
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 315

Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No. 4) (Simple Procedure) 2016

Citation and commencement, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No. 4) (Simple Procedure) 2016.

(2) It comes into force on 28th November 2016.

(3) A certified copy is to be inserted in the Books of Sederunt.

Amendment of the Rules of the Court of Session 1994

2.—(1) The Rules of the Court of Session 1994⁽¹⁾ are amended in accordance with this paragraph.

(2) In rule 1.3(1) (interpretation) after the definition of “send”, insert—

““simple procedure case” has the meaning given by section 72(9) of the Courts Reform (Scotland) Act 2014;”.

(3) In rule 40.7(2)(b)(iii) (procedure following transmission of appeal process)—

(a) omit “or a small claim under the Act of Sederunt (Small Claim Rules) 2002”;

(b) after “the stated case of the sheriff”, insert “, or in an appeal in a simple procedure case, the Decision Form and Appeal Report”.

Revocation and saving of the Small Claim Rules 2002

3.—(1) The Act of Sederunt (Small Claim Rules) 2002⁽²⁾ is revoked.

(2) Despite that revocation, the Small Claim Rules 2002 continue to apply to a small claim commenced before 28th November 2016.

(3) Despite the revocation of paragraph 3 of the Act of Sederunt (Small Claim Rules) 2002 (transitional provision), the law and practice in force immediately before 10th June 2002 continues to apply to a small claim commenced before that date.

Amendment of the Act of Sederunt (Summary Cause Rules) 2002

4.—(1) The Act of Sederunt (Summary Cause Rules) 2002⁽³⁾ is amended in accordance with this paragraph.

(2) In paragraph 2 (Summary Cause Rules), omit “other than a small claim”.

(3) In schedule 1 (Summary Cause Rules 2002)—

(1) The Rules of the Court of Session 1994 are in schedule 2 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443), last amended by S.S.I. 2016/312.

(2) The Small Claim Rules 2002 are in schedule 1 of the Act of Sederunt (Small Claim Rules) 2002 (S.S.I. 2002/133), last amended by S.S.I. 2016/194.

(3) The Summary Cause Rules 2002 are in schedule 1 to the Act of Sederunt (Summary Cause Rules) 2002 (S.S.I. 2002/132), last amended by S.S.I. 2016/229.

- (a) in rule 1.1 (citation, interpretation and application)—
 - (i) in paragraph (2), omit the definition of “small claim”;
 - (ii) omit paragraph (6);
- (b) in rule 16.2B (remits from ordinary cause or small claim to summary cause)—
 - (i) the heading becomes “Remits from ordinary cause to summary cause”;
 - (ii) omit “or small claim”;
 - (iii) in subparagraph (a), omit “in the case of an ordinary cause,”;
- (c) in appendix 2 (glossary)—
 - (i) in the term “remit between procedures”, for “e.g. small claim or” substitute “i.e.”;
 - (ii) after the term “sheriff officer”, insert—
 - “*Simple procedure*
 - Simple procedure is a court process designed to provide a speedy, inexpensive and informal way to resolve disputes.”;
 - (iii) omit the term “small claim”.

Amendment of the Rules for Applications in the Sheriff Court under the Debt Arrangement and Attachment (Scotland) Act 2002

5.—(1) The Rules for Applications in the Sheriff Court under the Debt Arrangement and Attachment (Scotland) Act 2002⁽⁴⁾ are amended in accordance with this paragraph.

- (2) In rule 1(2) (interpretation) at the end, insert—
 - ““simple procedure case” has the meaning given by section 72(9) of the Courts Reform (Scotland) Act 2014.”
- (3) After rule 6A (vulnerable witnesses), insert—

“Simple procedure

6AA.—(1) This rule applies to any application under these rules relating to or following from a simple procedure case.

(2) Any form may be adapted where required to fit the terminology or procedure in a simple procedure case.

(3) Where these rules require an application to be made by minute, that application must be made by Form 35 (debt arrangement and attachment application), and references to a minute include references to that form.

(4) References to a certified copy of an interlocutor mean a certified copy of an order of the sheriff.”

- (4) In appendix 1 (forms) at the end, insert the form set out in schedule 1 of this Act of Sederunt.
- (5) In appendix 2 (glossary)—
 - (a) omit the term “hearing date”;
 - (b) in the term “incidental application”, omit “a small claim or”;
 - (c) in the term “motion”, omit “small claim or”;
 - (d) in the term “remit between procedures”, omit “either the small claim or”;

(4) The Rules for Applications in the Sheriff Court under the Debt Arrangement and Attachment (Scotland) Act 2002 are in Schedule 1 to the Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) 2002 (S.S.I. 2002/560), last amended by S.S.I. 2015/419.

