

COURT OF SESSION

PRACTICE NOTE

No. 1 of 2010

Causes in the Inner House

1. This Practice Note has effect from 5th April 2010.
2. The following notes are primarily designed to explain how the new rules relating to causes in the Inner House will operate in practice. The new rules, relating to reclaiming motions under Chapter 38, applications for a new trial or to enter jury verdicts under Chapter 39 and appeals from inferior courts under Chapter 40, come into force on 5th April 2010. For the most part, the following notes are arranged by reference to selected rules in the Act of Sederunt.
3. For information on the background to the procedural changes and why they were made, practitioners may find it helpful to refer to the Report of Lord Penrose which was issued in 2009 and is available on the Scottish Courts Website
www.scotcourts.gov.uk/innerhousereform/index.asp.

Procedural Business in the Inner House: Chapter 37A

Rule 37A.1: Quorum of Inner House for certain business

4. One of the central aspects of Lord Penrose's proposals was that a single judge of the Inner House should be able to deal with specified procedural business in the Inner House. Rule 37A.1 is intended to reflect this by making provision regarding the quorum of a Division of the Inner House when dealing with specified procedural business. In relation to such procedural business as is defined in rule 37A.1, the quorum of a Division of the Inner House is one judge.
5. Procedural business is defined as such business as arises under—
 - (a) a reclaiming motion,

- (b) an application for a new trial under section 29(1) of the Court of Session Act 1988 or an application to enter a jury verdict under section 31 of the 1988 Act, or
- (c) an appeal from an inferior court,
in each case up to and including the point at which a procedural judge, at a procedural hearing, appoints a cause to the Summar Roll or the Single Bills for a hearing or makes such other order as he thinks fit to secure the expeditious disposal of the reclaiming motion, application or appeal.

Rule 37A.2: Procedural judges in the Inner House

6. This rule makes provision for the Lord President to nominate Inner House judges as procedural judges, before whom proceedings in the Inner House will be brought in accordance with Chapters 38 to 40 of the Rules. It is intended that the Lord President will nominate a number of procedural judges from the Inner House to deal with such procedural business at any one time. However, when acting in that capacity, each procedural judge will sit as a single judge.
7. Although specific provision is made in certain rules for business to be dealt with and disposed of by a procedural judge, rule 37A.2(3) preserves the competency of a Division comprising three or more judges to dispose of procedural business instead of a single procedural judge, should such a Division consider it appropriate. Provision is also made in a number of rules for a procedural judge to refer certain matters to a bench of three or more judges. Such a remit might be appropriate where procedural business raises issues of particular importance or novelty.

Chapter 38: Reclaiming

Rule 38.2: Reclaiming days

8. It should be noted that, with one exception, the period within which an interlocutor may be reclaimed against under rule 38.2 will be either be 14 days or 21 days after the date on which the interlocutor was pronounced. Whether the 14 day period or the 21 day period will apply, and whether or not leave is required, will depend on the type of interlocutor. The exception is rule 38.2(2), which applies to a reclaiming motion against an interlocutor which disposes of the whole merits of the cause but reserves or does not dispose of the

question of expenses. In that case, any party to the cause who seeks an order for expenses before disposal of the reclaiming motion must apply by motion to the Lord Ordinary for such an order within 14 days of the date of enrolment of that reclaiming motion. A reclaiming motion can proceed out of time under rule 38.10.

Rule 38.5: Method of reclaiming

9. Practitioners are reminded that, when enrolling a reclaiming motion in a case in respect of which no opinion has been issued, they should advise the depute clerk—
 - (a) that the reclaiming motion has been enrolled, and
 - (b) that an opinion is required.
10. When enrolling a reclaiming motion where a matter likely to be at issue at the hearing of the reclaiming motion is not covered by an opinion already in process (*e.g.* the disposal of expenses following upon the appearance of judgment) practitioners will continue to require—
 - (a) to indicate in the motion sheet the particular matter which is not so covered, and
 - (b) to advise the depute clerk that an opinion is required thereon.

