

1990 No. 2105 (S.183)

SHERIFF COURT, SCOTLAND

Act of Sederunt (Amendment of Sheriff Court Ordinary Cause, Summary Cause, and Small Claim, Rules) (No.2) 1990

Made 12th October 1990

Coming into force 5th November 1990

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 32 of the Sheriff Courts (Scotland) Act 1971(a) and of all other powers enabling them in that behalf, having approved, with modifications, draft rules submitted to them by the Sheriff Court Rules Council under section 34 of that Act, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Amendment of Sheriff Court Ordinary Cause, Summary Cause, and Small Claim, Rules) (No.2) 1990 and shall come into force on 5th November 1990.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Amendment of Ordinary Cause Rules

2. The Ordinary Cause Rules of the sheriff court(b) shall be amended as follows:—

(a) for rule 28, substitute the following rule:—

“Reponing

28.—(1) In any action (other than an action of divorce or of separation), the defender may apply to be reponed by lodging with the sheriff clerk, before implement in full of a decree in absence, a note setting forth his proposed defence and explaining his failure to appear.

(2) A copy of the note lodged under paragraph (1) shall be served on the pursuer.

(3) The sheriff may, following consideration of the note, recall the decree so far as not implemented subject to such order as to expenses as seems to him just; and the cause shall thereafter proceed in all respects as if the defender had appeared.

(4) A reponing note, when duly lodged and served upon the pursuer, shall have effect to sist diligence.

(5) Any interlocutor or order recalling, or incidental to the recall of, a decree in absence shall be final and not subject to review.”; and

(b) Rules 29 to 32 shall be omitted.

(a) 1971 c.58.

(b) 1907 c.51—First Schedule substituted by S.I. 1983/747 (relevant amending instruments are S.I. 1984/255 and 1986/1230).

Amendment of Summary Cause Rules

3. Rule 19 of the Summary Cause Rules of the sheriff court(a) shall be amended as follows:-

(a) for paragraph (2), substitute the following paragraph:-

“(2) On the lodging of a minute, the sheriff clerk shall fix a date, time and place for a hearing. Not less than 7 days before the hearing the minuter shall serve upon the other party a copy of the minute and intimate to him the date, time and place of the hearing.”; and

(b) paragraph (4) shall be omitted.

Amendment of Small Claim Rules

4. In rule 27 of the Small Claim Rules(b), omit paragraphs (5) and (9).

Edinburgh,
12th October 1990

J.A.D. Hope
Lord President,
IPD

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt amends the Ordinary Cause, Summary Cause, and Small Claim, Rules by removing the requirement to lodge a sum of money with the court on applying to be reponed or to recall a decree.

(a) S.I. 1976/476; relevant amending instruments are S.I. 1983/747, 1986/1966 and 1989/436.

(b) S.I. 1988/1976.

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