- (e) in the term “return day”, omit “small claim or”;
- (f) after the term “sheriff officer”, insert—
 - “*Simple procedure*
 - Simple procedure is a court process designed to provide a speedy, inexpensive and informal way to resolve disputes.”;
- (g) omit the term “small claim”;
- (h) in the term “summary cause”, for “usually having a higher value than a small claim and” substitute “(other than simple procedure cases), with”;
- (i) in the term “summons”, omit “small claim or”;
- (j) in the term “writ”, omit “a small claim or”.

Amendment of the Act of Sederunt (Sheriff Appeal Court Rules) 2015

6.—(1) The Act of Sederunt (Sheriff Appeal Court Rules) 2015⁽⁵⁾ is amended in accordance with this paragraph.

- (2) In chapter 29 (appeals from summary causes and small claims)—
 - (a) the heading of the chapter becomes “Appeals from summary causes”;
 - (b) in rule 29.1(1) omit subparagraph (b);
 - (c) in rule 29.3(1)—
 - (i) omit “or rule 23.4(4) of the Small Claim Rules 2002”;
 - (ii) in subparagraph (a), omit “or form 23 of the Small Claim Rules 2002”.
- (3) In paragraph 1(3)(h) of schedule 1, omit “and small claims”.

Amendment of the Act of Sederunt (Simple Procedure) 2016

7.—(1) The Act of Sederunt (Simple Procedure) 2016⁽⁶⁾ is amended in accordance with this paragraph.

- (2) In paragraph 3(1) (interpretation of the Simple Procedure Rules)—
 - (a) in the definition of “a case where the expenses of a claim are capped”, omit subparagraph (b);
 - (b) for “a decision absolving the responding party” substitute “a decision which absolves the respondent”;
 - (c) for “a decision ordering the responding party to deliver something to the claimant” substitute “a decision which orders the respondent to deliver something to the claimant”;
 - (d) for “a decision ordering the responding party to do something for the claimant” substitute “a decision which orders the respondent to do something for the claimant”;
 - (e) in the definition of “child’s property administration order” for “11(1)” substitute “11(1)(d)”;
 - (f) for “restart a case” substitute “restart the case”.
- (3) In schedule 1 (the simple procedure rules)—
 - (a) in rule 1.8(12), for “part of claim” substitute “part of a claim”;
 - (b) in rule 5.6(2), for “order” substitute “an order”;

⁽⁵⁾ S.S.I. 2015/356, last amended by S.S.I. 2016/312.

⁽⁶⁾ S.S.I. 2016/200.

- (c) in rule 6.5(1)—
 - (i) for “4” substitute “5”;
 - (ii) after subparagraph (d) insert—
 - “(e) delivering it to a document exchange of which that party or that party’s representative is a member.”;
- (d) in rule 6.6(1)—
 - (i) for “three” substitute “4”;
 - (ii) after subparagraph (c) insert—
 - “(d) delivering it to a document exchange of which the sheriff clerk is a member.”;
- (e) in rule 6.7(1)—
 - (i) for “three” substitute “4”;
 - (ii) in after subparagraph (c) insert—
 - “(d) delivering it to a document exchange of which that party or that party’s representative is a member.”;
- (f) in rule 7.5(4), for “From” substitute “Form”;
- (g) in rule 9.8(5)(c), for “(See Part 15)” substitute “(See Part 14)”;
- (h) in rule 9.10(2), for “send” where it second occurs substitute “sent”;
- (i) for the heading to rule 10.9 substitute “What happens if an order to recover documents has not been complied with?”;
- (j) in rule 10.11(1) for “that” substitute “if”;
- (k) in rule 10.11(3) for “court” where it second appears substitute “commissioner”;
- (l) in rule 10.11(5)(c) for “court” where it first appears substitute “commissioner”;
- (m) omit rule 11.3(3);
- (n) for rule 11.7(3) substitute—
 - “(3) When a Special Measures Review Application is received, the sheriff may do one of 5 things:
 - (a) vary a special measure,
 - (b) add a new special measure,
 - (c) substitute a new special measure for an existing one,
 - (d) delete a special measure, or
 - (e) revoke the order authorising the use of special measures entirely.”
- (o) after rule 12.3(4), insert—
 - “(5) But the sheriff must not continue a hearing to another day solely because a witness did not appear.”;
- (p) in rule 13.5(1)(a), for “rule 7.2(2)” substitute “rule 7.2(4)”;
- (q) in rule 15.4, paragraphs (5) and (6) are renumbered paragraphs (4) and (5) respectively;
- (r) in renumbered rule 15.4(4) for “sheriff officer” substitute “person”;
- (s) in rule 15.5(4), omit “and any objection that may have been sent.”;
- (t) in rule 16.3(8), after “sign” insert “or authenticate electronically”;
- (u) after rule 16.4(7), insert—