Rule 38.6: Effect of reclaiming

11. It should be noted that particular provision is made in this rule in relation to reclaiming against interlocutors dealing with expenses where a previous interlocutor has disposed of the whole merits of the cause. Where a motion to refuse a reclaiming motion is unopposed, the motion is to be treated as if all parties consented to it.

Rule 38.8: Appeals treated as reclaiming motions

12. This rule provides for Chapter 38 to apply to certain appeals that are referred to in statutory and Convention provisions.

Rule 38.10: Reclaiming out of time

13. It should be noted that a procedural judge may allow a reclaiming motion to be received outwith the reclaiming days and to proceed out of time only in the case of mistake or inadvertence. Conditions as to expenses are specifically referred to in this rule, but it should be noted that the procedural judge may impose other conditions, not relating to expenses, if allowing reclaiming out of time under this rule.

Rule 38.11: Urgent disposal of reclaiming motion

14. Where a motion for urgent disposal under this rule is appropriate, the rule is available for the purpose of obtaining (a) an order for an urgent date for the hearing of the reclaiming motion on the Summar Roll or (b) determination of the reclaiming motion in the Single Bills. The appropriate words, as specified in paragraph (1) of this rule, should be included in the motion.
15. The claimant or respondent should also include in the motion an indication of the nature of the urgency. A motion for urgent disposal will be starred and will require the appearance of counsel or other person having a right of audience. The procedural judge will wish to know parties' estimate of the duration of the hearing to determine the reclaiming motion.
16. In granting a motion for urgent disposal, a procedural judge may appoint the reclaiming motion to the Summar Roll for a hearing even if all parties are of the view that it should be heard in the Single Bills. Similarly, a procedural judge may direct that the reclaiming motion be heard in the Single Bills even if all parties take the view that it should be dealt with on the Summar Roll. Where a procedural judge grants the motion for urgent disposal, this will be reflected in the timetable that is issued and the timescales referred to in Table A to the Appendix to this Note will be adjusted accordingly.
17. It should be noted that where a procedural judge has granted a motion for urgent disposal, rules 38.12 (objections to competency), 38.13 (timetable), 38.14 (sist or variation of timetable), 38.15 (failure to comply with timetable) and 38.16 (procedural hearing) will apply to the reclaiming motion only to the extent that the procedural judge so directs.

18. Unlike the rules in force immediately prior to 5th April 2010, the new rules do not identify specified types of case in respect of which parties are required to seek urgent or early disposal. The inclusion of such provision is unnecessary, as procedural judges will be able to exercise case management powers through use of the timetable in every case. This is made clear by rule 38.11(6).
19. Parties should be aware that, when urgent disposal of a reclaiming motion is ordered, the Keeper of the Rolls may intimate a diet at very short notice. Parties will be expected to be in a position to proceed with the diet that is fixed. Early warning should be given to the Keeper of the Rolls of any circumstances which may result in the reclaiming motion not proceeding, so that the Keeper can, if necessary, defer allocation of an urgent diet until it is clear that such a diet is required.

Rule 38.12: Objections to the competency of reclaiming

20. A note of objection may be lodged by a party, and the Deputy Principal Clerk of Session may refer a question of competency, only within 14 days after the date on which the reclaiming motion was marked. The purpose of including such a requirement in this rule, and not as part of the timetable, is to ensure that parties focus on the competency of the reclaiming motion at as early a procedural stage as possible, so that the procedural judge can then consider any competency issues before the timetable is issued and the procedural hearing is fixed under rule 38.13. A form (Form 38.12) is provided for specifying the basis of an objection to competency. Parties should note that a hearing will be fixed under this rule, rather than objections to competency being dealt with on paper. It should also be noted that notes of argument will require to be lodged in relation to the competency issue. Where a hearing is being fixed under this rule, parties should also provide the Keeper of the Rolls with an estimate of the duration of the hearing.

