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SCHEDULE 1

Paragraph 3(25).

“FORM E1 Form of reference to the European Court

Rule 38.3(1A)

REQUEST

for

PRELIMINARY RULING

of

THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

from

THE SHERIFFDOM OF *(insert name of sheriffdom)* at *(insert place of court)*

in the cause

[A.B.] *(insert designation and address),*

Pursuer

against

[C.D.] *(insert designation and address),*

Defender

[Here set out a clear and succinct statement of the case giving rise to the request for the ruling of the European Court in order to enable the European Court to consider and understand the issues of Community law raised and to enable governments of Member States and other interested parties to submit observations. The statement of the case should include:

- (a) particulars of the parties;*
- (b) the history of the dispute between the parties;*
- (c) the history of the proceedings;*
- (d) the relevant facts as agreed by the parties or found by the court or, failing such agreement or finding, the contentions of the parties on such facts;*
- (e) the nature of the issues of law and fact between the parties;*
- (f) the Scots law, so far as relevant;*
- (g) the Treaty provisions or other acts, instruments or rules of Community law concerned;*
and
- (h) an explanation of why the reference is being made.]*

The preliminary ruling of the Court of Justice of the European Communities is accordingly requested on the following questions:

1, 2, etc. *[Here set out the question on which the ruling is sought, identifying the Treaty provisions or other acts, instruments or rules of Community law concerned.]*

Dated the day of 20 .

FORM F26 Form of notice of intention to defend in family action NOTICE OF INTENTION TO DEFEND

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Rules 33.11(1) and 33.34(2)(a)

PART A

PART A

(This section to be completed by the pursuer's solicitor before service.)

Court ref. No.

In an action brought in Sheriff Court

[Insert name and business address of solicitor for the pursuer]

.....
.....
.....

Pursuer

.....
.....

Defender

Date of service:

Date of expiry of period of notice

PART B

(This section to be completed by the defender or defender's solicitor, and both parts of the form to be returned to the Sheriff Clerk at the above Sheriff Court on or before the date of expiry of the period of notice referred to in Part A above.)

(Insert place and date)

[C.D.] *(Insert designation and address)*, Defender, intends to

- (a) challenge the jurisdiction of the court;
- (b) oppose a crave in the initial writ;
- (c) make a claim;
- (d) seek an order;

in the action against him [or her] raised by [A.B.], *(insert designation and address)*, Pursuer.

PART C

(This section to be completed by the defender or the defender's solicitor where an order under section 11 of the Children (Scotland) Act 1995 in respect of a child is sought by the pursuer or is to be sought by the defender).

DO YOU WISH TO OPPOSE THE MAKING OF ANY ORDER CRAVED BY THE PURSUER IN RESPECT OF A CHILD?

YES/NO*

*delete as appropriate

If you answered YES to the above question, please state here the order(s) which you wish to oppose and the reasons why the court should not make such order(s).

DO YOU WISH THE COURT TO MAKE ANY ORDER UNDER SECTION 11 OF THE CHILDREN (SCOTLAND) ACT 1995 IN RESPECT OF A CHILD?

YES/NO*

*delete as appropriate

If you answered YES to the above question, please state here the order(s) which you wish the court to make and the reasons why the court should make such order(s).

PART D

IF YOU HAVE COMPLETED PART C OF THIS FORM YOU MUST INCLUDE EITHER CRAVE (1) OR (2) BELOW (*delete as appropriate)

(1)*Warrant for intimation of notice in terms of Form F9 on the child(ren) (*insert full name(s) and date(s) of birth*) is sought.

(2)*I seek to dispense with intimation on the child(ren) (*insert full name(s) and date(s) of birth*) for the following reasons:–

Signed

[C.D.] Defender

or [X.Y.] (*add designation and business address*)

Solicitor for Defender

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FORM F41 Form of intimation to parties of a Child Welfare Hearing

Rule 33.22A(2)

Sheriff Court (*insert address and telephone number*)

Court Ref No:

In the action [A.B.], (*design*), Pursuer against [C.D.], (*design*), Defender

YOU ARE GIVEN NOTICE that a Child Welfare Hearing has been fixed for (*insert time*) on (*insert date*) at (*insert place*).

Date (*insert date*) Signed

Sheriff Clerk (Depute)

NOTE

Please note that in terms of Rule 33.22A(5) parties to the action must attend personally

***IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE** you should consult a solicitor. You may be eligible for legal aid depending on your financial circumstances, and you can get information about legal aid from a solicitor. You may also obtain information from any Citizens' Advice Bureau or other advice agency.

*This section to be deleted where service is to be made on a solicitor.

FORM G13 Form of citation of witness or haver

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Rules 28.4(4) and 29.7(4)

CITATION

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

To [K.L.] *(design)*

You are required to attend the above sheriff court on *(insert date)* at *(insert time)* as a witness for the pursuer [*or* defender] in the action by [A.B.] *(design)*, Pursuer, against [C.D.] *(design)*, Defender, [and to bring with you *(specify documents)*].

If you fail to attend, warrant may be granted for your arrest.

Date *(insert date)*

Signed

[P.Q.], Sheriff Officer,

or [X.Y.], *(add designation and business address)*

Solicitor for the pursuer [*or* defender]

NOTE

Claims for necessary outlays and loss of earnings within certain specified limits will be paid. Claims should be made to the person who has cited you to attend court. Proof of any loss of earnings should be given to that person.

If you wish your travelling expenses to be paid prior to your attendance you should apply for payment to the person who has cited you.

If you fail to attend without reasonable cause, having requested and been paid your travelling expenses, you may be ordered to pay a penalty not exceeding £250.

