
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 191

Act of Sederunt (Simple Procedure Amendment) (Miscellaneous) 2018

Citation and commencement, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Simple Procedure Amendment) (Miscellaneous) 2018.

(2) It comes into force on 30th July 2018.

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

Amendment of the Act of Sederunt (Simple Procedure) 2016

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

(2) In schedule 1 (the simple procedure rules)—

(a) in rule 2.4(1), for “or the Response Form” substitute “, Response Form or Time to Pay Application”;

(b) for rule 3.12(1), for “send a Response Form to the court and to the claimant” substitute “respond to the claim (see rule 4.2)”;

(c) for rule 4.2, substitute—

“4.2 How do you respond to a claim?”

(1) The respondent must respond to the claim by the last date for a response.

(2) The respondent may respond to a claim in one of two ways:

(a) by completing a Response Form and sending it to the court and the claimant, or

(b) if the respondent wants to admit the claim and ask for time to pay, by completing a Time to Pay Application and sending it to the court.”;

(d) in rule 4.3(3)(2), in the flow-chart—

(i) omit “Select option C2 on the Response Form.”;

(ii) omit “also”;

(iii) omit “with the completed Response Form”;

(iv) for “C3” substitute “C2”;

(e) in rule 5.3(1)(a), for “with the completed Response Form” substitute “by the last date for a response”;

(f) in rule 6.5(1)(3)—

(1) [S.S.I. 2016/200](#), last amended by [S.S.I. 2017/154](#).

(2) Rule 4.3(3) was substituted by [S.S.I. 2017/154](#).

(3) Rule 6.5(1) was amended by [S.S.I. 2016/315](#).

- (i) in sub-paragraph (c), for “or Response Form” substitute “, Response Form or Time to Pay Application”;
- (ii) in sub-paragraph (d), after “that party” insert “or that party’s representative”;
- (g) in rule 6.7(1)(4)—
 - (i) in sub-paragraph (b), for “or Response Form” substitute “, Response Form or Time to Pay Application”;
 - (ii) in sub-paragraph (c), after “that party” insert “or that party’s representative”;
- (h) in rule 7.1(1), for “is received” substitute “or Time to Pay Application is received by the last date for a response”;
- (i) in rule 7.2(1), for “From” substitute “Form”;
- (j) in rule 7.4—
 - (i) in the cross-heading, after “**no Response Form**” insert “**or Time to Pay Application**”;
 - (ii) in paragraph (1), after “no Response Form” insert “or Time to Pay Application”;
- (k) for rule 13.5(1)(5), substitute—
 - “(1) A party may apply to have a decision of the sheriff recalled in 5 situations:
 - (a) where the sheriff dismissed a claim because the claimant did not send the court an Application for a Decision within 2 weeks from the last date for a response,
 - (b) where the sheriff made a decision because the respondent did not send the court a Response Form or Time to Pay Application by the last date for a response,
 - (c) where the sheriff dismissed a claim because the claimant did not attend a discussion or hearing,
 - (d) where the sheriff has made a decision because the respondent did not attend a discussion or hearing, and
 - (e) where the sheriff dismissed a claim because neither party attended a discussion or hearing.”;
- (l) for rule 13.6, substitute—

“13.6 How can a party apply to have a decision of the sheriff recalled?”

- (1) A party may apply to have a decision of the sheriff recalled by completing an Application to Recall and sending it to the court.
- (2) If the sheriff made a decision following an Application for a Decision and the respondent wants to dispute the claim or part of the claim, the respondent must include a completed Response Form with the Application to Recall.
- (3) The sheriff clerk will check whether the Application to Recall is the first Application to Recall in the case by the party making the application.
- (4) If it is the first Application to Recall by that party, the sheriff must send the parties an order arranging a discussion in court at which the sheriff will consider whether to recall the decision.
- (5) The party making the application must send a copy of the Application to Recall and any Response Form to the other party at least 5 days before the date of the discussion in court.”;

(4) Rule 6.7(1) was amended by [S.S.I. 2016/315](#).