Rule 38.13: Timetable in reclaiming motion

21. This rule provides for the issue of a timetable and the fixing of a procedural hearing in a reclaiming motion. These measures form the core aspects of the reforms to Inner House procedure arising from Lord Penrose's Report. In relation to the carrying out of certain procedural steps leading up to the issuing of the timetable, some specific periods are set out in the rules. However, to a

significant extent, the periods to be followed, so far as possible and subject to any motions for urgent disposal under rule 38.11, will from time to time be prescribed by the Lord President. Table A in the Appendix to this Note incorporates the periods which, as at the date of issuing this Practice Note, it is envisaged will be so prescribed.

22. Any questions of competency should have been dealt with by the time the Keeper issues the timetable and fixes the procedural hearing under this rule. This is reflected by the requirement for the Keeper to take those steps within 7 days of—
 - (a) the expiry of the period within which an objection to competency or a reference by the Deputy Principal Clerk on competency could have been, but was not, made under rule 38.12, or
 - (b) where such an objection or reference was made, the reclaiming motion having been found to be competent or the question of competency having been reserved, as referred to in rule 38.12.
23. A party who is concerned that a step of procedure has not been complied with timeously, or that a party is not complying with the spirit of the procedures, and that failure is threatening to cause delay to or prejudice the expeditious disposal of the cause, should:
 - if the matter relates to a stage in the timetable, approach the Keeper of the Rolls with a view to having the case put out for a hearing before a procedural judge, or enrol a motion as mentioned in rule 38.15(1), or
 - if the matter is outwith the control of the timetable, enrol a motion to bring it before a procedural judge.

Rule 38.14: Sist or variation of timetable in reclaiming motion

24. A motion to vary the timetable should give full details of the grounds on which the motion is based and, where relevant, be accompanied by appropriate evidence. Any such motion should be made as soon as possible after the timetable has been issued. Variation of the timetable may be by either extension or acceleration.

25. A motion may be for sist alone, for variation of the timetable alone or for both sist and variation of the timetable. It is a matter for the procedural judge to determine the length of any sist of the reclaiming motion, but parties are reminded that procedural judges will seek to avoid any unnecessary delay in carrying out the procedural steps set out in the timetable. It should be noted that motions for sist or for variation of the timetable will not be granted, even if made of consent, unless sufficient information to justify them is placed before the procedural judge. Any party opposing such an application will be required to demonstrate that their opposition is well founded.
26. It should be noted that a motion to sist and/or vary the timetable in a reclaiming motion may only be granted on special cause shown. It is a matter for the procedural judge to determine, in the particular circumstances of a case, whether or not special cause has been shown. Special cause might arise for example, where there is a need for a party to obtain transcripts of evidence or to obtain legal aid, or where it is necessary to obtain an opinion of the Lord Ordinary. Motions to sist and/or vary the timetable will be starred if there is objection to them or if the material placed before the procedural judge does not satisfy the requirement that special cause be shown.
27. The Court will expect parties to consider at the earliest possible stage whether they may require to make an application to the Scottish Legal Aid Board in respect of the reclaiming motion. Delay in making an application for legal aid or in applying for a sist may lead to a motion under this rule being refused. Generally, the Court will expect parties to adhere to guidance issued by the Scottish Legal Aid Board. Parties are reminded that the Board may make legal aid available for specially urgent work undertaken before a legal aid application is determined. Making an application to the Board under the special urgency procedure may obviate the need for the timetable to be varied or for the reclaiming motion to be sisted under this rule. Further information can be obtained in the Chapter entitled “Special Urgency” in the Civil Legal Aid Handbook:
<http://www.slab.org.uk/profession/handbook/Civil%20handbook/wwhelp/wwhimpl/js/html/wwhelp.htm>

Rule 38.15: Failure to comply with timetable in reclaiming motion

28. The purpose of this rule is to provide for discipline to ensure effective supervision of the management of cases under the timetable.

