



Sheriff Courts (Scotland) Act 1907

1907 CHAPTER 51 7 Edw 7

An Act to regulate and amend the Laws and practice relating to the civil procedure in Sheriff Courts in Scotland, and for other purposes. [28th August 1907]

Modifications etc. (not altering text)

C1 Act amended by [Agricultural Holdings \(Scotland\) Act 1949 \(c. 75\), s. 24\(3\), \(4\)](#)

PRELIMINARY

1 Short title.

This Act may be cited for all purposes as the Sheriff Courts (Scotland) Act 1907.

2^{F1}

Textual Amendments

F1 [S. 2](#) repealed by [Statute Law Revision Act 1927 \(c. 42\), Sch. Pt. I](#)

3 Interpretation.

In construing this Act (unless where the context is repugnant to such construction)—

- (a) [^{F2} “ sheriff principal”] includes [^{F2}sheriff];
- (b) “Tenant” includes sub-tenant;
- (c) “Lease” includes sub-lease;
- (d) “Action” [^{F3}or “cause”] includes every civil proceeding competent in the ordinary sheriff court;
- (e) “Person” includes company, corporation, or association and firm of any description nominate or descriptive, or any Board corporate or unincorporate;

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (f) “Sheriff clerk” includes sheriff-clerk depute;
- (g) “Agent” means a law-agent enrolled in terms of the ^{M1}Law Agents (Scotland) Act 1873;
- (h) “Final judgment” means an interlocutor which, by itself, or taken along with previous interlocutors, disposes of the subject-matter of the cause, notwithstanding that judgment may not have been pronounced on every question raised, and that expenses found due may not have been modified, taxed, or decerned for;
- (i) ^{F4}
- (j) “Small Debt Acts” means and includes the Small Debt (Scotland) Acts 1837 to 1889, and Acts explaining or amending the same;
- (k) “Initial writ” means the statement of claim, petition, note of appeal, or other document by which the action is initiated;
- (l) “Procurator-Fiscal” means procurator-fiscal in the sheriff-court;
- (m) ^{F5}
- (n) “Pursuer” means and includes any person making a claim or demand, or seeking any warrant or order competent in the sheriff court;
- (o) “Defender” means and includes any person who is required to be called in any action;
- (p) “Summary application” means and includes all applications of a summary nature brought under the common law jurisdiction of the [^{F2}sheriff principal], and all applications, whether by appeal or otherwise, brought under any Act of Parliament which provides, or, according to any practice in the sheriff court, which allows, that the same shall be disposed of in a summary manner, but which does not more particularly define in what form the same shall be heard, tried, and determined;
- (q) ^{F6}

Textual Amendments

- F2** Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4
- F3** Words inserted by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), Sch. 1
- F4** S. 3(i) repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. II
- F5** S. 3(m) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1 Pt. I Gp. 3
- F6** S. 3(q) repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 72:2), s. 28(2), Sch. 3

Marginal Citations

- M1** 1873 c. 63.

JURISDICTION

[^{F7}4] Jurisdiction.

The jurisdiction of the [^{F8}sheriffs principal], within their respective sheriffdoms shall extend to and include all navigable rivers, ports, harbours, creeks, shores, and anchoring grounds in or adjoining such sheriffdoms. And the powers and jurisdictions formerly competent to the High Court of Admiralty in Scotland in all maritime causes and proceedings, civil and criminal, including such as may apply to persons furth of

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Scotland, shall be competent to the [^{F8}sheriffs principal], provided the defender shall upon any legal ground of jurisdiction be amenable to the jurisdiction of the [^{F8}sheriff principal] before whom such cause or proceeding may be raised, and provided also that it shall not be competent to the [^{F8}sheriffs principal] to try any crime committed on the seas which it would not be competent for him to try if the crime had been committed on land; Provided always that where sheriffdoms are separated by a river, firth, or estuary, the [^{F8}sheriffs principal] on either side shall have concurrent jurisdictions over the intervening space occupied by water.]

Textual Amendments

- F7** S. 4 repealed so far as relating to criminal proceedings by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **Sch. 10 Pt. I**; extended by [Hovercraft Act 1968 \(c. 59\)](#), **s. 2**
- F8** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **s. 4**

5 Extension of jurisdiction.

Nothing herein contained shall derogate from any jurisdiction, powers, or authority presently possessed or in use to be exercised by the [^{F9}sheriffs principal] of Scotland, and such jurisdiction shall extend to and include—

- (1) Actions of declarator (except declarators of marriage or nullity of marriage, . . . ^{F10}):
 - (1A) ^{F11}
 - [^{F12}(2) Actions for aliment or separation (other than any action mentioned in subsection (2A) below) . . . ^{F13}]
 - [^{F14}(2A) Actions, arising out of an application under section 31(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, for the recovery of maintenance:]
 - [^{F15}(2B) Actions for divorce]
 - [^{F16}(2C) Applications for orders relating to parental rights under section 3 of the Law Reform (Parent and Child) (Scotland) Act 1986.]
- (3) Actions of division of commony and of division or division and sale of common property, in which cases the ^{M2}Division of Commonities Act 1695 concerning the division of commonities shall be read and construed as if it conferred jurisdiction upon sherrif court in the same manner as upon the Court of Session:
- (4) Actions relating to questions of heritable right or title (except actions of adjudication save in so far as now competent and actions of reduction) including all actions of declarator of irritancy and removing, whether at the instance of a superior against a vassal or of a landlord against a tenant:
- (5) Suspension of charges or threatened charges upon the decrees of court granted by the [^{F9}sheriff principal] or upon decrees of registration proceeding upon bonds, bills, contracts or other obligations registered in the books of the sheriff court, the books of council and session, or any others competent . . . ^{F17}: . . . ^{F18}: . . . ^{F19}.

Textual Amendments

- F9** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **s. 4**

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- F10** Words repealed (S.) by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), **Sch. 2**
- F11** S. 5(1A) which was inserted by Presumption of Death (Scotland Act) 1977 (c. 27), s.20(2), **Sch. 1** is repealed (S.) by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), **Sch. 2**
- F12** S. 5(2) substituted (S.) by virtue of Family Law (Scotland) Act 1985 (c. 37, SIF 49:3), s. 28(1), **Sch. 1 para. 1**
- F13** Words repealed by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), **Sch. 2**
- F14** S. 5(2A) inserted by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), s. 85(3), **Sch. 2 para. 1(b)**
- F15** S. 5(2B) inserted by Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12, SIF 47), s. 1
- F16** S. 5(2C) inserted (S.) by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(1), **Sch. 1 para. 3**
- F17** Words repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3, 72:2), **ss. 15(a)**, 28(2), **Sch. 3**
- F18** Words repealed by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), s. 54, **Sch. 14**
- F19** Words repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 72:2), s. 28(2), **Sch. 3**

Modifications etc. (not altering text)

- C2** S. 5 excluded by Land Registration (Scotland) Act 1979 (c. 33, SIF 31:3), **ss. 21(6)**, 22(7)

Marginal Citations

- M2** Scots Act 1695 c. 69

[^{F20}5A Power of sheriff to order sheriff clerk to execute deeds relating to heritage.

- (1) This section applies where—
- an action relating to heritable property is before the sheriff; or
 - it appears to the sheriff that an order under this section is necessary to implement a decree of a sheriff relating to heritable property.
- (2) Where the grantor of any deed relating to the heritable property cannot be found or refuses or is unable or otherwise fails to execute the deed, the sheriff may—
- where subsection (1)(a) above applies, on application;
 - where subsection (1)(b) above applies, on summary application,
- by the grantee, make an order dispensing with the execution of the deed by the grantor and directing the sheriff clerk to execute the deed.
- (3) Where in pursuance of an order under this section a deed is executed by the sheriff clerk, it shall have the like force and effect as if it had been executed by the grantor.
- (4) In this section—
- “grantor” means a person who is under an obligation to execute the deed; and
“grantee” means the person to whom that obligation is owed.]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F20 S. 5A inserted (S.) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 36:1\)](#), s. 17

[^{F21}6 Action competent in sheriff court.

[^{F22}Subject to section 8 of the ^{M3}Domicile and Matrimonial Proceedings Act 1973 [^{F23}and Chapter III of Part I of the Family Law Act 1986].] Any action competent in the sheriff court may be brought within the jurisdiction of the [^{F24}sheriff principal]—

- (a) Where the defender (or when there are several defenders [^{F25}over each of whom a sheriff court has jurisdiction in terms of this Act] where one of them) resides within the jurisdiction, or having resided there for at least forty days . . . ^{F26} has ceased to reside there for less than forty days [^{F26}and has no known residence in Scotland]:
- (b) Where the defender carries on business, and has a place of business within the [^{F27}jurisdiction], and is cited either personally or at such place of business:
- (c) Where the defender is a person not otherwise subject to the jurisdiction of the courts of Scotland, and a ship or vessel of which he is owner or part owner or master, or goods, debts, money, or other moveable property belonging to him, have been arrested within the jurisdiction:
- (d) Where the defender is the owner or part owner or tenant or joint tenant, whether individually or as a trustee, of heritable property within the jurisdiction, and the action relates to such property or to his interest therein:
- (e) Where the action is for interdict against an alleged wrong being committed or threatened to be committed within the jurisdiction:
- (f) Where the action relates to a contract the place of execution or performance of which is within the jurisdiction, and the defender is personally cited there:
- (g) Where in an action of furthcoming or multiplepounding the fund or subject in medio is situated within the jurisdiction; or the arrestee or holder of the fund is subject to the jurisdiction of the court:
- (h) Where the party sued is the pursuer in any action pending within the jurisdiction against the party suing:

[^{F28}“(i) where the action is founded on delict, and the delict forming the cause of action was committed within the jurisdiction”.]

- (j) Where the defender prorogates the jurisdiction of the court.]

Textual Amendments

F21 S. 6 repealed by [Administration of Justice Act 1956 \(c. 46\)](#), s. 45(6) in relation to actions to which s. 45 of that Act applies

F22 Words inserted by [Domicile and Matrimonial Proceedings Act 1973 \(c. 45\)](#), s. 12(7), [Sch. 4 para. 1](#)

F23 Words inserted (S.) by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), s. 68(1), [Sch. 1 para. 3](#)

F24 Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), s. 4

F25 Words inserted by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), [Sch. 1](#)

F26 Words repealed by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), [Sch. 1](#)

F27 Words substituted by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), [Sch. 1](#)

F28 S. 6(i) substituted by [Law Reform \(Jurisdiction in Delict\) \(Scotland\) Act 1971 \(c. 55\)](#), s. 1(2)(3)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C3 S. 6 repealed in part by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), **s. 20(3)**

Marginal Citations

M3 1973 c. 45.

7 ^{X1}**Privative jurisdiction in causes under fifty pounds value.**

.....^{F29}.....^{F30}, all causes not exceeding [^{F31}one thousand five hundred pounds] in value exclusive of interest and expenses competent in the sheriff court shall be brought and followed forth in the sheriff court only, and shall not be subject to review by the Court of Session:

...^{F32}Provided ...^{F32} that nothing herein contained shall affect any right of appeal competent under any Act of Parliament in force for the time being.

Editorial Information

X1 Unreliable marginal note

Textual Amendments

F29 Words repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 72:2\)](#), s. 28(2), **Sch. 3**

F30 Words repealed by [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **Sch. 2 Pt. II**

F31 Words substituted by virtue of S.I. 1988/1993, **art. 2**

F32 Words repealed by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1**

Modifications etc. (not altering text)

C4 S. 7 extended (2.10.2000) by S.S.I. 2000/301, **rule 4**

8^{F33}

Textual Amendments

F33 S. 8 repealed by [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **Sch. 2 Pt. II**

9^{F34}

Textual Amendments

F34 S. 9 repealed by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **s. 1**

10 **Privilege not to exempt from jurisdiction.**

No person shall be exempt from the jurisdiction of the sheriff court on account of privilege by reason of being a member of the College of Justice.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SHERIFFS

11 ^{X2} Appointment of sheriffs and salaried sheriffs-substitute.

The right of appointing to the salaried offices of [^{F35}sheriff principal] and salaried [^{F35}sheriff] shall be vested in His Majesty, and shall be exercised on the recommendation of the [^{F36}Secretary of State].

Editorial Information

X2 Unreliable marginal note

Textual Amendments

F35 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

F36 Words substituted by virtue of Secretaries of State Act 1926 (c. 18), s. 1(3)

12, 13. ^{F37}

Textual Amendments

F37 Ss. 12, 13, 15, 16, 18 and 19 repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. I

14 Salaries of sheriffs and sheriffs-substitute.

It shall be lawful to grant to any [^{F38}sheriff principal or sheriff] such salary as to the Treasury may seem meet, and every such salary shall be paid [^{F39}quarterly or otherwise in every year as the Treasury may determine], and shall be charged upon and be payable out of the Consolidated Fund.

Textual Amendments

F38 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

F39 Words substituted by Sheriffs' Pensions (Scotland) Act 1961 (c. 42), s. 8(3), Sch. 1

Modifications etc. (not altering text)

C5 S. 14 modified (9.11.1998) by 1998 c. 42, ss. 18(4)(e), 22(2) (with ss. 7(8), 22(5))

S. 14 modified (27.9.1999) by 1999 c. 22, ss. 68(3)(a), 108(3) (with Sch. 14 para. 7(2))

15, 16. ^{F40}

Textual Amendments

F40 Ss. 12, 13, 15, 16, 18 and 19 repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. I

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

17 Honorary sheriff-substitute.

The [F41sheriff principal] may by writing under his hand appoint such persons as he thinks proper to hold the office of [F41honorary sheriff] within his sheriffdom during his pleasure, and for whom he shall be answerable. An [F41honorary sheriff], during the subsistence of his commission, shall be entitled to exercise the powers and duties appertaining to the office of [F41sheriff]. An [F41honorary sheriff] shall hold office, notwithstanding the death, resignation, or removal of the [F41sheriff principal], until his commission shall be recalled by a succeeding [F41sheriff principal]. In this section [F41“sheriff principal”]does not include [F41sheriff.]

Textual Amendments

F41 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

18, 19. F42

Textual Amendments

F42 Ss. 12, 13, 15, 16, 18 and 19 repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. I

20 F43

Textual Amendments

F43 S. 20 repealed by Sheriffs' Pensions (Scotland) Act 1961 (c. 42), s. 8(3), Sch. 2

21 F44

Textual Amendments

F44 S. 21 repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. I

22— F45
24.

Textual Amendments

F45 Ss. 22–24 repealed by Sheriff Courts and Legal Officers (Scotland) Act 1927 (c. 35), Sch.

