in attendance at the hearing facility or participating remotely in the hearing by arrangement, with the exception of the accused, who may view proceedings remotely by arrangement.

1.6 Criminal Appeal court

Cases will call on the dates assigned. The default position for substantive business in the Criminal Appeal Court i.e. hearings on the merits of criminal appeals, is that such hearings will be conducted in-person with the appellant appearing remotely if in custody and in person if on bail, unless otherwise directed by the Court. The Court may allow the hearing or part thereof to be conducted remotely when considered appropriate.

In relation to procedural hearings in the Criminal Appeal Court, such as applications for bail, extensions of time and amendment of grounds, the presumption will be for these to be conducted using Webex or, if directed by the Court, they may be dealt with on the basis of written submissions. The court may allow the hearing or part thereof to be conducted in-person when considered appropriate.

2. Court of Session

2.1 Civil appeals

The presumption for substantive business in the Inner House of the Court of Session i.e. hearings not dealing with procedural business as defined by the Rules of the Court of Session, Rule 37A.1(2), is that hearings will be conducted in-person. However the court may allow parties to be heard remotely on cause shown. A party seeking a remote, or hybrid, hearing should apply to do so by motion.

In relation to procedural hearings in the Inner House, such as leave/permission to proceed hearings, the presumption will be for these to be conducted using Webex or, if directed by the Court, they may be dealt with on the basis of written submissions. The court may allow the hearing or part thereof to be conducted in person on cause shown. A party seeking an in person or hybrid procedural hearing should apply to do so by motion.

2.2 Civil First Instance

The presumption for substantive first instance hearings in the Outer House of the Court of Session, such as proofs, debates and judicial review hearings is that these will be conducted in-person. However the court may allow parties or their witnesses to be heard remotely on cause shown. A party seeking a remote, or hybrid, hearing should apply to do so by motion.

In relation to hearings of a procedural nature in the Outer House, including applications for permission to proceed in judicial review petitions, and preliminary and procedural hearings in the Commercial Court, the presumption will be for these to be conducted using Webex or, if directed by the Court, they may be dealt with on the basis of written submissions. The court may allow the hearing or part thereof to be conducted in person on cause shown. A party seeking an in person or hybrid procedural hearing should apply to do so by motion.

3. The Scottish Land Court

The presumption for substantive hearings in the Scottish Land Court, such as proofs and debates, is that these will be conducted in-person. However the court may allow parties or their witnesses to be heard remotely on cause shown. A party seeking a remote, or hybrid, hearing should apply to do so by motion.

In relation to hearings of a procedural nature in the Scottish Land Court, the presumption will be for these to be conducted using Webex or, if directed by the Court, they may be dealt with on the basis of written submissions. The court may allow the hearing or part thereof to be conducted in person on cause shown. A party seeking an in person or hybrid procedural hearing should apply to do so by motion.

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