Rule 38.16: Procedural hearing in reclaiming motion

29. The procedural hearing is an important aspect of the procedure under the Chapter and will follow on completion of the other procedural steps mentioned in the timetable. It is intended to be the final procedural matter to be dealt with by the procedural judge. The primary purpose of the procedural hearing is to make sure that no case is sent for a hearing on its merits unless the procedural judge is satisfied that a hearing is necessary and that the parties are prepared for it.
30. At the procedural hearing, parties will be expected to be in a position to discuss the issues involved in the reclaiming motion and the method of disposing of them. Parties should address the procedural judge on their state of preparation, and estimate the length of any hearing on the Summar Roll or in the Single Bills which may be required to dispose of the reclaiming motion. The procedural judge will decide the length of any such hearing, and when it is to take place.
31. Parties will be expected to arrange that counsel, or other persons having rights of audience responsible for the conduct of the case, and authorised to take any necessary decision on questions of both substance and procedure, are available and appear at any hearing in the Inner House, including a procedural hearing and any other hearings before a procedural judge. Ensuring continuity of representation in relation to both procedural and substantive hearings will be an important factor in seeking to avoid late settlements and the discharge of hearings under the new procedures. Counsel should also have (or have access to) their diaries at the procedural hearing, so that the court can fix the date of any further procedural or substantive hearing which may be required.
32. It is important that continued procedural hearings are avoided unless they are genuinely necessary. Where it emerges at a procedural hearing that further steps require to be taken, the parties will be provided with an interlocutor specifying those steps and the time within which they must be taken. In the event that any

difficulty then arises, the parties should communicate with the court by email (or otherwise), confirming whether the steps have been carried out (and if not, why not), whether further time is required (and if so, why), and whether a further hearing is genuinely required (rather than, for example, the court's making any necessary order on the basis of an unstarred motion).

Rule 38.17: Amendment of pleadings in reclaiming motion

33. The Court will expect parties to give consideration at the earliest possible stage after the reclaiming motion has been marked as to whether or not it is necessary for a motion to be made to have the pleadings amended in terms of a minute of amendment and answers. Wherever possible, such a motion should be made before the procedural hearing so that a procedural judge can consider the matter.

Rule 38.18: Grounds of appeal in reclaiming motion

34. This rule sets out requirements relating to grounds of appeal. Wherever possible, parties should make any motions to amend grounds of appeal or answers, on cause shown, before the procedural hearing so that a procedural judge can consider the matter. Where a motion is made for an amendment to the grounds or answers, the same motion should include any necessary motion for sifting and/or variation of the timetable under rule 38.14(1).

Rule 38.19: Lodging of appendices in reclaiming motion

35. The timing of the lodging of appendices is a matter which will be controlled by the timetable and, therefore, by the procedural judge. The claimant shall lodge an appendix to the reclaiming print unless intimation is given by the claimant that he does not consider it necessary to do so. If such intimation is given by the claimant, a respondent can make a motion to the procedural judge for an order requiring the claimant to lodge an appendix. Where such a motion is refused, a respondent can seek to lodge an appendix containing documents which the claimant has confirmed he does not intend to include in an appendix.

Chapter 39: Applications for new trial or to enter jury verdicts

Rule 39.1: Applications for new trial

36. The terms of rule 39.1 broadly remain the same as the equivalent rule that was in force prior to 5th April 2010. It should be noted that the period within which an application for a new trial under section 29(1) of the Court of Session Act 1988 remains the period of 7 days after the date on which the verdict of the jury was written on the issue and signed. This is a shorter timescale than that which applies to the marking of a reclaiming motion.

Rule 39.3: Objections to the competency of application

37. The procedure set out in this rule for objecting to the competency of an application for a new trial is similar to the procedure set out for objecting to a reclaiming motion under rule 38.12. However, there are two main differences. The first is that a note of objection may only be lodged within the period of 7 days after the application for a new trial was made. This reflects the shorter period within which such an application may be made under rule 39.1, when compared to the time allowed for making a reclaiming motion under Chapter 38. In addition, the rule does not contain an equivalent to rule 38.12(2), under which provision is made for the Deputy Principal Clerk of Session to refer questions of competency to a procedural judge.