25, 26. F46

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F46 Ss. 25, 26 repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. I

APPEALS

27 Appeal to sheriff.

Subject to the provisions of this Act an appeal to the [^{F47}sheriff principal] shall be competent against all final judgments of the [^{F47}sheriff] and also against interlocutors—

- (A) Granting or refusing interdict, interim or final;
- (B) Granting interim decree for payment of money other than a decree for expenses, or making an order ad factum præstandum;
- (C) Sisting an action;
- (D) Allowing or refusing or limiting the mode of proof . . . ^{F48};
- (E) [^{F49}Refusing a reponing note; or
- (F) Against which the [^{F47}sheriff] either ex proprio motu or on the motion of any party grants leave to appeal;

Provided always that notwithstanding the death, resignation, or removal of a [^{F47}sheriff principal] appeals may be taken from the judgment of the [^{F47}sheriff], which appeals shall be heard by the succeeding [^{F47}sheriff principal] when he shall enter upon office.

[^{F49}It shall be competent for the [^{F47}sheriff principal]. when the action is before him on appeal on any point, to open the record ex proprio motu, if the record shall appear to him not to have been properly made up, or to allow further proof.]

Textual Amendments

F47 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

F48 Words repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3, 72:2) ss. 11, 28(2), Sch. 3

F49 Words inserted by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), Sch. 1

[^{F50}28 Appeal to Court of Session.

- (1) Subject to the provisions of this Act, it shall be competent to appeal to the Court of Session against a judgment either of a [^{F51}sheriff principal or sheriff] if the interlocutor appealed against is a final judgment or is an interlocutor—
 - (a) Granting interim decree for payment of money other than a decree for expenses; or
 - (b) Sisting an action; or
 - (c) Refusing a reponing note; or

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(d) Against which the [^{F51}sheriff principal or sheriff] either ex proprio motu or on the motion of any party, grants leave to appeal:

...
F52

(2) Nothing in this section nor in section twenty-seven of this Act contained shall affect any right of appeal or exclusion of such right provided by any Act of Parliament in force for the time being.]

Textual Amendments

F50 S. 28 substituted by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), s. 2

F51 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

F52 S. 28 proviso repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), Sch. 2 Pt. II

Modifications etc. (not altering text)

C6 S. 28 applied (1.5.2003) by 2000 asp 7, ss. 22(7), 26(6), 37(2) (with s. 31); S.S.I. 2003/74, art. 2(2)(b)

29 Effect of appeal.

An appeal shall be effectual to submit to review the whole of the interlocutors pronounced in the cause, and shall be available to and may be insisted in by all other parties in the cause notwithstanding they may not have noted separate appeals. An appeal shall not prevent immediate execution of a warrant of sequestration for rent, or of warrants to take inventories, or place effects in custody ad interim, or warrants for interim preservation, and an interim interdict, although appealed against shall be binding till recalled.

30 F53

Textual Amendments

F53 S. 30 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 72:2), s. 28(2), Sch. 3

31 F54

Textual Amendments

F54 S. 31 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3, 72:2), ss. 11, 28(2), Sch. 3

32 F55

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F55 S. 32 repealed by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), s. 1

33 **F56**

Textual Amendments

F56 S. 33 repealed by Juries Act 1949 (c. 27), Sch. 3

REMOVINGS

34 **Removings.**

Where lands exceeding two acres in extent are held under a probative lease specifying a term of endurance, and whether such lease contains an obligation upon the tenant to remove without warning or not, such lease, or an extract thereof from the books of any court of record, shall have the same force and effect as an extract decree of removing obtained in an ordinary action at the instance of the lessor, or any one in his right, against the lessee or any party in possession, and such lease or extract shall, along with authority in writing signed by the lessor or any one in his right or by his factor or law agent, be sufficient warrant to any sheriff officer or messenger-at-arms of the sheriffdom within which such lands or heritages are situated to eject such party in possession, his family, sub-tenants, cottars, and dependants, with their goods, gear and effects, at the expiry of the term or terms of endurance of the lease: Provided that previous notice in writing to remove shall have been given—

- (A) When the lease is for three years and upwards not less than one year and not more than two years before the termination of the lease; and
- (B) In the case of leases from year to year (including lands occupied by tacit relocation) or for any other period less than three years, not less than six months before the termination of the lease (or where there is a separate ish as regards land and houses or otherwise before that ish which is first in date):

Provided that if such written notice as aforesaid shall not be given the lease shall be held to be renewed by tacit relocation for another year, and thereafter from year to year: Provided further that nothing contained in this section shall affect the right of the landlord to remove a tenant who has been sequestrated under the ^{M4}Bankruptcy (Scotland) Act 1856, or against whom a decree of cessio has been pronounced under the ^{M5}Debtors (Scotland) Act 1880, or who by failure to pay rent has incurred any irritancy of his lease or other liability to removal: Provided further that removal or ejection in virtue of this section shall not be competent after six weeks from the date of the ish last in date: Provided further that nothing herein contained shall be construed to prevent proceedings under any lease in common form; and that the foregoing provisions as to notice shall not apply to any stipulations in a lease entitling the landlord to resume land for building, planting, feuing, or other purposes or to subjects let for any period less than a year.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C7 Reference to [Bankruptcy \(Scotland\) Act 1856 \(c. 79\)](#) to be construed as reference to [Bankruptcy \(Scotland\) Act 1913 \(c. 34\)](#); [Interpretation Act 1889 \(c. 63\)](#), s. **38(1)**

Marginal Citations

- M4 1856 c. 79.
M5 1880 c. 34.

35 Letter of removal.

Where any tenant in possession of any lands exceeding two acres in extent (whether with or without a written lease) shall, either at the date of entering upon the lease or at any other time, have granted a letter of removal, either holograph or attested by one witness, such letter of removal shall have the same force and effect as an extract decree of removing, and shall be a sufficient warrant for ejection to the like effect as is provided in regard to a lease or extract thereof, and shall be operative against the granter of such letter of removal or any party in his right within the same time and in the same manner after the like previous notice to remove: Provided always that where such letter is dated and signed within twelve months before the date of removal or before the first ish, if there be more than one ish, it shall not be necessary that any notice of any kind shall be given by either party to the other.

36 Notice to remove.

Where lands exceeding two acres in extent are occupied by a tenant without any written lease, and the tenant has given to the proprietor or his agent no letter of removal, the lease shall terminate on written notice being given to the tenant by or on behalf of the proprietor, or to the proprietor by or on behalf of the tenant not less than six months before the determination of the tenancy, and such notice shall entitle the proprietor, in the event of the tenant failing to remove, to apply for and obtain a summary warrant of ejection against the tenant and everyone deriving right from him.

Modifications etc. (not altering text)

- C8 S. 36 applied (10.6.2002) by [Act of Sederunt \(Summary Cause Rules\) 2002 \(S.S.I. 2002/132\)](#), art. 2, {Sch. 1 rule 30.3} (with art. 3)

37 Notice of termination of tenancy.

In all cases where houses, with or without land attached, not exceeding two acres in extent, lands not exceeding two acres in extent let without houses, mills, fishings, shootings, and all other heritable subjects (excepting land exceeding two acres in extent) are let for a year or more, notice of termination of tenancy shall be given in writing to the tenant by or on behalf of the proprietor or to the proprietor by or on behalf of the tenant: Provided always that notice under this section shall not warrant summary ejection from the subjects let to a tenant, but such notice, whether given to or by or on behalf of the tenant, shall entitle the proprietor to apply to the [^{F57}sheriff principal] for a warrant for summary ejection in common form against the tenant and every one deriving right from him: Provided further that the notice provided for by this section

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

shall be given at least forty days before the fifteenth day of May when the termination of the tenancy is the term of Whitsunday, and at least forty days before the eleventh day of November when the termination of the tenancy is the term of Martinmas.

Textual Amendments

F57 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

Modifications etc. (not altering text)

C9 S. 37 applied (10.6.2002) by Act of Sederunt (Summary Cause Rules) 2002 (S.S.I. 2002/132), art. 2, {Sch. 1 rule 30.3} (with art. 3)

VALID FROM 27/11/2003

[^{F58}37A Exception for certain tenancies

The provisions of this Act relating to removings (including summary removings) shall not apply to or in relation to short limited duration tenancies or limited duration tenancies within the meaning of the Agricultural Holdings (Scotland) Act 2003 (asp 11).]

Textual Amendments

F58 S. 37A inserted (27.11.2003) by Agricultural Holdings (Scotland) Act 2003 (asp. 11), ss. 94, 95(3)(4), Sch. para. 1 (with s. 95(1)); S.S.I. 2003/548, art. 2 (with art. 3, Sch.)

SUMMARY REMOVINGS

38 Summary removing.

Where houses or other heritable subjects are let for a shorter period than a year, any person by law authorised may present to the [^{F59}sheriff principal] a summary application for removing, and a decree pronounced in such summary cause shall have the full force and effect of a decree of removing and warrant of ejection. Where asuch a let is for a period not exceeding four months, notice of removal therefrom shall, in the absence of express stipulation, be given as many days before the ish as shall be equivalent to at least one-third of the full period of the duration of the let; and where the let exceeds four months, notice of removal shall, in the absence of express stipulation be given at least forty days before the expiry of the said period.

[^{F60}Provided that in no case shall notice of removal be given less than 28 days before the date on which it is to take effect.]

Textual Amendments

F59 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4

F60 S. 38 proviso added by Rent (Scotland) Act 1971 (c. 28), s. 135(3), Sch. 18 Pt. II

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C10** S. 38 applied (10.6.2002) by Act of Sederunt (Summary Cause Rules) 2002 (S.S.I. 2002/132), art. 2, {Sch. 1 rule 30.3} (with art. 3)

[^{F61}38A Notice of termination in respect of dwelling-houses.

Any notice of termination of tenancy or notice of removal given under section 37 or 38 above in respect of a dwelling-house, on or after 2nd of December 1974, shall be in writing and shall contain such information as may be prescribed by virtue of section 112 of the ^{M6}Rent (Scotland) Act 1984, and Rule 112 of Schedule 1 to this Act shall no longer apply to any such notice under section 37 above.]

Textual Amendments

- F61** S. 38A inserted (S.) by virtue of Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339, Sch. 23 para. 4

Marginal Citations

- M6** 1984 c.58(39:4)

[^{F62}CONSISTORIAL CAUSES]

Textual Amendments

- F62** Ss. 38B, 38C inserted (S.) by Court of Session Act 1988 (c. 36, SIF 36:1), s. 52(1), Sch. 1 para. 2

38B Lord Advocate as party to action for divorce.

- (1) The Lord Advocate may enter appearance as a party in any action for divorce, and he may lead such proof and maintain such pleas as he thinks fit, and the sheriff shall, whenever he considers it necessary for the proper disposal of any such action, direct that the action shall be brought to the notice of the Lord Advocate in order that he may determine whether he should enter appearance therein.
- (2) No expenses shall be claimable by or against the Lord Advocate in any action in which he has entered appearance under this section.

[^{F63}38C Orders with respect to children.

- (1) In any action for divorce or separation, the sheriff may make, with respect to any child of the marriage to which the action relates, such order (including an interim order) as he thinks fit relating to parental rights, and may vary or recall such order.
- (2) In this section—
 - (a) “child” and “parental rights” have the same meaning as in section 8 of the ^{M7}Law Reform (Parent and Child)(Scotland) Act 1986;
 - (b) “child of the marriage” includes any child who—
 - (i) is the child of both parties to the marriage, or

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(ii) is the child of one party to the marriage and has been accepted as a child of the family by the other party.]

Textual Amendments

F63 Ss. 38B, 38C inserted (S.) by Court of Session Act 1988 (c. 36, SIF 36:1), s. 52(1), **Sch. 1 para. 2**

Marginal Citations

M7 1986 c.9(49:8).

PROCEDURE RULES

39 Procedure rules.

Subject to the provisions of any Act of Parliament in force after the passing of this Act, the procedure in all civil causes shall be conform to the rules of procedure set forth in the First Schedule hereto annexed. Such rules shall be construed and have effect as part of this Act.

Modifications etc. (not altering text)

C11 S. 39 excluded (1.4.1997) by S.I. 1997/291, **rule 3.24**, Sch. 3

40 Court of Session to regulate fees, &c.

The Court of Session may from time to time, by Act of Sederunt, make such regulations, . . . ^{F64} for regulating the fees of agents [^{F65}(other than such of the fees of agents as the Secretary of State may regulate under or by virtue of section 14A of the ^{M8}Legal Aid (Scotland) Act 1967)] , officers, shorthand writers, and others, . . . ^{F66}; . . . ^{F67} Provided . . . ^{F68} that every such Act of Sederunt shall, within one week from the date thereof, be transmitted by the Lord President of the Court of Session to the [^{F69}Secretary of State], in order that it may be laid before the Houses of Parliament; and, if either of the Houses of Parliament shall within thirty-six days after it has been laid before them resolve that the whole or any part of such Act of Sederunt ought not to continue in force, the whole or such part thereof as shall be included in such resolution shall from and after the date of the passing of such resolution cease to be binding.

Textual Amendments

F64 Words repealed by Administration of Justice (Scotland) Act 1933 (c. 41), **Sch.**

F65 Words inserted by Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12, SIF 47), s. 6(1), **Sch. 1 para. 7**

F66 Words repealed by Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12, SIF 47), s. 6(2), **Sch. 2**

F67 Words repealed by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), **Sch. 1** and Administration of Justice (Scotland) Act 1933 (c. 41), **Sch.**

F68 Words repealed by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), **Sch. 1**

F69 Words substituted by virtue of Secretaries of State Act 1926 (c. 18), **s. 1(3)**

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M8 1967 c.43 (77:2).

41 **F70**

Textual Amendments

F70 S. 41 repealed by Administration of Justice (Scotland) Act 1933 (c. 41), **Sch.**

42— **F71**
48.

Textual Amendments

F71 Ss. 42–48 repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), **Sch. 2 Pt. II**

49 **F72**

Textual Amendments

F72 S. 49 repealed by Execution of Diligence (Scotland) Act 1926 (c. 16), **s. 7**

SUMMARY APPLICATIONS

50 Summary applications.

In summary applications (where a hearing is necessary) the [^{F73}sheriff principal] shall appoint the application to be heard at a diet to be fixed by him, and at that or any subsequent diet (without record of evidence unless the [^{F73}sheriff principal] shall order a record) shall summarily dispose of the matter and give his judgment in writing: Provided that wherever in any Act of Parliament an application is directed to be heard, tried, and determined summarily or in the manner provided by section fifty-two of the ^{M9}Sheriff Courts (Scotland) Act 1876, such direction shall be read and construed as if it referred to this section of this Act: Provided also that nothing contained in this Act shall affect any right of appeal provided by any Act of Parliament under which a summary application is brought.

