
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 135

**Act of Sederunt (Sheriff Court Rules)
(Miscellaneous Amendments) 2013**

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) 2013 and comes into force on 27th May 2013.

(2) A certified copy of this Act of Sederunt is to be inserted in the Books of Sederunt.

(3) In this Act of Sederunt—

“1997 Act of Sederunt” means the Act of Sederunt (Child Care and Maintenance Rules) 1997(1);

“Ordinary Cause Rules” means the Ordinary Cause Rules in Schedule 1 to the Sheriff Courts (Scotland) Act 1907(2);

“Small Claim Rules” means the Small Claim Rules in Schedule 1 to the Act of Sederunt (Small Claim Rules) 2002(3);

“Summary Application Rules” means the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(4);

“Summary Cause Rules” means the Summary Cause Rules in Schedule 1 to the Act of Sederunt (Summary Cause Rules) 2002(5).

Enforcement of Securities over Heritable Property

2.—(1) The Summary Application Rules are amended in accordance with the following subparagraphs.

(2) In rule 2.7 (warrants, forms and certificate of citation)(6)—

(a) in paragraph (4)(a) for “(7A)(a)” substitute “(7ZA)(a)”;

(b) in paragraph (4)(b) for “(7A)(b)” substitute “(7ZA)(b)”;

(c) after paragraph (7), insert—

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- (1) S.I. 1997/291. Amended by S.I. 1998/2130; and by S.S.I. 2000/388; 2002/560 ; 2003/44 , 2005/190; 2006/75 and 411; 2007/468; 2009/29, 284 and 449; 2010/137 and 279; 2011/386; and 2012/188 and 271.
- (2) 1907 c.51. Schedule 1 was substituted by S.I. 1993/1956 and amended by S.I. 1996/2167 and 2445; S.S.I. 2000/239 and 408; 2001/8 and 144; 2002/7, 128 and 560; 2003/25, 26 and 601; 2004/197 and 350; 2005/20, 189, 638 and 648; 2006/198, 207, 293, 410 and 509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 284, 285, 294 and 402; 2010/120, 279, 324, 340 and 416; 2011/193, 289 and 386; and 2012/188, 221 and 271.
- (3) S.S.I. 2002/133, amended by S.S.I. 2003/26; 2004/197; 2005/648; 2006/509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 294 and 402; 2010/279, 340 and 416; 2011/193; and 2012/271.
- (4) S.I. 1999/929, amended by S.S.I. 2000/148 and 387; 2001/142; 2002/7, 129, 130, 146 and 563; 2003/26, 27, 98, 261, 319, 346 and 556; 2004/197, 222, 334 and 455; 2005/61, 445, 473, 504 and 648; 2006/198, 410, 437 and 509; 2007/6, 233, 339, 440 and 463; 2008/9, 41, 111, 223, 335, 365 and 375; 2009/107, 109, 164, 294, 320 and 402; 2010/324, 340 and 416; 2011/193 and 386; and 2012/188 and 271.
- (5) S.S.I. 2002/132, amended by S.S.I. 2002/516; 2003/26 and 601; 2004/197; 2005/648; 2006/509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 294 and 402; 2010/279, 340 and 416; 2011/193 and 289; and 2012/144, 188 and 271.
- (6) Rule 2.7 was last amended by S.S.I. 2010/324.

“(7ZA) In an application for enforcement of security over residential property within the meaning of Part IV of Chapter 3(7)—

- (a) the warrant of citation will be in Form 6ZA;
- (b) citation will be in Form 6ZB which is to be attached to a copy of the initial writ, Form 11C and warrant of citation.”.

(3) After rule 3.4.8(4) (Recall of decree)(8) insert—

“(4A) Where service or intimation under this rule is to be made to a party represented in the cause by a solicitor, a notice sent to such party’s solicitor shall be held to be notice to the party.”.

(4) In Schedule 1 (forms)—

- (a) after Form 6 (Form of citation where time to pay direction or time order may be applied for etc.)(9) insert Forms 6ZA and 6ZB set out in Schedule 1 to this Act of Sederunt;
- (b) in Form 7 (Form of certificate of citation)(10) before the signing provisions insert—
“(In applications for enforcement of security over residential property within the meaning of Part IV of Chapter 3, state whether Forms 6ZA, 6ZB and 11C were provided in accordance with rule 2.7(7ZA))”;
- (c) in Form 11C (Form of certificate of completion of pre-action requirements)(11) in Schedule 1 (forms), at the first paragraph numbered “3”, which starts “The pursuer has made reasonable efforts”, for the number “3” substitute “2”.