Rule 39.4: Timetable in application for a new trial

38. This rule provides for the issue of a timetable and the fixing of a procedural hearing in an application for a new trial. Chapter 39 sets out time limits prior to the issuing of the timetable, including the period for lodging objections to the competency of the application. However, other timescales which will apply under the timetable are from time to time to be prescribed by the Lord President. Table B in the Appendix to this Note incorporates the periods which, as at the date of issuing this Practice Note, it is envisaged will be so prescribed.
39. It should be noted that the three procedural steps mentioned in rule 39.4(2) prior to the procedural hearing are the lodging of appendices or the giving of notice that the applicant does not intend to lodge an appendix, the lodging of notes of argument and the lodging of estimates of the length of any hearing required to dispose of the application for a new trial. In relation to the lodging of appendices, the effect of rule 39.8 should be noted. Paragraph 35

of these notes applies, with appropriate modification, to the lodging of appendices in applications for a new trial as it applies to the lodging of appendices in reclaiming motions.

Rule 39.5: Sist or variation of timetable in application for a new trial

40. The points made at paragraphs 24 to 27 of these notes, in the context of a sist or variation of the timetable in a reclaiming motion, should be similarly considered in the context of the application of this rule.

Rule 39.6: Failure to comply with timetable in application for a new trial

41. The purpose of this rule is to provide for discipline to ensure effective supervision of the management of cases under the timetable.

Rule 39.7: Procedural hearing in application for a new trial

42. The points made at paragraphs 29 to 32 of these notes apply, with appropriate modification, to procedural hearings in applications for a new trial.

Rule 39.9: Applications to enter jury verdict

43. The terms of this rule are similar to the equivalent rule relating to applications to enter a jury verdict that was in force immediately prior to 5th April 2010. However, it should be noted that the rule provides that such applications are now to be made, in the first instance, to a procedural judge.

Chapter 40: Appeals from Inferior Courts

Rule 40.2: Applications for leave to appeal from inferior court

44. The terms of this rule are the same as the equivalent rule on applications for leave to appeal from an inferior court that was in force immediately prior to 5th April 2010.

Rule 40.4: Time and method of appeal

45. The default timescale and the method for making an appeal under this rule are the same as those provided for under the equivalent

rule that was in force immediately before 5th April 2010. Similarly, the rules relating to the procedure for transmitting an appeal process and the procedure thereafter (see rules 40.6 and 40.7) remain substantially unchanged from the equivalent rules that were in force immediately prior to 5th April 2010. An application to allow an appeal to be received out of time is to be included in the note of appeal. Rule 40.5(3) provides for such an appeal to be disposed of by a procedural judge.

Rule 40.8: Sist of process of appeal

46. A sist of process under this rule stops the period of days mentioned in rule 40.7(2) from running. The practical effect is to postpone the requirement for the appellant to lodge a process and an appeal print and to intimate the appeal print. The appellant therefore does not have to incur the cost of lodging and intimating during such time as there is a sist of process.
47. This rule therefore prescribes a procedure that is specifically related to the circumstances in which an appellant requires to lodge an appeal process from an inferior court. For that reason, the rule appears only in Chapter 40 and it is placed immediately after rule 40.7. As rule 40.7 makes provision only for the appellant to lodge and intimate a process and appeal print etc., rule 40.8 provides only for the appellant to apply for a sist of process. Rule 40.8(4) makes it clear that the provisions in rule 40.8 are without prejudice to the power of the court to sist an appeal, as mentioned in rule 40.12.

Rule 40.9: Urgent disposal of appeal

48. Where a motion for urgent disposal under this rule is appropriate, the rule is available for the purpose of obtaining (a) an order for an urgent date for the hearing of the appeal on the Summar Roll or (b) determination of the appeal in the Single Bills. An appropriate indication of the option sought, as specified in paragraphs (1) and (2) of this rule, should be provided.
49. The claimant or respondent should also include in the motion an indication of the nature of the urgency. A motion for urgent disposal will be starred and will require the appearance of counsel or other person having a right of audience. The procedural judge will wish to know parties' estimate of the duration of the hearing to determine the claiming motion.

50. In granting a motion for urgent disposal, a procedural judge may appoint the appeal to the Summar Roll for a hearing even if all parties are of the view that it should be heard in the Single Bills. Similarly, a procedural judge may direct that the appeal be heard in the Single Bills even if all parties take the view that it should be dealt with on the Summar Roll. Where a procedural judge grants the motion for urgent disposal, this will be reflected in the timetable that is issued and the timescales referred to in Table C to the Appendix to this Note will be adjusted accordingly.