Textual Amendments

F73 Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), **s. 4**

Modifications etc. (not altering text)

C12 S. 50 applied (14.7.2000) by S.S.I. 2000/233, **art. 44(4)**

C13 S. 50 applied (23.5.2008) by The Dumfries and Galloway Council (Port William) Harbour Empowerment Order 2008 (S.S.I. 2008/188), **art. 33(4)** (with arts. 53-56)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- C14** S. 50 applied (23.5.2008) by [The Dumfries and Galloway Council \(Isle of Whithorn\) Harbour Empowerment Order 2008 \(S.S.I. 2008/189\)](#), **art. 33(4)** (with arts. 53-56)
- C15** S. 50 applied (23.5.2008) by [The Dumfries and Galloway Council \(Garlieston\) Harbour Empowerment Order 2008 \(S.S.I. 2008/190\)](#), **art. 33(4)** (with arts. 53(1), 54-56)

Marginal Citations

- M9** 1876 c. 70.

51 **F74**

Textual Amendments

- F74** S. 51 repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\)](#), **Sch. 1 Pt. XII**

52 **F75**

Textual Amendments

- F75** S. 52 repealed by [Statute Law Revision Act 1927 \(c. 42\)](#), **Sch. Pt. I**

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F76}FIRST SCHEDULE]

RULES FOR REGULATING THE PROCEDURE OF THE ORDINARY CAUSE

Textual Amendments

F76 Sch. 1 (with appendix) substituted by S.I. 1983/747, art. 3

Modifications etc. (not altering text)

C16 Sch. 1: certain rules and forms applied by S.I. 1976/476, para. 3, S.I. 1988/1976, para. 2(1), Sch. rule 2, Appendix 2 and S.I. 1990/661, para. 3

C17 Sch. 1 applied by Bankruptcy Act 1985 (c. 66, SIF 66), s. 47(4) (as amended by S.I. 1986/517, para. 5)

INTRODUCTION

Dispensing power of sheriff

- 1 The sheriff may in his discretion relieve any party from the consequences of any failure to comply with the provisions of these Rules which is shown to be due to mistake, oversight or other cause, not being wilful non-observance of the same, on such terms and conditions as seem just; and in any such case the sheriff may make such order as seems just by way of extension of time, lodging or amendment of paper or otherwise so as to enable the cause to proceed as if such failure had not happened.

Representation

- [^{F772} (1) Subject to paragraph (2) of this rule, a party to any proceedings arising solely under the provisions of the Debtors (Scotland) Act ^{M10}1987 shall be entitled to be represented by a person other than a solicitor or an advocate provided that the sheriff is satisfied that such person is a suitable representative and is duly authorised to represent the party.
- (2) Paragraph (1) shall not apply to appeals to the sheriff principal.
- (3) Where a party to any cause is represented by a solicitor, any reference in the rules to that party shall, where appropriate, be construed as a reference to the solicitor representing that party.]

Textual Amendments

F77 Rule 2 substituted by S.I. 1988/1978, para. 3

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M10 1987 c.18(45:2).

INITIAL PROCEDURE

COMMENCEMENT OF CAUSE

The initial writ

[^{F783}(1)] All ordinary causes shall be commenced by initial writ as nearly as may be in accordance with Form A as set out in the Appendix to this Schedule.

[^{F79}(2)] The initial writ shall contain averments about any agreement which the pursuer has reason to believe may exist prorogating jurisdiction over the subject matter of the cause to another court.

(3) The initial writ shall contain averments about any proceedings which the pursuer has reason to believe may be pending before another court involving the same cause of action and between the same parties as those named in the initial writ.

[An article of condescence shall be included in the initial writ stating the ground
^{F80}(4) of jurisdiction of the court.]]

[^{F81}[In an action of divorce or of separation . . . ^{F83} the initial writ shall contain an article of
^{F82}(5) condescence specifying whether to the knowledge of the pursuer any proceedings are continuing in Scotland or in any other country which are in respect of the marriage to which the initial writ relates or are capable of affecting its validity or subsistence, and, if such proceedings are continuing, shall further specify—

- (a) the court, tribunal or authority before which they have been commenced;
- (b) the date of commencement;
- (c) the names of the parties;
- (d) whether any proof or other hearing has been appointed, and, if so, the date; and
- (e) any other relevant facts in connection with such proceedings which might assist the sheriff to determine whether the action before him should be sisted in terms of his powers under Schedule 3 to the ^{M11}Domicile and Matrimonial Proceedings Act 1973 (sisting of consistorial actions).

[For the purposes of [^{F84}paragraph (5)], proceedings shall be treated as continuing
^{F82}(6) where proceedings, in respect of that marriage or capable of affecting its validity, have been instituted before a court, tribunal or other authority and such proceedings have not been finally disposed of.

[The information required by [^{F84}paragraph (5)] shall, in all actions of divorce or of
^{F82}(7) separation . . . ^{F83}, be inserted in any defences or minute lodged by any party in such action, insofar as that information is additional to or contradictory of any such particulars provided by the pursuer in the action, or in any case in which the pursuer has provided no such statement.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

[Any application made by any party in an action of divorce or separation . . . ^{F83}
^{F82}(8)] for an order in terms of Schedule 2 (ancillary and collateral orders), or for a sist of such an action or the recall of a sist in terms of Schedule 3, to the ^{M12}Domicile and Matrimonial Proceedings Act 1973, shall be made by written motion.

[Unless the sheriff on cause shown otherwise directs, in an action of divorce a warrant ^{F85}
^{F82}(9)] (a) an extract of the relevant entry in the register of marriages; and
 (b) where appropriate, an extract of the relevant entry in the register of births.]]

[^{F86}
^{F82}(10)] In an action relating to the custody of a child by a person by virtue of section 47 of the ^{M13}Children Act 1975—
 (a) the parents of the child shall be named and designed in the initial writ as defenders in the cause; and
 (b) if their address is known, citation of and service upon them shall proceed in accordance with rules 8 to 10, 12, and 15 to 17.

[In an action for custody of a child in which consent of the parent [^{F87}tutor, curator]
^{F82}(11)] or guardian of the child is required by [^{F88}section 47] of the Children Act 1975, a form of consent as nearly as may be in accordance with Form T1 as set out in the Appendix to this Schedule shall be lodged in process.]

Textual Amendments

- F78** Rule 3 renumbered as rule 3(1) by S.I. 1984/255, **para. 3(2)**
F79 Rule 3(2)–(4) added by S.I. 1986/1946, **para. 2(2)(b)**
F80 Rule 3(4) substituted by S.I. 1988/1978, **para. 4(1)**
F81 Paragraphs added by S.I. 1984/255, **para. 3(2)**
F82 Paragraph renumbered by S.I. 1986/1946, **para. 2(2)(a)**
F83 Words repealed by S.I. 1986/1230, **para. 3(2)(a)**
F84 Words substituted by S.I. 1988/1978, **para. 4(2)**
F85 Paragraph substituted by S.I. 1986/1230, **para. 3(2)(b)**
F86 Paragraphs inserted by S.I. 1986/513, **para. 2(2)**
F87 Words inserted by S.I. 1986/1966, **para. 2(2)(a)**
F88 Words substituted by S.I. 1986/1966, **para. 2(2)(b)**

Modifications etc. (not altering text)

- C18** Sch. 1 rule 3 excluded (5.4.1993) by S.I. 1993/920, **rule 2(1)**

Marginal Citations

- M11** 1973 c.45(49:4).
M12 1973 c.45(49:4).
M13 1975 c.72(49:9,10).

Signature and backing of initial writ

- 4 The initial writ shall be signed by the pursuer or his solicitor and the name and address of that solicitor, if any, shall be stated upon the back of every service copy.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Warrant of citation

- 5 (1) The warrant of citation [F89] in any ordinary cause other than an action of divorce and of separation [F90] or an action in which a time to pay direction under the M14 Debtors (Scotland) Act 1987 may be applied for by the defender] . . . F91] shall be framed as nearly as may be in accordance with Form B as set out in the Appendix to this Schedule.
- [F92(2) In an action of divorce or of separation . . . F91 the warrant of citation shall be framed as nearly as may be in accordance with Form B1 as set out in the Appendix to this Schedule.]
- [F93(3) [F94] subject to paragraph 4, in] a summary application, where citation is necessary, the warrant of citation shall be framed as nearly as may be in accordance with Form B2 as set out in the Appendix to this Schedule.
- [F95(4) In a summary application in which a time to pay direction under the M15 Debtors (Scotland) Act 1987 may be applied for by the defender, the warrant of citation shall be framed as nearly as may be in accordance with Form B3 as set out in the Appendix to this Schedule.
- (5) In an ordinary cause in which a time to pay direction under the Debtors (Scotland) Act 1987 may be applied for by the defender, the warrant of citation shall be framed as nearly as may be in accordance with Form B4 as set out in the Appendix to this Schedule.
- (6) In any cause in which warrant for citation in accordance with Forms B3 or B4, as the case may be, is appropriate, there shall be served on the defender (along with the initial writ and warrant) a notice in accordance with Form B5 (ordinary action) or B6 (summary application), as the case may be, as set out in the Appendix to this Schedule.]

Textual Amendments

- F89** Words inserted by S.I. 1984/255, para. 3(3)(a)
- F90** Words inserted by S.I. 1988/1978, para. 5(1)
- F91** Words repealed by S.I. 1986/1230, para. 3(3)
- F92** Rule 5(2) inserted by S.I. 1984/255, para. 3(3)(c)
- F93** Paragraph renumbered by S.I. 1984/255, para. 3(3)(b)
- F94** Words substituted by S.I. 1988/1978, para. 5(2)
- F95** Rule 5(4)–(6) inserted by S.I. 1988/1978, para. 5(3)

Marginal Citations

- M14** 1987 c.18(45:2).
- M15** 1987 c.18(45:2).

Application for a warrant for arrestment to found jurisdiction

- 6 (1) Application for a warrant for arrestment to found jurisdiction may be made in the crave of the initial writ.
- (2) Averments to justify the granting of a warrant for arrestment to found jurisdiction shall be included in the condescendence.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

PERIOD OF NOTICE

Period of notice after citation

- 7 (1) Subject to Rule 11(2)(a) and to paragraph (2) of this rule causes shall proceed after the following periods of notice have been given to the defender—
- [^{F96}(a) 21 days where the defender is resident or has a place of business within Europe;]
- [^{F97}(b)] 42 days when the defender is resident or has a place of business outside Europe.
- (2) The sheriff may, on cause shown, shorten or extend the period of notice on such conditions as to the form or manner of service as the sheriff may direct, but in any case where the period of notice is reduced at least 2 days notice shall be given.
- (3) Where a period of notice expires on a Saturday, Sunday, public or court holiday the period of notice shall be deemed to expire on the first following day on which the sheriff clerk's office is open for civil court business.

Textual Amendments

F96 Rule 7(1)(a) substituted for rule 7(1)(a)(b) by S.I. 1988/1978 para. 6

F97 Sub-paragraph relettered as sub-paragraph (b) by S.I. 1988/1978, para. 6

CITATION AND SERVICE

Signature of warrants

- 8 (1) Warrants for citation or for arrestment on the dependence may be signed by the sheriff or the sheriff clerk.
- (2) Warrants containing an order shortening or extending the period of notice or any other order may only be signed by the sheriff.
- (3) If for any reason the sheriff clerk refuses to sign a warrant, the writ may be presented to the sheriff for his consideration and signature if appropriate.

Form of citation and certificate

- 9 [^{F98}Subject to rule 11:]—
- (1) Citation [^{F99}in any ordinary cause other than an action of divorce or of separation [^{F100}or an action in which a time to pay direction under the ^{M16}Debtors (Scotland) Act 1987 may be applied for by the defender] . . . ^{F101}] shall be given as nearly as may be in accordance with Form C as set out in the Appendix to this Schedule which shall be prefixed to a copy of the initial writ and warrant of citation.
- [^{F102}(2) In an action of divorce or of separation . . . ^{F101} citation shall be given as nearly as may be in accordance with Form C1 as set out in the Appendix to this Schedule which shall be prefixed to a copy of the initial writ and warrant of citation.]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F103}(2A)] In any ordinary cause in which a time to pay direction under the Debtors (Scotland) Act 1987 may be applied for by the defender, citation shall be given as nearly as may be in accordance with Form C2 as set out in the Appendix to this Schedule which shall be prefixed to a copy of the initial writ and warrant of citation.]
- [^{F104}(3)] The certificate of citation shall be as nearly as may be in accordance with Form D as set out in the Appendix to this Schedule which shall be annexed to the initial writ.
- [^{F104}(4)] When citation is by an officer of court, one witness shall be sufficient for the execution of citation.
- [^{F104}(5)] The certificate of citation shall be signed by the officer and the witness [^{F105}and] shall specify whether the citation was personal, or, if otherwise, the mode of citation and the name of any person to whom the citation was delivered.
- [^{F104}(6)] When citation is effected in terms of paragraph 2 of rule 10 the certificate shall also contain a statement of the mode of service previously attempted, the circumstances which prevented such service being effected and a statement that a copy was sent in accordance with the provisions of paragraph (3) of that rule.

Textual Amendments

- F98** Words inserted by S.I. 1986/1230, **para. 3(4)(a)**
- F99** Words inserted by S.I. 1984/255, **para. 3(4)(a)**
- F100** Words inserted by S.I. 1988/1978, **para. 7(1)**
- F101** Words repealed by S.I. 1986/1230, **para. 3(4)(b)**
- F102** Rule 9(2) inserted by S.I. 1984/255, **para. 3(4)(c)**
- F103** Rule 9(2A) inserted by S.I. 1988/1978, **para. 7(2)**
- F104** Paragraph renumbered by S.I. 1984/255, **para. 3(4)(b)**
- F105** Word inserted by S.I. 1986/1230, **para. 3(4)(c)**

Marginal Citations

- M16** 1987 c.18(45:2).