“(8) Parts 2, 4, 5 and 6 of the Act of Sederunt (Sheriff Appeal Court Rules) 2015 apply to the appeal.”

- (v) in rule 18.2(c) for “6.10(2)” substitute “6.11(2)”;
- (w) in rule 19.3(8), for “signed” substitute “completed”;
- (x) in rule 19.4(10), for “sign” substitute “complete”;
- (y) in rule 19.4(13), for “signed” substitute “completed”;
- (z) in rule 19.5(10), for “sign” substitute “complete”;
- (aa) in rule 19.5(13), for “signed” substitute “completed”;
- (bb) in rule 19.5(14), for “Confirmation of Service” substitute “Confirmation of Formal Service”;
- (cc) in rule 19.6(4), for “sign” substitute “complete”;
- (dd) in rule 19.7(8), for “sign” substitute “complete”;
- (ee) in rule 19.7(11), for “signed” substitute “completed”;
- (ff) in rule 19.7(16) omit “Notice”;
- (gg) for rule 20.3 substitute—

“20.3 What happens when the court receives a Provisional Orders Application?”

- (1) The next steps depend on whether the claimant has asked the court to grant the Provisional Orders Application with or without holding a hearing.
- (2) If the claimant has asked the court to hold a hearing, before deciding whether to grant the Provisional Orders Application, the sheriff must—
 - (a) send the claimant notice of when and where the hearing is to be held, and
 - (b) order the claimant to tell the respondent and any interested person when and where it is to be held.
- (3) If the claimant has asked the court to grant the Provisional Orders Application without holding a hearing, the sheriff may do one of 3 things:
 - (a) grant the Provisional Orders Application and send the claimant written orders containing the provisional orders,
 - (b) refuse to grant the Provisional Orders Application without holding a hearing and send the claimant notice of when and where the hearing is to be held, or
 - (c) where the claimant has indicated in Form 20A that they do not want the court to arrange a hearing under paragraph (3)(b), refuse the Provisional Orders Application.
- (4) Where the sheriff grants the Provisional Orders Application without holding a hearing, the sheriff must also fix a provisional orders review hearing and order the claimant to tell the respondent and any interested person when and where it is to be held.
- (5) If the sheriff refuses to grant the Provisional Orders Application without holding a hearing, the sheriff must also order the claimant to send the respondent and any interested person notice of when and where the hearing is to be held.”;

(hh) in rule 20.7(2), for “rule 20.6” substitute “rule 20.8”.

- (4) In schedule 2 (forms)—

- (a) in Form 3A (Claim Form) in section D7, for “the respondent have kept” substitute “the respondent has kept”;
- (b) in Form 3C (Further Respondent Form)—
 - (i) part C becomes part B;
 - (ii) in the renamed section B3—
 - (aa) for “please complete C3” substitute “please complete B4”;
 - (bb) for “please complete C4” substitute “please complete B5”;
- (c) for Form 4A (Response Form), substitute the form set out in schedule 2 of this Act of Sederunt;
- (d) in Form 5A (Time to Pay Application)—
 - (i) in the introduction, for “pursuer” in both places it appears, substitute “claimant”;
 - (ii) in section B5, for “Are you apply” substitute “Are you applying”;
- (e) in Form 5B (Time to Pay Notice)—
 - (i) for “within 14 days of the date above” substitute “within 2 weeks after the Time to Pay Application is sent”;
 - (ii) the second section B1 is renumbered section C1;
- (f) for Form 6B (Service by Advertisement Application), substitute the form set out in schedule 3 of this Act of Sederunt;
- (g) in Form 6C (Confirmation of Formal Service) in part A, for “Representative” substitute “Respondent”;
- (h) in Form 7A (Application for a Decision)—
 - (i) in part A, for “Representative” substitute “Respondent”;
 - (ii) in part C, the heading becomes “ABOUT THE APPLICATION”;
- (i) in Form 8A (Order of the Sheriff), for “Court ref no” substitute “Case reference number”;
- (j) in Form 9A (Application to Pause) in the introduction, for “You must send fill in” substitute “You must fill in”;
- (k) in Form 9B (Application to Restart) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
- (l) in Form 9C (Additional Respondent Application) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
- (m) in Form 9D (Application to Amend) in part A, for “Representative” substitute “Respondent”;
- (n) in Form 9E (Abandonment Notice)—
 - (i) in the introduction, for “Abandonment” substitute “Abandonment”;
 - (ii) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
- (o) in Form 9G (Incidental Orders Application)—
 - (i) in the introduction, after “9.10” insert “and rule 20.6”;
 - (ii) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
 - (iii) in section B2, after “party” insert “or interested person”;
 - (iv) in section B2, at the end insert an entry for “Interested Party”;