Summary cause rules: Form of extract decree

3.—(1) Appendix 1 to the Summary Cause Rules is amended in accordance with the following subparagraph.

(2) After Form 28BA (Form of extract decree – recovery of possession of heritable property in accordance with section 16(5A) of the Housing (Scotland) Act 2001 etc.)(12) insert Form 28BB set out in Schedule 2 to this Act of Sederunt.

Delivery of certain documents to chief constable

4.—(1) The Ordinary Cause Rules are amended in accordance with the following subparagraphs.

(2) In rule 41A.2 (applications for a determination that an interdict is a domestic abuse interdict)(13)—

- (a) in paragraph (7) for “such chief constable as the sheriff thinks fit” substitute “the chief constable of the Police Service of Scotland”;
- (b) in paragraph (8) for “a chief constable” substitute “the chief constable”.

(3) In Appendix 1—

- (a) In Form PA1 (Form of certificate of delivery of documents to chief constable)(14) for “(insert name and address) chief constable of (*insert name of constabulary*)” substitute “the chief constable of the Police Service of Scotland”.

(7) Part IV of Chapter 3 was substituted by S.S.I. 2010/324.

(8) Rule 3.4.8(4) was inserted by S.S.I. 2010/324.

(9) Form 6 was last amended by S.S.I. 2007/6.

(10) Form 7 was last amended by S.S.I. 2010/324.

(11) Form 11C was inserted by S.S.I. 2010/324.

(12) Form 28BA was inserted by S.S.I. 2012/188.

(13) Rule 41A.2 was inserted by S.S.I. 2011/289.

(14) Form PA1 was inserted by S.S.I. 2002/128.

- (b) in each of the following forms for “*(insert name(s) and address(es) of chief constable(s))*” substitute “the chief constable of the Police Service of Scotland”—
- (i) Form DA1 (Form of interlocutor for a determination of a domestic abuse interdict)**(15)**;
 - (ii) Form DA3 (Form of interlocutor for recall of a determination of a domestic abuse interdict);
- (c) in Form DA4 (Form of certificate of sending documents to the chief constable(s))—
- (i) for “*(insert name and address) of chief constable(s)*” chief constable(s) of “*(insert name(s) of constabulary)*” substitute “the chief constable of the Police Service of Scotland”;
 - (ii) the title of the Form becomes “Form of certificate of sending documents to the chief constable”.

5.—(1) Schedule 1 to the 1997 Act of Sederunt is amended in accordance with the following subparagraph.

(2) In Form 56 (Certificate of delivery to the chief constable under section 78 of the Children (Scotland) Act 1995) for “*(insert name and address) Chief Constable of (insert name of constabulary)*” substitute “the chief constable of the Police Service of Scotland”.

Other minor amendments

6.—(1) Schedule 1 of the Summary Application Rules is amended in accordance with the following subparagraphs.

(2) In Form 59 (Form of application for judicial approval under section 23B(1) of the Regulation of Investigatory Powers Act 2000)**(16)** before each alternative subparagraph (a) and (b) of paragraph numbered 3 insert “*”;

(3) In Form 60 (Form of order under section 23A(2) of the Regulation of Investigatory Powers Act 2000)**(17)** for “Rule 4.32.2(4)” substitute “Rule 3.42.2(4)”.

7.—(1) The Act of Sederunt (Actions for removing from heritable property) (Amendment) 2012**(18)** is amended in accordance with the following subparagraph.

(2) In paragraph 2(2)—

- (a) for “rule 3” substitute “paragraph 3”;
- (b) for each reference to “paragraph” substitute “subparagraph”.

Transitional and saving

8. The amendments made to the Summary Application Rules by paragraph 2 shall have no effect in respect of any action raised but not determined prior to 27th May 2013.

(15) Forms DA1, DA3 and DA4 were inserted by [S.S.I. 2011/289](#).

(16) Form 59 was inserted by [S.S.I. 2012/271](#).

(17) Form 60 was inserted by [S.S.I. 2012/271](#).

(18) [S.S.I. 2012/273](#).

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

Edinburgh
25th April 2013

BRIAN GILL
Lord President
I.P.D.