Service within Scotland by officer of court

- 10 (1) Any initial writ, decree, charge, warrant or other order or writ following upon such initial writ or decree may be served by an officer of court on any person:—
- (a) personally, or
 - (b) by being left in the hands of an inmate of or employee at the person's dwelling place or place of business.
- (2) Where an officer of court has been unsuccessful in effecting service in accordance with either sub-paragraphs (a) or (b) of paragraph (1), he may, after making diligent enquiries, serve the document in question either—
- (a) by depositing it in that person's dwelling place or place of business by means of a letterbox or by other lawful means, or
 - (b) by affixing it to the door of that person's dwelling place or place of business.
- (3) If service is effected under paragraph (2) the officer shall as soon as possible after such service send by ordinary post to the address at which he thinks it most likely that the person may be found a letter containing a copy of the document.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Citation of persons whose address is unknown

- 11 [F106] (1) Without prejudice to the provisions of rule 11A, where a defender's address is unknown to the pursuer, the sheriff shall grant warrant to cite the defender—
- (a) by the publication in a newspaper circulating in the area of the defender's last known address of an advertisement as nearly as may be in accordance with Form E as set out in the Appendix to this Schedule: or
 - (b) by displaying on the walls of court a copy of the instance and crave of the initial writ, warrant of citation and notice as nearly as may be in accordance with Form E1 as set out in the Appendix to this Schedule,
- and the period of notice, which shall be fixed by the sheriff, shall run from the date of publication of the advertisement or display on the walls of court, as the case may be.
- (2) Where citation requires to be effected under paragraph (1), the pursuer shall lodge a service copy of the initial writ and a copy of the warrant of citation with the sheriff clerk from whom they may be uplifted by the defender.]
- (3) If a defender has been cited in accordance with paragraph (1), and after the cause has commenced his address becomes known, the sheriff may allow the initial writ to be amended subject to such condition as to re-service, intimation, expenses, or transfer of the cause as seems just.
- (4) [F107] Where] advertisement in a newspaper is required for the purpose of citation under this rule, a copy of the newspaper containing said advertisement shall be lodged with the sheriff clerk.
- [F108] (5) Where display on the walls of court is required under paragraph (1)(b), the pursuer shall supply to the sheriff clerk for that purpose a certified copy of the instance and crave of the initial writ and the warrant of citation.]

Textual Amendments

F106 Rule 11(1)(2) substituted by S.I. 1986/1230, para. 3(5)(a)

F107 Word substituted by S.I. 1986/1230, para. 3(5)(b)

F108 Rule 11(5) inserted by S.I. 1986/1230, para. 3(5)(c)

[F110] Intimation to] persons in actions of divorce or of separation . . . F111 where defender is suffering from mental disorder or his whereabouts are unknown.

- [F109] 11A —In an action of divorce or an action of separation . . . F111, where the defender's address is unknown or the defender is a person suffering from a mental disorder within the meaning of the M17Mental Health (Scotland) Act [F112]1984], warrant for citation shall, subject to paragraph (2), include an order for intimation of the initial writ to—
- (a) every child of the marriage between the parties who has reached the age of 12 years in the case of a girl and 14 years in the case of a boy;
 - (b) one of the defender's next-of-kin who has reached the above age; and
 - (c) the curator**bonis** to the defender, if any.
- (2) Intimation to a person mentioned in sub-paragraphs (a) to (c) of paragraph (1) shall not be required under that paragraph if—
- (a) the address of that person is unknown to the pursuer; and

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(b) there is an averment to that effect in the initial writ.

[Intimation to a person mentioned in sub-paragraphs (a) to (c) of paragraph (1) shall
^{F113}(3) be as nearly as may be in accordance with Form V1 (where the defender is suffering from mental disorder) or Form V2 (where the defender’s address is unknown) as set out in the Appendix to this Schedule.]

(4) In any action to which this rule applies, where the defender suffers or appears to suffer from a mental disorder and is resident in a hospital or other similar institution, citation shall be executed by addressing the registered or recorded delivery letter to the medical officer in charge of that hospital or institution enclosing a certificate in accordance with Form V with a request set out in Form W that he either—

- (a) deliver the copy of the initial writ with warrant thereon personally to the defender together with any notice sent therewith in accordance with the provisions of rule 131 and explain the contents to him; or
- (b) certify that such delivery or explanation would be dangerous to the health or mental condition of the defender,

and complete the certificate accordingly and return it to the solicitor to the pursuer to be attached to the initial writ lodged for calling.

(5) Where the certificate returned under paragraph (4) bears that no delivery of the initial writ was made to the defender, it shall be competent for the sheriff at any stage in the proceedings before decree to order such further medical enquiry and such further service as he may think fit.

[A person receiving intimation under paragraph (1) may apply within the period of
^{F114}(6) notice by minute craving to be sisted as a party and for leave to lodge defences or answers as the case may be.]]

Textual Amendments

- F109** Rule 11A inserted by S.I. 1984/255, para. 3(6)
- F110** Words substituted by S.I. 1986/1230, para. 3(6)(a)
- F111** Words repealed by S.I. 1986/1230, para. 3(6)(b)
- F112** “1984” substituted by S.I. 1986/1230, para. 3(6)(c)
- F113** Rule 11A(3) substituted by S.I. 1986/1230, para. 3(6)(d)
- F114** Rule 11A(6) inserted by S.I. 1986/1230, para. 3(6)(e)

Marginal Citations

- M17** 1984 c.36(85).

Citation of or service on persons outwith Scotland

[^{F115}12(1) Subject to the following provisions of this rule, an initial writ or decree, or any other writ or order following upon such initial writ or decree or any charge or warrant, may be served outwith Scotland on any person—

- (a) at a known residence or place of business in England, Wales, Northern Ireland, the Isle of Man, the Channel Islands or any country with which the United Kingdom does not have a convention providing for service of writs in that country—

- (i) in accordance with the rules for personal service under the domestic law of the place in which service is to be effected; or

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) by posting in Scotland a copy of the document in question in a registered or recorded delivery letter or the nearest equivalent which the available postal services permit addressed to the person at his residence or place of business;
 - (b) in a country which is a party to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters dated 15 November 1965 or the European Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters as set out in Schedule 1 to the^{M18}Civil Jurisdiction and Judgments Act 1982—
 - (i) by a method prescribed by the internal law of the country where service is to be effected for the service of documents in domestic actions upon persons who are within its territory;
 - (ii) by or through a central authority in the country where service is to be effected at the request of the Foreign Office;
 - (iii) by or through a British Consular authority at the request of the Foreign Office;
 - (iv) where the law of the country in which the person resides permits, by posting in Scotland a copy of the document in a registered or recorded delivery letter or the nearest equivalent which the available postal services permit addressed to the person at his residence; or
 - (v) where the law of the country in which service is to be effected permits, service by *anhuissier*, other judicial officer or competent official of the country where service is to be made;
 - (c) in a country with whom the United Kingdom has a convention on the service of writs in that country other than the conventions mentioned in subparagraph (b), by one of the methods approved in the relevant convention.
- (2) Any document which requires to be posted in Scotland for the purposes of this rule shall be posted by a solicitor or an officer of court, and the forms for citation and certificate of citation in rule 9 shall apply to a postal citation under this rule as they apply to a citation under that rule.
- (3) On the face of the envelope used for postal service under this rule, there shall be written or printed a notice in the same or similar terms as that required in the case of ordinary service under rule 15(3).
- (4) Where service is effected by a method specified in paragraph (1)(b)(ii) or (iii), the pursuer shall—
- (a) send a copy of the writ and warrant for service with citation attached, or other document, with a request for service to be effected by the method indicated in the request to the Secretary of State for Foreign and Commonwealth Affairs; and
 - (b) lodge in process a certificate of execution of service signed by the authority which has effected service.
- (5) Where service is effected by the method specified in paragraph (1)(b)(v) the pursuer, his solicitor or the officer of court, shall—
- (a) send to the official in the country in which service is to be effected a copy of the writ and warrant for service with citation attached, or other document, with a request for service to be affected by delivery to the defender or his residence; and

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (b) the pursuer shall lodge in process a certificate of execution of service by the official who has effected service.
- (6) Where service is effected in accordance with paragraph (1)(a)(i) or (1)(b) (i), the pursuer shall lodge a certificate by a person who is conversant with the law of the country concerned and who practices or has practised as an advocate or solicitor in that country or is a duly accredited representative of the Government of that country, stating that the form of service employed is in accordance with the law of the place where the service was effected. It shall not be necessary to lodge a certificate where service has taken place in another part of the United Kingdom, the Channel Isles or the Isle of Man.
- (7) Every writ or document and every citation and notice on the face of the envelope referred to in paragraph (3) shall be accompanied by a translation in an official language of the country in which service is to be executed unless English is an official language of that country.
- (8) A translation referred to in paragraph (7) shall be certified as a correct translation by the person making it and the certificate shall contain the full name, address and qualifications of the translator and be lodged along with the execution of citation or certificate of execution.]

Textual Amendments

F115 Rule 12 substituted by S.I. 1986/1946, para. 2(3)

Marginal Citations

M18 1982 c.27(45:3).

Days of charge

- [^{F116}13(1) The period for payment specified in any charge following on a decree for payment granted in an ordinary cause shall be 14 days if the person on whom it is served is within the United Kingdom and 28 days if he is outside the United Kingdom or his whereabouts are unknown.
- (2) The period in respect of any other form of charge in respect of an ordinary cause decree shall be 14 days.]

Textual Amendments

F116 Rule 13 substituted by S.I. 1988/1978, para. 8

Service of charge where defender's address is unknown

- [^{F117}13(1) Where a defender's address is unknown to the pursuer, a charge shall be deemed to have been served on the defender if it is served on the sheriff clerk of the sheriff court district where the defender's last known address is located and is displayed by the sheriff clerk on the walls of that court for the period of the charge.
- (2) On receipt of such a charge the sheriff clerk shall display it on the walls of court.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The period specified in the charge shall run from the first date on which it was displayed on the walls of court and it shall remain displayed for the period of charge.
- (4) On the expiry of the period of charge the sheriff clerk shall endorse a certificate on the charge certifying that it has been displayed in accordance with this rule and shall thereafter return it to the officer of court by whom service was effected.]

Textual Amendments

F117 Rule 13A inserted (9.4.1990) by S.I. 1990/661, para. 2(2)

Persons carrying on business under a trading or descriptive name

- 14 (1) Any person or persons carrying on a business under a trading or descriptive name, may sue or be sued in such trading or descriptive name alone, and any extract of a decree pronounced in the sheriff court, or of a decree proceeding upon any deed, decree arbitral, bond, protest of a bill, promissory note or banker's note, or upon any other obligation or document on which execution may competently proceed, recorded in the sheriff court books against such person or persons, under such trading or descriptive name, shall be a valid warrant for diligence against such person or persons.
- (2) Any initial writ or decree, or any other writ or order following upon such initial writ or decree or any charge or warrant issued in any cause to which this rule applies may be served at any place of business or office at which such business is carried on within the sheriffdom of the sheriff court in which the cause is brought or, in the event of there being no place of business within that sheriffdom, service may be effected at any place where such business is carried on (including the place of business or office of the clerk or secretary of any company, corporation or association or firm).

Postal citation

- 15 (1) In any case in which it is competent to serve or intimate any document or to cite any person by recorded delivery, such service, intimation of citation, when made by recorded delivery, shall only be competent if it is made by recorded delivery first class service.
- (2) Notwithstanding the provisions of section 4(2) of the Citation Amendment (Scotland) Act ^{M19} 1882, in all cases of postal service the period of notice shall start to run on the day of posting.
- (3) On the face of the envelope used for postal service under this rule there shall be written or printed the following notice or a notice to the like effect—

“This letter contains a citation to or intimation from (specify the Court). If delivery of the letter cannot be made at the address shown it is to be returned immediately to (give the official name and office or place of business of the Clerk of Court)”.
- (4) The certificate of citation in the case of postal service shall have annexed to it any relevant postal receipts.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M19 1882 c.77(45:2).

Endorsation unnecessary

- 16 Any initial writ or decree, or any other writ or order following upon such initial writ or decree or any charge or warrant may be served, enforced or otherwise lawfully executed anywhere in Scotland without endorsation by a sheriff clerk and, if executed by an officer, may be so executed by an officer of the court which granted it or by an officer of the sheriff court district within which it is to be executed.

Re-service

- 17 If it appears to the sheriff that there has been any failure or irregularity in service upon a defender, the sheriff may authorise the pursuer to re-serve the initial writ upon such conditions as seem just.

Personal bar

- 18 (1) A party who appears may not state any objection to the regularity of the service upon himself, and his appearance shall remedy any defect in the service.
- (2) Nothing in this rule shall preclude a party from pleading that the court has no jurisdiction.

TRANSFER OF CAUSES

Transfer to another Sheriff court

- 19 (1) Subject to paragraph (c), where a cause in which there are two or more defenders has been brought in the sheriff court of the residence or place of business of one of them, the sheriff may transfer the cause to any other sheriff court which has jurisdiction over any of the defenders.
- (b) Subject to paragraph (c), where a plea of no jurisdiction is sustained the sheriff may transfer the cause to the sheriff court before which it appears to him it ought to have been brought.
- (c) The sheriff shall not transfer a cause to another sheriff court under paragraphs (a) and (b) above except on the motion of one or more of the parties and unless he considers it expedient to do so having regard to the convenience of the parties and their witnesses;
- (d) The sheriff may upon sufficient cause remit any cause to another sheriff court.
- (2) On making an order under paragraph (1) transferring a cause to another sheriff court the sheriff—
- (a) shall state his reasons for doing so in the interlocutor;

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (b) may make the order subject to such conditions as to expenses or otherwise as he thinks fit.
- (3) The sheriff court to which a cause is transferred under paragraph (1) shall accept the cause.
- (4) A transferred cause shall proceed in all respects as if it had been originally brought in the court to which it is transferred.
- (5) An interlocutor transferring a cause shall, with leave of the sheriff, be subject to review by the sheriff principal but shall not be further subject to review.

Remit of cause to the Court of Session

- 20 (1) The sheriff clerk shall, within the period of four days after the sheriff has pronounced an interlocutor remitting a cause to the Court of Session, transmit the process to the deputy principal clerk of session.
- (2) The sheriff clerk shall within that period send written notice of the remit to the party or parties and certify on the interlocutor sheet that he has done so, but failure to do so shall not affect the validity of the remit.

Remit of cause from the Court of Session

- [^{F118}20A] (1) On receipt of the process in an action which has been remitted from the Court of Session, the sheriff clerk shall—
- (a) record the date of such receipt on the interlocutor sheet;
 - (b) enrol the cause for further procedure on the first court day occurring not earlier than 14 days after the date of receipt of the process; and
 - (c) forthwith send written notice of the date of calling of the action to the parties.
- (2) The action shall thereafter proceed on the existing process unless the sheriff otherwise directs.]

Textual Amendments

F118 Rule 20A inserted by S.I. 1986/1966, para. 2(3)

UNDEFENDED CAUSES

Minute for granting of decree without attendance

- 21^{F119}(1) Subject to paragraph (2) [^{F120}of this rule and rule 21A], if the defender does not lodge a notice of intention to defend or a minute under rule 34 [^{F121}or an application for a time to pay direction under the ^{M20} Debtors (Scotland) Act 1987 or if the defender has lodged such application and the pursuer does not object thereto or to any recall or restriction of an arrestment sought therein.], the sheriff may on the pursuer endorsing a minute in that behalf on the initial writ at any time after the expiry of the period for lodging that notice or minute grant decree or other order in terms of the minute so endorsed without requiring the attendance of the pursuer in court [^{F122}: provided

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

that the sheriff shall not grant decree in the cause unless it appears *sex facie* of the initial writ that a ground of jurisdiction exists under the ^{M21} Civil Jurisdiction and Judgments Act 1982].