FORM H5Form of citation of unnamed occupiers

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Rule 34.11(4)

CITATION

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

[A.B.] *(insert designation and address)*

Pursuer

against

The Occupier[s] of *(address)*

Defender

An action has been brought in the above Sheriff Court by [A.B.]. [A.B.] calls as a defender the occupier[s] of the property at *(insert address)*. If the occupier[s] *[or any of them]* wish[es] to challenge the jurisdiction of the court or to defend the action, he *[or she [or it] [or they]]* should contact the sheriff clerk at *(insert address of sheriff court)* immediately and in any event by *(date on which period of notice expires)*.

Signed

Sheriff *[or Sheriff Clerk]*

FORM 04Form of Citation

Rule 5.2(1)

CITATION

SHERIFFDOM OF *(insert name of Sheriffdom)*

AT *(insert place of sheriff court)*

[A.B.], *(insert designation and address)* Pursuer, against [C.D.], *(insert designation and address)*,
Defender

Court Ref No:

(Insert place and date). You [C.D.], are hereby served with this copy writ and warrant, with Form 07 (notice of intention to defend).

Form 07 is served on you for use should you wish to intimate an intention to defend this action.

IF YOU WISH TO DEFEND THIS ACTION you should consult a solicitor with a view to lodging a notice of intention to defend (Form 07). The notice of intention to defend, together with the court fee of £*(insert amount)* must be lodged with the Sheriff Clerk at the above address within 21 days *(or insert the appropriate period of notice)* of *(insert the date on which service was executed)*. NB Rule 5.3(2) relating to postal service).

A copy of any notice of intention to defend should be sent to the Solicitor for the pursuer at the same time as your notice of intention to defend is lodged with the Sheriff Clerk.

IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE you should consult a solicitor. You may be eligible for legal aid depending on your income, and you can get information about legal aid from a solicitor. You may also obtain advice from any Citizens' Advice Bureau or other advice agency.

PLEASE NOTE THAT IF YOU DO NOTHING IN ANSWER TO THIS DOCUMENT the court may regard you as admitting the claim made against you and the pursuer may obtain decree against you in your absence.

Signed

[P.Q.], Sheriff Officer

or [X.Y.] *(add designation and business address)*

Solicitor for the Pursuer

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FORM 05 Form of citation where time to pay direction may be applied for

CITATION

SHERIFFDOM OF *(insert name of Sheriffdom)*

AT *(insert place of Sheriff Court)*

[A.B.], *(insert designation and address)* Pursuer against [C.D.], *(insert designation and address)*

Defender

Court Ref No:

(insert place and date). You [C.D.], are hereby served with this copy writ and warrant, together with the following forms–

Form 03 (application for time to pay direction); and

Form 07 (notice of intention to defend).

Form 03 is served on you because it is considered that you may be entitled to apply for a time to pay direction [and for the recall or restriction of an arrestment used on the dependence of the action or in security of the debt referred to in the copy writ]. See Form 03 for further details.

IF YOU ADMIT THE CLAIM AND WISH TO APPLY FOR A TIME TO PAY DIRECTION, you must complete Form 03 and return it to the Sheriff Clerk at *(insert address)* within 21 days *(or insert the appropriate period of notice)* of *(insert the date on which service was executed)*. NB Rule 5.3(2) relating to postal service).

IF YOU ADMIT THE CLAIM AND WISH TO AVOID A COURT ORDER BEING MADE AGAINST YOU, the whole sum claimed including interest and any expense due should be paid to the pursuer or his solicitor in good time before the expiry of the period of notice.

Form 07 is served on you for use should you wish to intimate an intention to defend the action.

IF YOU WISH TO DEFEND THIS ACTION you should consult a solicitor with a view to lodging a notice of intention to defend (Form 07). The notice of intention to defend, together with the court fee of £*(insert amount)* must be lodged with the Sheriff Clerk at the above address within 21 days *(or insert the appropriate period of notice)* of *(insert the date on which service was executed)*. NB Rule 5.3(2) relating to postal service).

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A copy of any notice of intention to defend should be sent to the Solicitor for the pursuer at the same time as your notice of intention to defend is lodged with the Sheriff Clerk.

IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE you should consult a solicitor. You may be eligible for legal aid depending on your income, and you can get information about legal aid from a solicitor. You may also obtain advice from any Citizens Advice Bureau or other advice agency.

PLEASE NOTE THAT IF YOU DO NOTHING IN ANSWER TO THIS DOCUMENT the court may regard you as admitting the claim made against you and the pursuer may obtain decree against you in your absence.

Signed
[P.Q.], Sheriff Officer
or [X.Y.], (*add designation and business address*)
Solicitor for the Pursuer

FORM 07Form of notice of intention to defend

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Rules 5.2(1) and 9.1(1)

NOTICE OF INTENTION TO DEFEND

in an action raised at Sheriff Court

*PART A

Court Ref No

(Insert name and business address of solicitor for the Pursuer)

Pursuer

Defender

Solicitor for the Pursuer

*(This section to be completed by the Pursuer before service)

Date of service:

Date of expiry of period of notice:

PART B

(This section to be completed by the defender or defender’s solicitors, and both parts of this form to be returned to the Sheriff Clerk (*insert address of Sheriff Clerk*) on or before the date of expiry of the period of notice referred to in PART A above. At the same time a copy of the form should be sent to the Solicitor for the Pursuer).

(Insert place and date)

[C.D.], (*insert designation and address*), Defender, intends to defend the action raised by [A.B.], (*insert designation and address*), Pursuer, against him (and others).

Signed
[C.D.], Defender
or [X.Y.], (add designation and business address)
Solicitor for the defender