51. Where a procedural judge has granted a motion for urgent disposal, rules 40.10 (objections to competency), 40.11 (timetable), 40.12 (sist or variation of timetable), 40.13 (failure to comply with timetable), and 40.14 (procedural hearing) will apply to the appeal only to the extent that the procedural judge so directs.

Rule 40.10: Objections to competency of appeal

52. This rule is similar in effect to rule 38.12 (objections to the competency of reclaiming). Again, the purpose of including provision for the lodging of a note of objection within a specified period of time is to ensure, as far as possible, that the parties focus on the competency of the appeal at as early a procedural stage as possible and before the timetable is issued.

Rule 40.11: Timetable in appeal from inferior court

53. This rule provides for the issue of a timetable and the fixing of a procedural hearing in an appeal from an inferior court. The rule is similar in effect to rule 38.13 (timetable in reclaiming motion). Table C in the Appendix to this Note incorporates the relevant periods which, as at the date of issuing this Practice Note, it is envisaged will be prescribed by the Lord President. Paragraphs 21 to 23 of these notes apply equally to appeals under Chapter 40, subject to the modification that, in that case, the reference in paragraph 21 to rule 38.11 and Table A should be read as references respectively to rule 40.9 and Table C, the references in paragraph 22 to rule 38.12 should be read as references to rule 40.10 and the reference in paragraph 23 to rule 38.15(1) should be read as a reference to rule 40.13(1).

Rule 40.12: Sist or variation of timetable in appeal from inferior court

54. This rule is similar to rule 38.13 (sist or variation of timetable in reclaiming motion). The points made at paragraphs 24 to 27 of these notes can be applied, with appropriate modification, to the operation of rule 40.12. In the context of this rule, special cause might arise, for example, in cases where there is a need for a party to obtain transcripts of evidence or to obtain legal aid, or where it is necessary to obtain a note from the inferior court.

Rule 40.13: Failure to comply with timetable in appeal from inferior court

55. The purpose of this rule is to provide for discipline to ensure effective supervision of the management of cases under the timetable.

Rule 40.14: Procedural hearing in appeal from inferior court

56. The points made at paragraphs 29 to 32 of this Practice Note apply, with appropriate modification, to procedural hearings in appeals dealt with under Chapter 40.

Rule 40.15: Appeals deemed abandoned

57. The rules on appeals deemed to be abandoned (rule 40.15) and on reponing against deemed abandonment (rule 40.16) are essentially unchanged from the equivalent rules which were in force immediately prior to 5th April 2010.

Rule 40.17: Amendment of pleadings in appeals

58. The Court will expect parties to give consideration at the earliest possible stage after the appeal has been marked as to whether or not it is necessary for a motion to be made to have the pleadings amended in terms of a minute of amendment and answers. Wherever possible, such a motion should be made before the procedural hearing so that a procedural judge can consider the matter.

Rule 40.18: Grounds of appeal

59. Wherever possible, parties should make any motions to amend grounds of appeal or answers, on cause shown, before the

procedural hearing so that a procedural judge can consider the matter. Where a motion is made for an amendment to the grounds or answers, the same motion should include any necessary motion for sifting and/or variation of the timetable under rule 40.12(1).

Rule 40.19: Lodging of appendices in appeals

60. The timing of the lodging of appendices is a matter which will be controlled by the timetable and, therefore, by the procedural judge. The appellant shall lodge an appendix to the reclaiming print unless intimation is given by the appellant that he or she does not consider it necessary to do so. If such intimation is given by the appellant, a respondent can make a motion to the procedural judge for an order requiring the appellant to lodge an appendix. Where such a motion is refused, a respondent can seek to lodge an appendix containing documents which the appellant has confirmed he or she does not intend to include in an appendix.