[^{F123}(b) In the case of a defender domiciled in another part of the United Kingdom or in another Contracting State, the sheriff shall not grant decree in absence until it has been shown that the defender has been able to receive the initial writ in sufficient time to arrange for his defence or that all necessary steps have been taken to that end; and for the purposes of this sub-paragraph—

- (i) the question as to whether a person is domiciled in another part of the United Kingdom shall be determined in accordance with sections 41 and 42 of the Civil Jurisdiction and Judgments Act 1982;
- (ii) the question as to whether a person is domiciled in another Contracting State shall be determined in accordance with article 52 of Schedule 1 to that Act; and
- (iii) the term “Contracting State” has the meaning assigned to it by section 1 of that Act.]

[^{F124}(2) Paragraph (1) does not apply to actions—

- (a) of divorce or of separation;
- (b) relating to tutory, curatory, custody or access or any right or authority relating to the welfare or upbringing of a child conferred on a parent by any rule of law;
- (c) for declarator of parentage, non-parentage, legitimacy, legitimation or illegitimacy.]

Textual Amendments

- F119** “(a)” inserted by S.I. 1986/1946, [para. 2\(4\)\(a\)](#)
- F120** Words inserted by S.I. 1986/1946, [para. 2\(4\)\(b\)](#)
- F121** Words inserted by S.I. 1988/1978, [para. 9](#)
- F122** Words inserted by S.I. 1986/1946, [para. 2\(4\)\(c\)](#)
- F123** [Rule 21\(1\)\(b\)](#) inserted by S.I. 1986/1946, [para. 2\(4\)\(d\)](#)
- F124** [Rule 21\(2\)](#) substituted by S.I. 1986/1966, [para. 2\(4\)](#)

Marginal Citations

- M20** [1987 c.18\(45:2\)](#).
- M21** [1982 c.27\(45:3\)](#).

Decree in causes to which the Hague Convention applies

[^{F125}21A Where in any civil proceedings (including proceedings for divorce, separation and aliment and actions for custody of children), the initial writ has been served in a country to which the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters dated 15 November 1965 applies, decree shall not be granted until it is established to the satisfaction of the sheriff that the requirements of article 15 of that Convention have been complied with.]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F125 Rule 21A inserted by S.I. 1986/1946, para. 2(5)

Applications for time to pay directions in undefended causes

[^{F126}21B] This rule applies to ordinary causes in which a time to pay direction may be applied for under the ^{M22}Debtors (Scotland) Act 1987.

- (2) A defender in a cause which is otherwise undefended, who wishes to apply for a time to pay direction, and where appropriate, to have an arrestment recalled or restricted, may complete and lodge with the sheriff clerk the relevant part of form B5 before the expiry of the period of notice.
- (3) Where the pursuer does not object to the defender's application, he shall minute accordingly and for decree in accordance with rule 21; and the sheriff may grant decree or other order in terms of the application and minute.
- (4) Where the pursuer objects to the defender's application he shall minute accordingly and for decree in terms of rule 21; and the sheriff clerk shall thereafter enrol the cause for hearing of the defender's application and intimate the hearing to the defender and pursuer.
- (5) The sheriff shall consider the application on the date fixed for hearing or at any continuation thereof and may then or after further consideration grant or refuse it as may seem to him appropriate whether or not any of the parties appear and grant decree accordingly.]

Textual Amendments

F126 Rules 21B, 21C inserted by S.I. 1988/1978, para. 10

Marginal Citations

M22 1987 c.18(45:2).

Applications for time to pay directions in summary applications

- 21C (1) This rule applies in summary applications in which a time to pay direction may be applied for under the Debtors (Scotland) Act 1987.
- (2) A defender may apply for a time to pay direction and, where appropriate, for recall or restriction of an arrestment—
- (a) by appearing and making the appropriate motion at the diet fixed;
 - (b) except where the period of notice has been shortened in accordance with rule 7(2), by completing and returning to the sheriff clerk at least 7 days before the diet fixed for hearing the appropriate portion of form B6; or
 - (c) by application to the court at any stage in the proceedings prior to final decree being granted.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Procedure in undefended actions . . . ^{F127}[^{F128}relating to parental rights]

22 (1) If no notice of intention to defend has been lodged in an action . . . ^{F127}[^{F128}relating to tutory, curatory, custody or access or any right or authority relating to the welfare or upbringing of a child conferred on a parent by any rule of law] and the pursuer has returned the initial writ to the sheriff clerk the action shall be called in court.

. . . ^{F129}

[^{F130}(2)] [^{F128}In any such action] decree may be granted after such inquiry as the sheriff thinks necessary.

Textual Amendments

F127 Words repealed by S.I. 1986/1230, **para. 3(8)**

F128 Words substituted by S.I. 1986/1966, **para. 2(5)**

F129 Rule 22(2) repealed by S.I. 1986/1230, **para. 3(8)(c)**

F130 Paragraph renumbered Rule 22(2) by S.I. 1986/1230, **para. 3(8)(c)**

[^{F132}Procedure where actions of divorce or separation or actions affecting parentage are undefended]

[^{F131}23(1) This rule—

- (a) applies to all actions of divorce [^{F133}actions of separation and actions for declarator of parentage, non-parentage, legitimacy, legitimation or illegitimacy] . . . ^{F134} in which no notice of intention to defend has been lodged;
- (b) may apply to any [^{F133}such action] . . . ^{F134} which proceeds at any stage as undefended if the court so directs;
- (c) may apply to the merits of any such action as is mentioned in subparagraph (b) if the court so directs, notwithstanding that the action is defended on an ancillary matter.

(2) Proof in all such actions, unless in any particular action the sheriff otherwise directs, shall be by way of evidence submitted in the form of affidavits and such evidence shall not be treated as being insufficient for the purposes of proof by reason only that it is not supported by parole evidence.

(3) The sheriff may, at any time after the endorsement of the minute referred to in rule 72(5), without requiring the appearance of parties before him—

- (a) grant decree in terms of the motion for decree; or
- (b) remit the cause for such other procedure, including proof by parole evidence, as the sheriff may deem appropriate.

(4) The sheriff clerk shall, on the expiry of fourteen days after the granting of decree in terms of paragraph (3), issue to each party to the action an extract of the decree of divorce.]

Textual Amendments

F131 Rule 23 substituted by S.I. 1984/255, **para. 3(9)**

F132 Heading substituted by S.I. 1986/1966, **para. 2(6)(a)**

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

F133 Words substituted by [S.I. 1986/1966, para. 2\(6\)](#)

F134 Words repealed by [S.I. 1986/1230, para. 3\(9\)](#)

Decree for expenses

- 24 At the same time as granting a decree in absence or thereafter the sheriff may grant a decree for expenses.

Issue of extract decree

- 25 (1) On the expiry of 14 days following the granting of a decree in absence the sheriff clerk may issue an extract of the decree.
- (2) The sheriff may on cause shown order the extract to be issued at an earlier date.

Finality of decree in absence

- 26 Subject to section 9(7) of the ^{M23}Land Tenure Reform (Scotland) Act 1974, a decree in absence which has not been recalled or brought under review by suspension or by reduction shall become final, and be entitled to all the privileges of a decree *in foro*—
- (a) on the expiry of six months from its date or from the date of the charge under it, where the service of the initial writ or of the charge has been personal;
 - (b) in any event, on the expiry of 20 years from its date.

Marginal Citations

M23 1974 c.38(74:1).

Amendment of initial writ

- 27 (1) In an undefended action the sheriff may—
- (a) allow the pursuer to amend the initial writ in any way permitted by rule 64;
 - (b) order the amended initial writ to be re-served on the defender on such a period of notice as he thinks fit.
- (2) The defender shall not be liable for the expense occasioned by any such amendment unless the sheriff otherwise directs.
- (3) No such amendment shall have the effect of validating diligence used on the dependence of the action so as to prejudice creditors of the defender, but it shall have the effect of obviating objections to such diligence when stated by the defender himself or by any person representing him by a title, or in right of a debt contracted by him subsequent to the using of such diligence; and any diligence which was competent on the original initial writ shall be competent on the amended initial writ.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

REPONING

Defender may be reponed against decree in absence

- 28 [F135In any action other than an action of divorce or of separation . . . F136,] At any time before implement in full of a decree in absence, the defender may apply to be reponed by lodging with the sheriff clerk a note setting forth his proposed defence and his explanation of his failure to appear and by serving a copy of the note on the pursuer.

Textual Amendments

F135 Words inserted by S.I. 1984/255, para. 3(10)

F136 Words repealed by S.I. 1986/1230, para. 3(10)

Consignation and recall of decree

- 29 (1) On lodging a reponing note under rule 28, the defender shall consign the sum of £10 in the hands of the sheriff clerk.
- (2) On consignation under paragraph (1) the sheriff, if satisfied with the defender's explanation, may recall the decree so far as not implemented, and the cause shall thereafter proceed in all respects as if the defender had appeared.

Sist of diligence

- 30 A reponing note, when duly lodged and served upon the pursuer shall have effect to sist diligence.

Consigned money and expenses

- 31 On the disposal of the reponing note—
- the pursuer shall be entitled to uplift the consigned money unless the sheriff otherwise directs, and
 - the sheriff may make such order as to expenses as seems just.

Judgment to be final

- 32 Any interlocutor or order recalling, or incidental to the recall of a decree in absence, shall be final and not subject to review.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

DEFENDED CAUSES TO PROOF

INTENTION TO DEFEND

Notice of intention to defend

- 33 If a defender intends [^{F137}to challenge the jurisdiction of the court or] to state a defence he shall before the expiry of the appropriate period of notice exhibit to the sheriff clerk the service copy of the initial writ and lodge with him a notice of intention to defend as nearly as may be in terms of Form F as set out in the Appendix to this Schedule. [^{F137}The lodging of such notice of intention to defend shall not imply acceptance of the jurisdiction of the court.]

Textual Amendments

F137 Words inserted by S.I. 1986/1946, para. 2(6)

Minute relating to aliment, periodical allowance, capital payment or transfer of property

- [^{F138}34(1) In an action of separation, affiliation and aliment or for custody of a child, a defender who intends only to dispute the amount of aliment may, in place of lodging a notice of intention to defend, lodge a minute to that effect condescending on the relevant facts.
- (2) In action of divorce, a defender who intends only to dispute liability for, or the amount of, or raise other matters relating to, aliment, periodical allowance, capital payment or transfer of property may, in place of lodging a notice of intention to defend, lodge a minute condescending on the relevant facts.
- (3) In an action of divorce or of separation, a defender may, without lodging a notice of intention to defend, apply to the court by minute craving an order for aliment, periodical allowance, capital payment or transfer of property and such minute shall crave the order which he claims the sheriff should make, and condescend on the relevant facts.
- (4) On the lodging of a minute under paragraph (1), (2) or (3)—
- (a) the sheriff clerk shall enrol the cause for a hearing, and the defender shall send a copy of the minute and intimate the date of the hearing to the pursuer; and
 - (b) the pursuer shall return the initial writ to the sheriff clerk at or before the hearing, but shall not, unless the sheriff otherwise directs, require to lodge a process.
- (5) At the hearing, the sheriff may resolve the matter or continue the cause for such further procedure as he considers appropriate.
- (6) In an action referred to in this rule, the sheriff may grant decree in terms of a joint minute dealing with aliment, periodical allowance, capital payment or transfer of property whether or not these have been craved in the initial writ or minute.]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F138 Rule 34 substituted by S.I. 1986/1230, para. 3(11)

Tabling

- 35 (1) Where a notice of intention to defend has been lodged, the sheriff clerk shall enrol the cause for tabling on the first court day occurring after the expiry of the appropriate period of notice.
- (2) A cause which has not been tabled, and in which protestation has not been craved, shall drop from the roll, but within three months the sheriff may direct it to be again enrolled for tabling under such conditions as to notice, or re-service, or expenses, or otherwise as seem just.
- (3) At tabling, the sheriff may, on the motion of either party, continue the cause without ordering defences to be lodged.

Protestation

- 36 (1) On any occasion on which the cause is enrolled for tabling and not tabled, the defender or his agent, upon producing the service copy of the writ, may crave protestation for not insisting, which the sheriff may grant, and shall fix the amount of protestation money payable to the defender.
- (2) Protestation shall not be extracted before the expiry of seven clear days from the date of its granting, except where arrestments have been used, in which case it may be extracted after the expiry of 48 hours from that date.
- (3) Upon protestation being extracted, the instance shall fall.
- (4) Before extract, protestation may be recalled, and the sheriff may allow the pursuer to proceed with the cause upon making payment to the defender of the amount of protestation money, and upon such other conditions as the sheriff thinks fit.

THE PROCESS

Lodging of process by pursuer

- 37 In a cause in which a notice of intention to defend has been lodged, the pursuer shall at or before tabling lodge with the sheriff clerk the principal initial writ and a copy initial writ with warrant thereon certified by the pursuer, principal and duplicate interlocutor sheets, and principal and borrowing inventory of process, and the sheriff clerk shall endorse on all documents lodged in process the date of lodging.

Custody of process

- 38 (1) The principal initial writ, the principal interlocutor sheets and borrowing inventory of process shall remain in the custody of the sheriff clerk.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The sheriff may make a special order to the contrary in respect of the principal initial writ.

Borrowing of process

- 39 (1) A process may be borrowed only by a solicitor or by his authorised clerk for whom he shall be responsible.
- (2) All remedies competent to enforce the return of a borrowed process may proceed on the warrant of the court from whose custody the process was obtained, whether the borrower is or is not within its jurisdiction.
- (3) A party litigant shall not borrow a process except by leave of the sheriff and subject to such conditions as the sheriff may impose but may inspect a process and obtain copies, where practicable, from the sheriff clerk.
- (4) All numbers of process borrowed shall be returned to the sheriff clerk not later than two days before the date of the proof.

Failure to return process

- 40 (1) When a solicitor or party litigant has borrowed a process, or any part of a process, and fails to return it for any diet at which it is required, the sheriff may impose upon such solicitor or party litigant a fine not exceeding £50, which shall be payable to the sheriff clerk; but an order imposing a fine may, on cause shown, be recalled by the sheriff who granted it.
- (2) Orders made under this rule shall not be subject to appeal.

Replacement of lost documents

- 41 When any part of process is lost or destroyed, a copy thereof, authenticated in such manner as the sheriff may require, may be substituted and shall, for the purposes of the action to which the process relates, be treated as having the same force and effect as the original.