- (v) the section after section C2 is numbered section C3;
- (p) in Form 10B (Recovery of Documents Application) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
- (q) in Form 10C (Application to Open Confidential Document)—
 - (i) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
 - (ii) in section C1, for “Include the date on which the envelope was sent the court and who sent it” substitute “Include the date on which the envelope was sent to the court and who sent it”;
 - (iii) sections C3 and C4 are renumbered sections C2 and C3 respectively;
 - (iv) the second section D3 is renumbered section D4;
- (r) in Form 10D (Special Recovery of Documents Application)—
 - (i) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
 - (ii) the second section C4 is renumbered section C5;
 - (iii) the second section D3 is renumbered section D4;
- (s) in Form 11B (Witness Citation Notice) in the introduction, omit “on the above date”;
- (t) in Form 11C (Child Witness Notice)—
 - (i) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
 - (ii) the second section C3 is renumbered section C4;
 - (iii) sections C4 and C5 are renumbered sections C5 and C6 respectively;
- (u) in Form 11D (Vulnerable Witness Application) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
- (v) in Form 11E (Special Measures Review Application) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
- (w) in Form 15A (Charge to Pay)—
 - (i) in section B for “sheriff officer” substitute “sheriff officer/solicitor”;
 - (ii) in section B omit the entry for “Witness”
 - (iii) in section C for “You must comply with this decision the period set out below or there may be enforcement action taken against you and your property” substitute “You must comply with this decision within the period set out below or there may be enforcement action taken against you and your property”;
- (x) in Form 15B (Alternative Decision Application) in the introduction, for “You must send” to “sent to the claimant.”, substitute “You must fill in Parts A, B and C of this application and send it to the court.”;
- (y) in Form 17C (Invitation to Intervene) in the introduction, for “Scottish Human Rights Commission” substitute “Scottish Commission for Human Rights”;
- (z) in Form 17D (Application to Change a Damages Management Order)—
 - (i) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
 - (ii) sections C3 and C4 are renumbered sections C2 and C3 respectively;
- (aa) in Form 17E (Application for Instructions about a Damages Management Order)—

- (i) in the introduction after “whether to give”, insert “instructions”;
 - (ii) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
 - (iii) sections C3 and C4 are renumbered section C2 and C3 respectively;
 - (bb) in Form 17F (Application for a Child’s Property Administration Order)—
 - (i) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
 - (ii) sections C3 and C4 are renumbered section C2 and C3 respectively;
 - (cc) in Form 19B (Method of Service Abroad Certificate) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
 - (dd) in Form 20C (Provisional Orders Reconsideration Application) in section B1, at the end insert an entry for “Trading name or representative capacity (if any)”;
 - (ee) in Form 20D (Arrestment Notice)—
 - (i) in the first part D, for “Date of formal service” substitute “Date and time of formal service”;
 - (ii) the second part D becomes part E;
 - (ff) in Form 20E (Confirmation of Formal Service of Arrestment Notice) in section C2—
 - (i) omit the entry for “By a next-day postal service which records delivery”;
 - (ii) omit the entry for “Other”;
 - (iii) omit “have selected “Other” or”.
- (5) For schedule 3 (standard orders) substitute the standard orders set out in schedule 4 of this Act of Sederunt.

Saving provisions

- 8.—**(1) The amendments made by the following paragraphs of this Act of Sederunt do not apply to a small claim commenced before 28th November 2016—
- (a) paragraph 2(3);
 - (b) paragraph 4(3)(a) and (b);
 - (c) paragraph 6(2).

Edinburgh
11th October 2016

CJM SUTHERLAND
Lord President
I.P.D.