General

61. Parties are expected to arrange that counsel, or solicitors having rights of audience responsible for the conduct of the case, and authorised to take any necessary decision on questions of both substance and procedure, are available and appear at any hearing in the Inner House, including a procedural hearing and any other hearings before a procedural judge.

Notes of argument

62. One of the purposes of the timetable procedure in Inner House cases is that it should enable the procedural judge to ensure that parties produce detailed notes of argument at an early stage in the proceedings. It is intended that this should help the procedural judge to make an informed and realistic estimate of the time required for hearing each reclaiming motion, application or appeal, as the case may be. Where a note of argument has already been lodged and a party subsequently becomes aware that an argument included in the note will no longer be insisted upon, that party should inform the court of that fact at the earliest opportunity. The appropriate form of a note of argument will depend on the circumstances. It should however comply with the following general principles:

1. It should summarise the party's submissions in relation to each of the issues.
2. It should cite the main authorities relied on. It will be helpful if they are attached or set out in an accompanying folder.
3. Where transcripts of evidence or other documents are to be referred to, the note of argument should identify the relevant passages and provide an estimate of the time that the documents will take to read.
4. It should be as brief as the issues allow, and not normally more than 20 A4 pages (double-spaced).
5. It should be divided into numbered paragraphs and paged consecutively.
6. Formality should be avoided. Understandable abbreviations are acceptable.

Communication where causes are not to proceed

63. Parties are reminded that those involved in litigation have an obligation to take reasonable care to avoid situations where court time would be wasted. In cases where it becomes clear to a party or their legal advisers that there is doubt as to whether a reclaiming motion, application or appeal would proceed in the Inner House, that fact should immediately be communicated to the Keeper of the Rolls.
64. Practice Notes No. 7 of 1991 (reclaiming motions) and No. 1 of 1995 (early disposal of reclaiming motions and appeals) are hereby revoked.

A.C. HAMILTON
Lord

President

Edinburgh
9th March 2010

APPENDIX

TABLE A – RECLAIMING MOTIONS

Stage in proceedings	Date
Timetable issued and diet for procedural hearing allocated (rule 38.13(1)(a) and (b))	
Grounds of appeal to be lodged (rule 38.13(2)(a))	Within 28 days after issue of timetable
Any answers to grounds of appeal to be lodged (rule 38.13(2)(a))	Within 28 days after expiry of period for lodging grounds of appeal
Any appendices to be lodged (or intimation that no appendices are to be lodged) (rule 38.13(2)(b))	At least 7 days prior to procedural hearing
Notes of argument to be lodged (rule 38.13(2)(c))	At least 7 days prior to procedural hearing
Lodging of estimate of length of any hearing on the Summar Roll or in the Single Bills (rule 38.13(2)(d))	At least 7 days prior to procedural hearing

TABLE B – APPLICATIONS FOR A NEW TRIAL

Stage in proceedings	Date
Timetable issued and diet for procedural hearing allocated (rule 39.4(1)(a) and (b))	
Any appendices to be lodged (or intimation that no appendices are to be lodged) (rule 39.4(2)(a))	At least 7 days prior to procedural hearing
Any notes of argument to be lodged (rule 39.4(2)(b))	At least 7 days prior to the procedural hearing
Lodging of estimate of the length of any hearing required to dispose of the application (rule 39.4(2)(c))	At least 7 days prior to the procedural hearing

TABLE C – APPEALS FROM INFERIOR COURTS

Stage in proceedings	Date
Timetable issued and diet for procedural	

hearing allocated (rule 40.11(1)(a) and (b))	
Grounds of appeal to be lodged (rule 40.11(2)(d))	Within 28 days after issue of timetable
Any answers to grounds of appeal to be lodged (rule 40.11(2)(d))	Within 28 days after expiry of period for lodging grounds of appeal
Any appendices to be lodged (or intimation that no appendices are to be lodged) (rule 40.11(2)(e))	At least 7 days prior to procedural hearing
Notes of argument to be lodged (rule 40.11(2)(f))	At least 7 days prior to procedural hearing
Lodging of estimate of the length of any hearing on the Summar Roll or in the Single Bills (rule 40.11(2)(g))	At least 7 days prior to procedural hearing