Borrowing of certified copy initial writ for purposes of arrestment and issue of precepts of arrestment

- 42 (1) The certified copy initial writ with warrant thereon may be borrowed by any party to the action and shall be sufficient warrant to arrest on the dependence if it is otherwise competent to do so.
- (2) Separate precepts of arrestment may be issued by the sheriff clerk on production to him of an initial writ, containing claims for payment of money, on which a warrant of citation has been granted, or of a liquid document of debt.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

DEFENCES AND ADJUSTMENT

Defences

- 43 (1) Where defences have not been lodged at tabling, the sheriff, in the interlocutor pronounced at tabling or otherwise, shall appoint a period within which defences shall be lodged.
- (2) On lodging defences the defender shall send a copy to the pursuer.

Form of defences

- 44 Defences shall be in the form of answers in paragraphs corresponding to the paragraphs of the condescence, and shall have appended a note of the defender's pleas-in-law.

Implied admissions

- 45 Every statement of fact made by one party shall be answered by the other party, and if a statement made by one party of a fact within the knowledge of the other party is not denied by that other party, the latter shall be held as admitting the fact so stated.

Adjustment of pleadings

- 46 Subject to the provisions of rules 47 and 48 all adjustments of the pleadings shall be made by parties only on the certified copy of the initial writ, the defences or answers, as the case may be, and shall be immediately intimated in writing to all other parties.

Open record

- 47 (1) The sheriff may at any time before the closing of the record, on the application of a party to the action *orex proprio motu*, order the pursuer to lodge in process a record of the pleadings as adjusted to the date of the order and to intimate a copy to all other parties.
- (2) Any adjustments made after that date shall be made on that record and intimated to all other parties.

Alteration of sum sued for

- 48 (1) In a cause in which all other parties have lodged defences or answers the pursuer may, prior to the closing of the record and without leave of the sheriff, alter any sum sued for by amending the crave of the initial writ, the certified copy of the initial writ and any record.
- (2) The pursuer shall immediately intimate any such amendment in writing to all other parties.

Adjustment period

- 49 (1) In the interlocutor pronounced at tabling or otherwise the sheriff shall appoint the date on which the cause shall appear on the adjustment roll.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (2) No continuation of the adjustment after the first shall be allowed except on cause shown.
- (3) Cause shall not be shown under paragraph (2) by reason only that parties agree to a continuation.
- (4) In considering whether cause has been shown under paragraph (2) the sheriff shall take into account any additional time which may have been available for adjustment owing to a court vacation occurring (in whole or in part) after the lodging of defences.

THIRD PARTY PROCEDURE

Third party notice

- 50 (1) Where in any cause, a defender claims that he has any right of contribution, relief, or indemnity against any person who is not already a party to the cause, or that a person whom the pursuer is not bound to call as a defender should be made a party to the cause along with the defender in respect that such person is either solely liable or jointly and severally liable with the defender to the pursuer in respect of the subject matter of the cause, the defender may set forth in his defences or in a separate statement of facts the grounds upon which he maintains that any such person (hereinafter called a third party) is liable to him by way of contribution, relief, or indemnity, or should be made a party to the cause and the defences or statement of facts shall also contain appropriate pleas-in-law directed against such third party.
- (2) Thereafter the defender may lodge a motion for the purpose of obtaining an order for the service of a third party notice upon such third party upon such period of notice as is referred to in rule 7, and if the motion is granted, the third party shall be a party to the cause and may lodge answers on or before a date appointed by the sheriff for the regulation of further procedure.
- (3) Averments directed against a third party shall be made prior to the closing of the record, or, at the discretion of the sheriff and subject to such conditions as to the sheriff seem just, at a later stage, but in no event later than the commencement of the hearing of the cause on its merits.
- (4) A third party notice shall be as nearly as may be in terms of Form G as set out in the Appendix to this Schedule and the answers by a third party shall be headed “Answers for E.F. Third Party in the action at the instance of A.B. Pursuer against C.D. Defender”; and the following provisions of this rule shall apply to the procedure under the notice.
- (5) A third party notice shall be served on the third party in any manner and on such period of notice in which an initial writ may competently be served on a defender and shall be accompanied by a copy of the initial writ and defences, or the record, if any.
- (6) A copy of the third party notice with a certificate of execution thereon shall be lodged in process.
- (7) The order granting leave to serve a third party notice may contain a warrant for arrestment to found jurisdiction, or for arrestment on the dependence.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (8) Averments to justify the granting of a warrant for arrestment to found jurisdiction shall be included in the defences or the separate statement of facts referred to in paragraph (1) of this rule.
- (9) On the date appointed by the sheriff for the regulation of further procedure or at any time thereafter the sheriff may grant such decree, interlocutor or order as seems just.
- (10) Any decree, interlocutor, or order against the third party shall take effect and be extractable in the same way as a decree, interlocutor or order against the defender.
- (11) This rule also applies to a claim—
 - (a) by a third party; or
 - (b) by a pursuer in respect of a counter-claim by a defender, as it applies to a claim by a defender.

VALID FROM 04/05/1992

[^{F139}PARTY MINUTER PROCEDURE]

Textual Amendments

F139 Sch. 1 rule 50A and heading inserted (4.5.1992) by S.I. 1992/249, para. 2(6)

^{F140}*Party minuter*

- 50A (1) Any person who has not been called as a defender or third party may apply by minute to the sheriff for leave to enter a process as a party minuter and to lodge defences.
- (2) An application under this rule shall specify—
 - (a) the applicant's title and interest to enter the process; and
 - (b) the grounds of the defence which he proposes to state.
 - (3) On the lodging of a minute under this rule, the sheriff shall appoint a date for hearing the minute; and the applicant shall forthwith serve a copy of the minute and of the order for a hearing on the parties to the cause.
 - (4) After hearing the applicant and any party to the cause, the sheriff may, if he is satisfied that the applicant has shown title and interest to enter the process, grant the applicant leave to enter the process as a party minuter and to lodge defences and may make such order as to expenses or otherwise as he considers appropriate.
 - (5) Where an application under this rule is made after the closing of the record, the sheriff—
 - (a) shall only grant leave under paragraph (4) if he is satisfied as to the reason why earlier application was not made; and
 - (b) may make such further order as to expenses or otherwise as he considers appropriate.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F140 Sch. 1 rule 50A inserted (4. 5. 1992) by S.I. 1992/249, para. 2(6)

COUNTER-CLAIM PROCEDURE

Counter-Claim

- 51 The defender may make a counter-claim against the pursuer by lodging in process a separate document headed “Counter-claim for the Defender” a copy of which shall be sent to the pursuer.

Form of counter-claim

- 52 The counter-claim shall contain a crave or craves in a form which if the counter-claim had been enforced by way of a separate cause would have been appropriate in that cause; it shall also contain a statement of facts setting out in numbered paragraphs the facts on which the counter-claim is founded and shall have appended a note of the pleas-in-law which are necessary to support the counter-claim.

Warrants of counter-claim

- 53 (1) The defender may apply for warrant to use any form of diligence by way of arrestment which could be used on the dependence of a separate cause brought to enforce the matter of the counter-claim.
- (2) Such application shall be made by appending to the crave of the counter-claim the words “warrant for arrestment on the dependence applied for”, and shall be granted by the sheriff clerk who receives the counter-claim adding the words “Grants warrant as craved”, and adhibiting his signature together with the date below those words.
- (3) Any such warrant shall have the like effect as it would have in an initial writ.

Disposal of counter-claim

- 54 The sheriff may—
- (a) deal with the counter-claim as if it had been stated in a substantive cause;
 - (b) regulate procedure as he thinks fit; and
 - (c) grant decree for the counter-claim in whole or in part, or for the difference between it and the sum claimed.

Abandonment where counter-claim

- 55 (1) A pursuer shall not be prevented from abandoning a cause by reason only of a counter-claim by the defender.
- (2) The abandoning of any cause by the pursuer shall not effect a counter-claim made in respect of that cause; and the counter-claim shall continue as a separate cause.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Any expenses payable by the pursuer as a condition of, or in consequence of abandoning the cause shall not include the expenses of the counter-claim.
- (4) A defender who has counter-claimed may abandon his counter-claim by lodging in process a minute to that effect, and thereafter the sheriff may, on payment by the defender of the expenses incurred by the pursuer in connection with the counter-claim, dismiss the counter-claim.
- (5) If the defender fails, within 14 days of the date of taxation, to pay those expenses, the pursuer shall be entitled to decree of absolvitor with expenses in the counter-claim.

Counter-claim . . . ^{F141} for custody, access or maintenance

56^{F142}(1) In any cause in which custody of, access to, or maintenance for, a child is sought [^{F143}or could competently be sought] the defender may make [^{F144}any claim relating to such matters of a kind] which a pursuer may make in such a cause; and rules 51 to 55 shall apply to any such claim as they apply to a counter-claim.

[^{F145}(2) Where a defender makes a counter-claim under paragraph (1), he may, where it would otherwise be competent, incorporate a crave for an order for aliment, periodical allowance, capital payment or transfer of property rather than proceed by way of separate minute under rule 34.

(3) In a cause referred to in this rule, the sheriff may grant decree in terms of a joint minute dealing with custody of, access to, or maintenance for, a child, aliment, periodical allowance, capital payment or transfer of property whether or not those have been craved in the initial writ or counter-claim.]

Textual Amendments

- F141** Words repealed by S.I. 1984/255, para. 3(12)(a)
- F142** “—(1)” inserted by S.I. 1986/1230, para. 3(12)(a)
- F143** Words inserted by S.I. 1984/255, para. 3(12)(b)
- F144** Words substituted by S.I. 1986/1230, para. 3(12)(b)
- F145** Rule 56(2)(3) inserted by S.I. 1986/1230, para. 3(12)(c)

INCIDENTAL PROCEDURE

Motions

57 Any motion endorsed as unopposed may be granted by the sheriff in chambers without hearing the parties.

Applications for time to pay directions and for recall or restriction of arrestments in defended causes

[^{F146}57A In any undefended cause in which it is competent to do so, the sheriff may, on a motion by the defender at any time before decree is granted, grant a time to pay direction and, where appropriate, an order recalling or restricting an arrestment.]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F146 Rule 57A inserted by S.I. 1988/1978, para. 11

Abandonment of cause

- 58 (1) A pursuer may at any stage of a cause before an interlocutor granting absolvitor or dismissing the cause has been pronounced offer to abandon the cause by lodging in process a minute to that effect and thereafter the sheriff may, on payment to the defender of his expenses, dismiss the cause.
- (2) If the pursuer fails, within 14 days of the date of taxation, to pay the defender's expenses, the defender shall be entitled to decree of absolvitor, with expenses.

Decree by default

- 59^{F147}(1) In a defended cause other than an action of divorce or of separation . . . ^{F148} if any production or step of process has not been lodged or an order has not been implemented within the time required by any enactment or order of the sheriff, or if one party fails to appear or be represented at a diet, the sheriff may grant decree as craved or decree of *absolvitor*, or may dismiss the cause, with expenses,]
- (2) If none of the parties appears the sheriff may dismiss the cause.
- [^{F149}(3) In any action the sheriff may, on cause shown, prorogate the time for lodging any production or step of process or for implementing any order.]

Textual Amendments

F147 Rule 59(1) substituted by S.I. 1984/255, para. 3(13)(a)

F148 Words repealed by S.I. 1986/1230, para. 3(13)

F149 Rule 59(3) inserted by S.I. 1984/255, para. 3(13)(b)

Late appearance by defender in actions of divorce and of separation

- 59A (1) The sheriff may make an order, with or without conditions, allowing a defender in an action of divorce or of separation who has not lodged a notice of intention to defend or defences—
- (a) to appear and be heard at a diet of proof;
 - (b) to lodge defences and to lead evidence at any time before decree of divorce or of separation has been pronounced; or
 - (c) to appeal within 14 days of the decree of divorce or of separation.
- (2) Where an order is made under paragraph (1)(a), a defender may not lead evidence without the consent of the pursuer.
- (3) Where an order is made under paragraph (1)(b), the pursuer may lead further evidence, by recalling witnesses already examined or otherwise, whether or not he closed his proof before the order was made.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Transfer of cause on death of party

- 60 (1) Where any depending cause cannot proceed owing to the death of any party and that party's representatives do not sist themselves in his place, any other party may lodge a minute craving transfer of the cause against those representatives.
- (2) The sheriff may on the lodging of any such minute, grant warrant for serving a copy of the initial writ upon those representatives, and if he does so, shall at the same time allow them to lodge a minute of objections to such transference within such time as may be specified in the interlocutor, and shall order intimation of his interlocutor to be made to any other parties to the cause.
- (3) The sheriff may, after considering any objections to the minute, pronounce an interlocutor transferring the cause against their representatives.

Effect of absence of interlocutors

- 61 A cause shall not be held to have fallen asleep by reason only that no interlocutor has been pronounced therein within a year and a day of the date of the last interlocutor.

CLOSING OF RECORD TO PROOF

Closing of the record

- 62 (1) When the pleadings have been adjusted the sheriff shall close the record and make such further order as he thinks fit.
- (2) Not later than 14 days after the closing of the record the pursuer shall lodge in process a certified copy of the closed record.

Preliminary Pleas

- 63 (1) At the time of the closing of the record the parties shall state the preliminary pleas, if any, on which they insist and the sheriff shall fix a date for a debate on any such plea that is insisted in except where, upon a motion by the parties to reserve their pleas, he allows a proof before answer.
- (2) The sheriff shall repel any such plea that is not insisted in.

Amendment of pleadings: powers of the sheriff

- 64 (1) In any defended cause the sheriff may at any time before final judgment—
- (a) allow any amendment of the initial writ or other writ which may be necessary for the purpose of determining in the existing cause the real question in controversy between the parties, notwithstanding that in consequence of such amendment a different remedy from the originally craved is thereby sought, or, after the closing of the record, that the sum sued for is increased or restricted;
- (b) allow any amendment which may be necessary to correct or supplement the designation of any party to the cause, or to enable any party who has sued or has been sued in his own right to sue or be sued in a representative capacity, or to enable any party who has sued or who has been sued in a representative

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- capacity to sue or be sued in his own right or in a different representative capacity, or to add the name of an additional pursuer or of a person whose concurrence is necessary, or where the cause has been commenced in the name of the wrong person as pursuer or where it is doubtful whether it has been commenced in the name of the right person, to allow any other person to be sisted as pursuer in substitution for, or in addition to, the original pursuer;
- (c) in any case in which it appears that all parties having an interest have not been called, or that the cause has been directed against the wrong person, allow any amendment inserting in the initial writ or writ an additional or substitute defender and containing averments directed against said defender and to order the record as so amended to be served on such additional or substitute defender along with a notice in terms of Form H as set out in the Appendix to this Schedule specifying the date by which defences or answers must be lodged [^{F151}]; provided that in any case in which a time to pay direction under the Debtors (Scotland) Act ^{M24} 1987 may be applied for by the defender a notice in terms of form HH as set out in the Appendix to this Schedule together with form B5 shall be served on such additional or substitute defender in place of Form H]; and thereafter a copy of the said notice shall be lodged in process with a certificate of execution thereon and the cause as so amended shall proceed in every respect as if such defender had originally been made a party to the cause;
- (d) allow any amendment of the condescendence, defences, answer or pleas-in-law which may be necessary for determining in the existing cause the real question in controversy between the parties.
- (2) In allowing an amendment under paragraph (1), the sheriff may attach such conditions as seem just, and shall find the party making the amendment liable in the expenses thereby occasioned unless it is just and equitable that the expenses occasioned by the amendment should be otherwise dealt with.
- (3) No amendment allowed under paragraph (1) shall prejudice the rights of creditors of the defender by giving validity to diligence used on the dependence of the cause; but no objections to such diligence shall have effect when stated by the defender himself or by any person representing him by a title, or in right of a debt contracted by him, subsequent to the execution of such diligence.