(5) Rule 13.5(1) was amended by [S.S.I. 2016/315](#).

- (m) for rule 15.2(3), substitute—
 - “(3) A party who is sent an order arranging a discussion in court at which the sheriff will consider an Application to Recall must not enforce a decision until the sheriff has decided whether to recall the decision.”;
 - (n) after rule 15.3(7)(6), insert—
 - “(8) Where the Charge is formally served, the sheriff officer is not required to send a Confirmation of Formal Service to the court.”;
 - (o) in rule 21.1(1), in the meaning corresponding to the word or expression “last date for a response”, for “send a Response Form to the court and to the claimant” substitute “respond to the claim by sending a Response Form to the court and to the claimant, or respond to the claim by sending a Time to Pay Application to the court”.
- (3) In schedule 2 (forms)—
- (a) in Form 2A (lay representation form), in the introduction, for “or the Response Form” substitute “, Response Form or Time to Pay Application”;
 - (b) in Form 3A (claim form)(7), in section A5—
 - (i) for “responding party” substitute “respondent”;
 - (ii) for “Email” substitute “Online”;
 - (c) in Form 3D (timetable), in section C, for “send a Response Form to the court and to the claimant” substitute “do one of two things: (a) send a Response Form to the court and to the claimant, or (b) if the respondent wants to admit the claim and ask for time to pay, send a Time to Pay Application to the court”;
 - (d) for Form 4A (response form)(8) substitute Form 4A set out in schedule 1 of this Act of Sederunt;
 - (e) for Form 5A (time to pay application)(9) substitute Form 5A set out in schedule 2 of this Act of Sederunt;
 - (f) in Form 5B (time to pay notice)(10)—
 - (i) in the introduction—
 - (aa) for “after the Time to Pay Application is sent” substitute “of it being sent to you”;
 - (bb) for “dismiss your claim” substitute “decide whether to grant the application without hearing from you”;
 - (ii) in section A, for “Date of notice” substitute “Date notice sent”;
 - (g) in Form 6A (notice of claim)(11), in section B—
 - (i) for “, if you want to dispute the claim, you must send a completed Response Form to the court and to the claimant” substitute “you must do one of two things: (a) send a Response Form to the court and the claimant, or (b) if you want to admit the claim and ask for time to pay, send a Time to Pay Application to the court”;
 - (ii) after “how to complete the Response Form” insert “or Time to Pay Application,”;
 - (h) in Form 7A (application for a decision)(12)—

(6) Rule 15.3(7) was inserted by [S.S.I. 2017/154](#).

(7) Form 3A was amended by [S.S.I. 2016/315](#).

(8) Form 4A was substituted by [S.S.I. 2017/154](#).

(9) Form 5A was amended by [S.S.I. 2016/315](#) and [S.S.I. 2017/154](#).

(10) Form 5B was amended by [S.S.I. 2016/315](#).

(11) Form 6A was substituted by [S.S.I. 2017/154](#).

(12) Form 7A was amended by [S.S.I. 2016/315](#).

- (i) in the introduction—
 - (aa) for “responding party” substitute “respondent”;
 - (bb) after “a Response Form” insert “or Time to Pay Application”;
- (ii) in section C, after “Response Form” insert “or Time to Pay Application”;
- (i) for Form 13B (application to recall) substitute Form 13B set out in schedule 3 of this Act of Sederunt.
- (4) In schedule 3 (standard orders)(**13**)—
 - (a) in standard order SO1, for “conference” in both places where it occurs substitute “discussion”;
 - (b) after standard order SO12 insert standard order SO13 set out in schedule 4 of this Act of Sederunt.

Saving

3. The amendments made by the following paragraphs of this Act of Sederunt do not apply in a simple procedure case to a decision made before 30th July 2018—

- (a) paragraph 2(2)(k), (l) and (m);
- (b) paragraph 2(3)(i);
- (c) paragraph 2(4)(b).

Edinburgh
12th June 2018

CJM SUTHERLAND
Lord President
I.P.D.