



Court of Session Act 1988

1988 CHAPTER 36

PART V

APPEAL AND REVIEW

Review in jury actions

29 Application for new trial.

- (1) Any party who is dissatisfied with the verdict of the jury in any jury action may, subject to such conditions and in such manner as may be prescribed, apply to the Inner House for a new trial on the ground—
 - (a) of misdirection by the judge;
 - (b) of the undue admission or rejection of evidence;
 - (c) that the verdict is contrary to the evidence;
 - (d) of excess or inadequacy of damages; or
 - (e) of *res noviter veniens ad notitiam*;or on such other ground as is essential to the justice of the cause.
- (2) The Inner House on hearing an application under this section may, subject to section 30 of this Act and any act of sederunt, grant or refuse a new trial.
- (3) If the Court, on an application for a new trial on the ground that the verdict is contrary to the evidence, after hearing parties is unanimously of the opinion that the verdict under review is contrary to the evidence, and that it has before it all the evidence that could be reasonably expected to be obtained relevant to the cause, it may set aside the verdict and, in place of granting a new trial, may enter judgment for the party unsuccessful at the trial.

30 Restrictions on granting of application for new trial.

- (1) Where an application for a new trial is made on the ground of the undue admission of evidence, and the Court is of the opinion that the exclusion of that evidence could

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not have led to a different verdict than that actually returned, it shall refuse to grant a new trial.

- (2) Where an application for a new trial is made on the ground of the undue rejection of documentary evidence, and it appears to the Court from the documents themselves that they ought not to have affected the result at which the jury by their verdict have arrived, it may refuse to grant a new trial.
- (3) Where the Court, on an application for a new trial made to it, is of opinion that the only ground for granting a new trial is either excess of damages or such inadequacy of damages as to show that a new trial is essential to the justice of the cause, it may grant a new trial restricted to the question of the amount of damages only.
- (4) No verdict of a jury shall be discharged or set aside upon an application for a new trial, unless in conformity with the opinion of a majority of the judges hearing the application, and in case of equal division judgment shall be given in conformity with the verdict.

31 Verdict may be returned subject to opinion of Inner House on point reserved.

- (1) Where in a jury action the presiding judge has directed the jury upon any matter of law, any party against whom the verdict is returned may apply to the Inner House to enter the verdict for him.
- (2) The Inner House may, on an application made to it by a party under subsection (1) above—
 - (a) where it is of opinion that the direction of the presiding judge was erroneous and that the party making the application was truly entitled to the verdict in whole or in part, direct the verdict to be entered for that party in whole or in part, either absolutely or on such terms as it may think fit; or
 - (b) where it is of opinion that it is necessary, set aside the verdict and order a new trial; or
 - (c) refuse the application.

[^{F1}31A Power to provide for single judge of Inner House to determine leave or permission and assess grounds of appeal

- (1) The Court may by act of sederunt provide for any applications to the Court for leave or permission to appeal to the Inner House to be determined by a single judge of the Inner House.
- (2) The Court may by act of sederunt provide for—
 - (a) any appeal proceedings to be considered initially (and, where required, after leave or permission to appeal has been granted) by a single judge of the Inner House, and
 - (b) for the single judge to decide, by reference to whether the grounds of appeal or any of them are arguable—
 - (i) whether the appeal proceedings should be allowed to proceed in the Inner House, and
 - (ii) if so, on which grounds.
- (3) An act of sederunt under subsection (1) or (2)—
 - (a) must include provision—

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- (i) about the procedure to be followed in the proceedings before the single judge, including provision for the parties to be heard before the judge makes a decision,
 - (ii) for review, on the application of any party to the proceedings, of the decision of the single judge by a Division of the Inner House,
 - (iii) about the grounds on which the decision may be so reviewed,
 - (iv) about the procedure to be followed in such a review,
 - (v) about the matters that may be considered in such a review and the powers available to the Division on disposing of the review, and
 - (b) may make different provision in relation to different types of—
 - (i) applications for leave or permission,
 - (ii) appeal proceedings.
- (4) Subject to any provision made in an act of sederunt by virtue of subsection (3)(a)(ii) to (v), the decision of any single judge under an act of sederunt under subsection (1) or (2) is final.
- (5) Subsection (6) applies in appeal proceedings in which—
- (a) a single judge has granted leave or permission for the appeal by virtue of subsection (1), and
 - (b) the judge's decision is subject to review by a Division of the Inner House by virtue of subsection (3)(a)(ii).
- (6) Where this subsection applies, the reference in subsection (2)(a) to leave or permission to appeal having been granted is a reference to its having been confirmed following review by the Division of the Inner House.
- (7) In subsection (2)(a), “appeal proceedings” means proceedings on—
- (a) a reclaiming application under section 28 (reclaiming against decisions of a Lord Ordinary),
 - (b) an application under section 29 (application for a new trial),
 - (c) an application under section 31 (application to overturn jury verdict),
 - (d) an appeal from the Sheriff Appeal Court under section 113 of the Courts Reform (Scotland) Act 2014,
 - (e) an appeal from a sheriff principal under section 114 of that Act,
 - (f) any other appeal taken to the Court (whether under an enactment or otherwise).]

Textual Amendments

F1 S. 31A inserted (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), ss. 115, 138(2); S.S.I. 2015/77, art. 2(2)(3), sch.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 27(1A) added by [2024 asp 1 s. 7\(13\)](#)