Textual Amendments

F151 Words inserted by [S.I. 1988/1978](#), [para. 12](#)

Marginal Citations

M24 [1987 c.18\(45:2\)](#).

Renouncing of probation

- 65 If at any time on or after closing the record the parties wish to renounce probation they may do so by lodging with the sheriff clerk a joint minute to that effect with or without a statement of admitted facts and productions, and on the lodging of the joint minute the sheriff may order the cause to be debated.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Ordering of proof

- 66 If proof is necessary, the sheriff shall fix a date for taking the proof, and may limit the mode of proof.

Reference to oath

- 67 (1) Where any party desires to refer any matter to his opponent's oath he shall lodge with the sheriff clerk a minute to that effect.
- (2) If the party to whose oath reference has been made fails to appear at the diet for taking his deposition the sheriff may hold him as confessed and grant decree accordingly.

Objection to documents

- 68 (1) When a deed or writing is founded on by any party in a cause, all objections to the deed or writing may be stated and maintained by way of exception, without reducing it.
- (2) The sheriff may, where an objection is stated under paragraph (1) and where an action of reduction would be competent, order the objector to find caution, or to make consignation as he shall direct.

Remit to person of skill

- 69 (1) Where all compearing parties to the cause concur the sheriff may remit to any person of skill or other person to report on any matter of fact and the report of such person shall be final and conclusive with respect to the matter of the remit.
- (2) Before the sheriff so remits, the parties shall lodge in process a joint minute setting out the matters which are to be the subject of the remit.
- (3) The expense of the execution of the remit shall in the first instance be paid by the parties equally unless the sheriff otherwise directs.
- (4) In undefended causes the sheriff may on the motion of the pursuer remit to a man of skill or other person.

PROOF

EVIDENCE

Evidence to liein retentis

- 70 Evidence in danger of being lost may be taken to *liein retentis* and, if satisfied that it is desirable so to do, the sheriff may, upon the motion of any party at any time, either take such evidence himself, or grant authority to a commissioner to take it.

Evidence taken on commission

- 71 The evidence of any witness or haver resident beyond the jurisdiction of the court, or who although resident within the jurisdiction resides at some place remote from

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

the court, or who is by reason of illness, age or infirmity, or other sufficient cause, unable to attend the diet of proof may be taken by commission in like manner as evidence to lie *in retentis*.

Affidavit evidence

72^{F152}(1) The provisions of this rule—

- (a) apply to all parts of actions of [^{F153}divorce, of separation and of declarator of parentage, non-parentage, legitimacy, legitimation or illegitimacy] which proceed as undefended and to opposed interim orders under the ^{M25}Matrimonial Homes (Family Protection) (Scotland) Act 1981;
 - (b) do not apply to any action of [^{F153}divorce, of separation or of declarator of parentage, non-parentage, legitimacy, legitimation or illegitimacy] where it appears to the sheriff that [^{F154}a] defender is a person who is suffering from a mental disorder within the meaning of the ^{M26}Mental Health (Scotland) Act [^{F155}1984] except where the curator *ad litem* for the defender has lodged a minute intimating that he does not intend to defend the action.]
- (2) Evidence submitted in the form of affidavits shall, subject to the provisions of this rule, be admissible in place of parole evidence.
 - (3) For the purpose of this rule—
 - (a) “affidavit” includes affirmation and statutory or other declaration;
 - (b) an affidavit shall be treated as admissible if it is duly emitted before a notary public or any other competent authority.
 - (4) Evidence submitted in the form of a written statement bearing to be that of a duly qualified medical practitioner, which has been signed by him and lodged in process, shall be admissible in place of parole evidence.
 - (5) Where it is intended to submit evidence only by means of affidavits the sheriff, at any time after the expiry of the period within which a notice of intention to defend or a minute under rule 34 must be lodged, the pursuer having lodged the necessary evidence on affidavit and having endorsed a minute [^{F156}in accordance with Form X] on the initial writ, may grant decree or other order in terms of that minute, without requiring the attendance of the pursuer in court.
 - (6)

F157

Textual Amendments

- F152** Rule 72(1) substituted by S.I. 1984/255, para. 3(15)(a)
F153 Words substituted by virtue of S.I. 1986/1230, para. 3(15)(a) and S.I. 1986/1966, para. 2(7)
F154 Word substituted by S.I. 1986/1966, para. 2(7)(b)(ii)
F155 “1984” substituted by S.I. 1986/1230, para. 3(15)(b)
F156 Words inserted by S.I. 1984/255, para. 3(15)(b)
F157 Rule 72(6) repealed by S.I. 1984/255, para. 3(15)(c)

Marginal Citations

- M25** 1981 c.59(49:6).
M26 1984 c.36(85).

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Conditions for receiving written statements in evidence without being spoken to by a witness

- [^{F158}72A] Any written statement (including an affidavit) or report, admissible under section 2(1)(b) of the ^{M27}Civil Evidence (Scotland) Act 1988 may be received in evidence in any ordinary cause without being spoken to by a witness subject to the provisions of this rule.
- (2) The following provisions of this rule do not apply to any such written statement or report in respect of which express provision is made in these rules for its admissibility in evidence in relation to a particular category of ordinary cause.
 - (3) Application to the sheriff to receive any such written statement or report in evidence without being spoken to by a witness shall be made by way of motion.
 - (4) Subject to paragraph (5), on enrolling any such motion, the applicant shall lodge—
 - (a) the written statement or report as a production;
 - (b) in any case where the other party or parties have not agreed to the written statement or report in question being received in evidence without being spoken to by a witness, an affidavit or affidavits in support of the motion stating—
 - (i) the name, designation, and qualifications (if any) of the author of the statement or report in question;
 - (ii) the circumstances in which it was written; and
 - (iii) the reasons for the application.
 - (5) Paragraph (4) does not apply to an application made in respect of a written statement or report in the form of an affidavit which includes the information specified in subparagraph (b) of paragraph (4).
 - (6) On the hearing of any such motion, the sheriff may grant the motion, with or without conditions, or may refuse it, or may continue the motion to enable such further information to be obtained as he may require for the purpose of determining the application.
 - (7) For the purpose of this rule—
 - (a) expressions used in this rule and in the ^{M28}Civil Evidence (Scotland) Act 1988 shall have the meaning they have in that Act;
 - (b) “affidavit” includes affirmation and statutory or other declaration;
 - (c) an affidavit shall be treated as admissible if it is duly emitted before a notary public or any other competent authority.]

Textual Amendments

F158 Rule 72A inserted by S.I. 1989/436, para. 2

Marginal Citations

M27 1988 c.32(47).

M28 1988 c.32 (47).

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Recording of evidence

- 73 (1) In every defended cause the evidence shall be recorded by a shorthand writer, approved by the sheriff, unless the parties shall by agreement and with the consent of the sheriff dispense with the recording of such evidence. The responsibility for instructing a shorthand writer for a proof shall lie with the pursuer.
- (2) Evidence adduced before a commissioner may be recorded by a shorthand writer or clerk approved by the commissioner. The responsibility for instructing a shorthand writer shall lie with the party moving for the commission.
- (3) Where evidence is recorded by a shorthand writer or clerk the sheriff or commissioner shall administer the oath *de fidei administratione* to the shorthand writer or clerk who shall record the evidence by question and answer. The extended notes of evidence certified by such shorthand writer shall be the notes of the oral evidence in the case.
- (4) It shall be unnecessary to record evidence in an undefended proof.
- (5) If the correctness of the notes of evidence or of a deposition is questioned, the sheriff may satisfy himself in regard thereto by the examination of witnesses or otherwise, and may amend the record of evidence or a deposition.
- (6) When a shorthand writer is so employed to record evidence, he shall in the first instance be paid, as regards commissions by the party moving for the commission, and as regards proofs by the parties equally. The solicitors of parties shall be personally liable for the shorthand writer's fees and the sheriff may make an order directing payment to be made.

WITNESSES AND HAVERS

Citation

- 74 (1) A copy of an interlocutor certified by the sheriff clerk allowing a proof or fixing a diet for the trial of any cause or for the examination of witnesses or havers shall be sufficient warrant for citation of witnesses or havers.
- (2) If any witness or haver duly cited on a period of notice of at least 7 days and after having been paid his travelling expenses if the same shall have been demanded, fails to attend a diet, either before the sheriff or before his commissioner, such witness or haver may be ordained by the sheriff to forfeit and pay a penalty not exceeding £250, unless a reasonable excuse be offered and sustained, and the sheriff may grant decree for said penalty in favour of the party on whose behalf said witness or haver was cited.

Form of citation

- 75 (1) Witnesses and havers may be cited as nearly as may be in terms of Form I as set out in the Appendix to this Schedule and the certificate of citation shall be as nearly as may be in terms of Form J as set out in the Appendix to this Schedule.
- (2) A solicitor who cites a witness or haver shall be personally liable for his fees and expenses.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In the event of a solicitor who has cited a witness or haver intimating to him that his citation is cancelled, the solicitor shall advise him that said cancellation is not to affect any other citation which he may have received from another party in that cause.

Second diligence against witness

- 76 (1) The sheriff may grant second diligence to compel the attendance of a witness or haver under pain of arrest and imprisonment until caution can be found as the sheriff may require for his due attendance.
- (2) The warrant for a second diligence shall be effective in any sheriffdom without endorsement and the expenses thereof may be decerned for against the witness or haver.

Warrant to arrest

- 77 Where any witness or haver fails to answer a citation after having been duly cited the sheriff may, upon production of a relevant certificate of citation, grant warrant for the apprehension of the witness or haver and for bringing him to the court, and the expenses thereof may be decerned for against the witness or haver.

PRODUCTIONS

Production and recovery of documents

- 78 (1) Each party shall, along with his pleadings, or at latest before the closing of the record, if required by any other party in the cause or by the sheriff, lodge any documents founded upon in the pleadings, so far as the same are within his custody or power.
- (2) Where such documents are not produced by any party to the cause or are in the hands of third parties, the sheriff may, on the motion of any party, grant commission and diligence for their recovery and may on that account delay closing the record.
- (3) At any time after tabling, the sheriff, on the motion of either party, may grant commission and diligence for the recovery of such documents contained in a specification as he shall deem relevant to the cause.

Lodging productions for proofs

- 79 In all causes in which a proof has been allowed, all documents, plans, maps, models and other productions which are intended to be used or put in evidence at the proof, shall be lodged along with an inventory with the sheriff clerk on or before the fourteenth day prior to the day appointed for the proof, and notice of the lodging thereof shall at the same time be sent to the other party or parties; and no other production shall be used or put in evidence at the proof unless by consent of parties or by permission of the sheriff presiding thereat, on cause shown to his satisfaction, and on such terms as to expenses or otherwise as seems just.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Ordering of production of documents by sheriff

- 80 The sheriff may order production of documents at any state of the cause, and the sheriff may allow a party, at any time before judgment, to produce any document which he has failed to produce timeously, on such conditions as to payment of expenses and allowing further proof as to the sheriff shall seem just.

Optional procedure before executing commission and diligence

- 81 (1) Any party who has obtained a commission and diligence for the recovery of documents may, at any time, before executing the same against another party or other parties to the cause, or against any haver, serve upon such party, or parties, or haver, an order with certificate attached in terms of Form K as set out in the Appendix to this Schedule.
- (2) Such order shall be served by registered or recorded delivery letter, and may be addressed to the care of the known solicitor or solicitors for the party or parties, or for the haver, from whom the documents are sought to be recovered.
- (3) Such order shall be obtempered by such party, or parties, or by such haver, in the manner and within the time specified therein.
- (4) When the order, certificate in terms thereof and inventoried documents (if any) are received by the sheriff clerk, official intimation shall be given by him forthwith to the solicitor or solicitors of the party or parties to the cause that the order has been served and obtempered; and it shall not be competent for any party, other than the party who served the order, to borrow any of the documents until after the expiry of 7 days from the date of such official intimation.
- (5) If the party who served the order is not satisfied that full production has been made under the specification, or that adequate reasons for non-production have been given, he may execute the commission and diligence in normal form, notwithstanding his adoption in the first instance of the foregoing procedure by order.
- (6) In the event of the production under such order as aforesaid of extracts from books whether such extracts are certified or not, the sheriff may, on cause shown, order that the party who served the order shall be at liberty to inspect and take copies of any entries in any books falling under the specification, subject, in the event of any question of confidentiality arising, to the inspection being made, and the copies being taken, at the sight of the commissioner appointed in the interlocutor granting the commission and diligence; and the sheriff may, on cause shown, order the production of any books (not being bankers' books or books of public record) falling under a specification, notwithstanding the production of certified extracts therefrom.

Confidentiality

- 82 In any cause in which, either under the optional procedure provided in rule 81 or in the execution of a commission and diligence in normal form, confidentiality is claimed for any of the documents produced, such documents shall be enclosed in a separate sealed packet, which shall not be opened or put in process except by authority of the sheriff obtained on the application of the party serving the order, or executing the commission and diligence, after opportunity has been given to the party, parties or haver, making production, to be heard.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Warrant for production of original documents from public records

- 83 (1) Where any party to a cause desires to obtain from the Keeper of the Registers of Scotland or the Keeper of the Records of Scotland production of the originals of any register or deed under his custody, he shall apply by motion to the sheriff before whom the cause depends, after 7 days' notice of such application given in writing to the Keeper in charge of the originals.
- (2) Upon such application the sheriff may by interlocutor, certify that it is necessary for the ends of justice that the application should be granted, and the party may make application by letter (enclosing a copy of the interlocutor duly certified by the sheriff clerk or one of his deposes) addressed to the principal clerk of session, for an order from the Lords of Council and Session authorising the Keeper to exhibit the original of any register or deeds to the sheriff, and that in the hands of an officer to be selected by the said Keeper.
- (3) The principal clerk of session shall submit the same to a Lord Ordinary in Chambers, who, if satisfied, shall grant a warrant on behalf of the Lords of Council and Session. A certified copy of said warrant shall be served upon the Keeper.
- (4) The expense attending the transmission and exhibition of such original registers or deeds shall be defrayed in the first instance by the party or parties on whose application they are exhibited.

Orders for inspection

- 84 (1) Any application to the sheriff for an order for the inspection, photographing, preservation, custody or detention of documents or other property (including, where appropriate, land) or for the production, recovery or the taking of samples thereof or the carrying out of any experiment thereon or therewith made in any civil proceedings which have been commenced before that sheriff shall be made by minute craving that the sheriff should grant such an order and specifying the order sought.
- (2) Upon such minute being lodged, the sheriff shall forthwith appoint—
- the application to be heard at a diet to be fixed by him, and
 - appoint intimation to other parties to the proceedings and to such other persons as appear to him to have an interest relevant to the application.
- (3) After hearing parties, the sheriff may either grant or refuse the order sought, in whole or in part, or as amended, and may order the applicant to find such caution for any loss, damage or expenses which may be incurred as a result of the application as to the sheriff seems just.
- (4) Any application to the sheriff for such an order as is referred to in paragraph (1), made where proceedings have not been commenced, by any person who appears to the sheriff to be likely to be a party to or minuter in proceedings which are likely to be brought, shall be made by initial writ served upon all persons who are likely to be parties to such proceedings when commenced; and such application shall be and shall be dealt with as a summary application, provided that the sheriff may make an order for such intimation to such other persons as appear to him to have an interest relevant to the application, and may order the applicant to find such caution for any loss, damage or expense which may be incurred as a result of the application as to the sheriff seems just.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Any party who has obtained an order under this rule shall serve by registered or recorded delivery letter a certified copy of the interlocutor granting such order upon—
- (a)
 - (i) in the case of an order made under paragraph (3), any other party or parties to the cause;
 - (ii) in the case of an order made under paragraph (4), any person upon whom service has been made; and
 - (b) such other persons to whom the sheriff has appointed intimation of the application to be made;
- but it shall not be necessary to serve such certified copy on any person who was present or represented when the application was heard; and such order shall be obtempered by the party or parties to whom it is directed in the manner and within the time specified therein.

Orders to disclose identity of persons

- [^{F159}84(A)] An application for an order under section 1(1A) of the ^{M29}Administration of Justice (Scotland) Act 1972 requiring a person to disclose such information as he has as to the identity of any person who might be a witness in a cause in dependence before that sheriff court shall be made by minute in the process of that cause craving such an order and specifying the order sought.
- (2) On a minute being lodged under paragraph (1), the sheriff shall appoint forthwith—
 - (a) the application to be heard at a diet to be fixed by him; and
 - (b) intimation to be made to any other party to the cause and to such other person as appears to him to have an interest in the application.
 - (3) After hearing parties, the sheriff may either grant or refuse the order sought in whole or in part, or as amended, and subject to such conditions, including caution, as he thinks fit.
 - (4) An application for an order under section 1(1A) of the ^{M30}Administration of Justice (Scotland) Act 1972 requiring a person to disclose such information as he has as to the identity of any person who might be a witness or defender in any civil proceedings which are likely to be brought, shall be made by summary application.
 - (5) A summary application under paragraph (4) shall crave the order which is sought and shall specify the nature of the proposed proceedings and the information required.
 - (6) On presentation of a summary application under paragraph (4), the sheriff may make an order for intimation to such persons as appear to him to have an interest in the application.
 - (7) After the hearing of the summary application, the sheriff may grant the order sought in whole or in part, or as amended, subject to such conditions, including caution, as he thinks fit.
 - (8) Subject to paragraph (9), a certified copy interlocutor granting an order made under this rule shall—
 - (a) be served upon the person to whom it is directed; and
 - (b) be intimated to any other person to whom intimation of the minute or application, as the case may be, has been made,
 by the party in whose favour it has been granted.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (9) An interlocutor granting an order under this rule shall not be served upon, or intimated to, a person who was present or represented when the application under this rule was determined.
- (10) An interlocutor of the court under this rule shall be obtempered by the person to whom it is directed in the manner and within the time specified.]

Textual Amendments

F159 Rule 84A inserted by S.I. 1986/1966, para. 2(8)

Marginal Citations

M29 1972 c.59(36:1).

M30 1972 c.59(36:1).

PROCEDURE AT PROOF

Proof to be taken continuously

- 85 The proof shall be taken so far as possible continuously, but the sheriff may adjourn the diet from time to time.

Objections

- 86 (1) All objections to the admissibility of oral or documentary evidence or to the production of documents, the submissions of parties in relation thereto and the decision of the sheriff or commissioner thereon shall be recorded by the shorthand writer and be extended with the notes of evidence; provided that the sheriff or commissioner may also, if he considers it necessary or desirable to do so, dictate to the shorthand writer a short note of the objection and decision.
- (2) The sheriff or commissioner if he considers an objection of sufficient importance may direct that the evidence to which the objection relates should be recorded separately from the remainder of the evidence or report of proceedings.
- (3) Where the recording of evidence has been dispensed with in terms of rule 73, the sheriff, if called upon to do so, shall—
- (i) in the case of objections to the admissibility of evidence on the ground of confidentiality or to producing a document on any ground, record in a note the terms of such objections and his decision thereon; and
 - (ii) in all other cases record, in the note to his interlocutor disposing of the merits of the cause the terms of any objections and his decision thereon.

Incidental appeal against rulings on confidentiality of evidence and production of documents

- 87 (1) Where a party to the cause or other person objects to the admissibility of oral or documentary evidence on the ground of confidentiality or to producing a document on any ground, any party or person may, if dissatisfied with the ruling of the sheriff respecting the objection, express immediately his formal dissatisfaction and, with leave of the sheriff, appeal to the sheriff principal, who shall dispose of the appeal

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

with the least possible delay; but otherwise it shall not be competent during a proof to submit to review any decision of the sheriff as to the admissibility of evidence or the production of documents.

- (2) The incidental appeal referred to in paragraph (1) shall not remove the cause from the sheriff who may proceed with the cause as regards points not necessarily dependent upon the ruling appealed against.

Parties to be heard at close of proof

- 88 At the close of the proof, or at an adjourned diet if for any reason the sheriff shall have seen fit to postpone the hearing, the sheriff shall hear parties and thereafter shall pronounce judgment with the least possible delay.

PROCEDURE AFTER JUDGMENT

JUDGEMENT

Judgment

- 89 (1) The sheriff shall append to all interlocutors, except those of a formal nature, a note setting out the grounds upon which he has proceeded and in his final interlocutor on the merits he shall set out his findings in fact and in law separately [F160: Provided always that this paragraph shall not apply to decrees in actions of divorce and of separation and aliment which have proceeded as undefended.]
- (2) Where an interlocutor with note appended thereto is pronounced by the sheriff otherwise than in the presence of the parties, the sheriff clerk shall forthwith provide the parties with a copy of such interlocutor and note free of charge.
- (3) The sheriff may produce or sign any interlocutor when furth of his sheriffdom, but the date of every interlocutor shall be deemed to be the date upon which it is entered in the books of the court.
- (4) At any time before extract, or before the transmission of a process in which an appeal has been taken the sheriff may correct any clerical or incidental error in his interlocutor or note.

Textual Amendments

F160 Words inserted by [S.I. 1984/255, para. 3\(16\)](#)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

EXTRACT

Extract

- 90 (1) Subject to the provisions of paragraph (3) hereof, any decree, interlocutor or order pronounced in a defended cause may be extracted at any time at which it is not possible for any party to mark or pursue an appeal or apply for leave to appeal.
- (2) Where, following the pronouncing of any decree, interlocutor or other order the sheriff has reserved any question of expenses, extract may be issued only after the expiry of 14 days from the date of the interlocutor disposing of such expenses, unless the sheriff directs otherwise.
- (3) The sheriff on cause shown may grant a motion to allow extract to be applied for and issued earlier than is provided for in paragraphs (1) and (2) provided the motion is made either in the presence of parties or the sheriff is satisfied that proper intimation of the terms of the motion has been made in writing to all other parties.
- (4) Nothing in this rule shall affect the power of the sheriff to supersede extract.

Extract decree of divorce

- [^{F161}90A Every extract decree of divorce shall be as nearly as may be in accordance with Form Z as set out in the Appendix to this Schedule.]

Textual Amendments

F161 Rule 90A inserted by S.I. 1984/255, para. 3(17)

APPEAL

Time limit for appeal

- 91 Any appealable interlocutor may be appealed within 14 days of the date of that interlocutor if not sooner extracted following a motion for early extract.

Application for leave to appeal and appeal therefrom

- 92 (1) Application for leave to appeal against an interlocutor of a sheriff shall only be competent if made within 7 days of the date of the interlocutor against which it is desired to appeal, but such application shall not be competent if the interlocutor has been extracted following a motion for early extract.
- [^{F162}(2) Where leave to appeal has been granted, an appeal shall be made—
- (a) where the appeal relates to a time to pay direction or any order connected therewith, within 14 days; or
 - (b) in any other case, within 7 days,
- of the granting of leave.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) An application for leave to appeal relating to a time to pay direction or the recall or restriction of an arrestment shall specify the question of law upon which the appeal is to proceed.]

Textual Amendments

F162 Rule 92(2)(3) substituted for rule 92(2) by S.I. 1988/1978, para. 13

Form of appeal and giving of notice to parties

- 93 (1) An appeal shall be taken by note of appeal which shall be written by the appellant on the interlocutor sheet, or other written record containing the interlocutor appealed against, or on a separate sheet lodged with the sheriff clerk; and such note of appeal shall be as nearly as may be in the following terms:—

“The (pursuer, applicant, claimant, defender, respondent or other party) appeals to the sheriff principal/or/to the Court of Session”.

and such note of appeal shall be signed by the appellant, and shall bear the date on which it is signed.

- (2) Where the appeal is an appeal to the Court of Session the note of appeal shall specify the name and address of the solicitors in Edinburgh who will be acting for the appellant in the appeal.
- (3) On an appeal being taken to the sheriff principal the sheriff clerk shall transmit the process within 4 days to the sheriff principal, and on an appeal to the Court of Session he shall transmit the process within 4 days to the deputy principal clerk of session.
- (4) Within the period of 4 days the sheriff clerk shall send written notice of the appeal to the other party or parties and certify on the interlocutor sheet that he has done so; but failure to give such notice shall not invalidate the appeal.

Reclaiming petition or oral hearing may be ordered or dispensed with

- 94 The sheriff principal may order a reclaiming petition and answers, or may hear parties orally or may, on the motion of all parties and if to the sheriff principal it seems just, dispose of the appeal without ordering either a reclaiming petition and answers or an oral hearing.

Interim possession may be regulated pending appeal

- 95 Notwithstanding an appeal, the sheriff or sheriff principal from whose decision appeal has been taken shall have power to regulate all matters relating to interim possession, to make any order for the preservation of any property to which the action relates or for its sale if perishable, or for the preservation of evidence, or to make in his discretion any interim order which a due regard to the interests of the parties may require. Such orders shall not be subject to review except by the Appellate Court at the hearing of the appeal.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Abandonment of appeal

- 96 After an appeal to the sheriff principal has been noted the appellant shall not be entitled to abandon it unless of consent of all parties, or by leave of the sheriff principal.

EXPENSES

Decree for expenses may be extracted in solicitor's name

- 97 Expenses allowed in any cause, whether in absence or *in foro*, unless modified at a fixed amount, shall be taxed before decree is granted for them, and the sheriff may allow a decree for expenses to be extracted in the name of the solicitor who conducted the cause.

Objection to auditor's report

- 98 (1) Where an account of expenses is lodged for taxation, the account and process shall be transmitted by the sheriff clerk to the auditor of court, and the auditor shall assign a diet of taxation not earlier than 7 days from the date he receives the account and intimate that diet forthwith to the party who lodged the account.
- (2) The party who lodged the account of expenses shall then, forthwith, send a copy thereof and intimate the date, time and place of the diet of taxation to each of the other parties and when the account has been taxed the auditor shall re-transmit the process with the account and his report to the sheriff clerk.
- (3) Where the auditor has reserved consideration of the account at the date of the taxation he shall inform the parties who attended the taxation of his decision.
- (4) A party may lodge a note of objections to an account as taxed only where he attended the diet of taxation, and the note of objections shall be lodged within 7 days from the date of the taxation of the account, and the sheriff shall dispose of such objection in a summary manner, with or without answers.
- (5) If no note of objections is lodged within said period the sheriff may grant decree for the expenses as taxed.

PARTICULAR PROCEDURES

SEQUESTRATION FOR RENT

Actions craving payment of rent

- 99 ^{F163}(1) In actions for sequestration and sale in respect of non-payment of rent, for recovery, or in security of rent, whether brought before or after the term of payment, payment of rent may be craved and decree for payment of such rent or part thereof when due and payable, may be pronounced and extracted in common form.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F164}(2) There shall be served on the defender in such actions, along with the initial writ, warrant and citation, a notice in accordance with form H8 as set out in the Appendix to the Schedule.]

Textual Amendments

F163 “(1)” inserted by S.I. 1988/1978, para. 14(a)

F164 Rule 99(2) inserted by S.I. 1988/1978, para. 14(b)

Warrant to inventory and secure

- 100 (1) In the first deliverance on an initial writ for sequestration for rent the sheriff may sequester the effects of the tenant, and grant warrant to inventory and secure them.
- (2) All warrants to sequester, inventory, sell, eject or relet shall include authority to open shut and lockfast places for the purpose of carrying such warrant into execution.

Sale of effects

- 101 (1) The sheriff may order the sequestered effects to be sold at the sight of an officer of court or other named person.
- (2) When a sale follows it shall be reported within 14 days and the pursuer shall lodge with the sheriff clerk the roup rolls or certified copies thereof and a state of debt.
- (3) In the interlocutor approving the report of sale, or by separate interlocutor, the sheriff may grant decree against the defender for any balance remaining due.

Care of effects

- 102 The sheriff may at any stage appoint a fit person to take charge of the sequestered effects, or may require the tenant to find caution that they shall be made available.

REMOVING

Action of removing where fixed term of removal

- 103 (1) Subject to section 24 of the ^{M31}Agricultural Holdings (Scotland) Act 1949, an action of removing may be raised at any time, provided the tenant has bound himself to remove by writing, dated and signed within 12 months of the term of removal, or, where there is more than one ish, of the ish first in date to remove.
- (2) Subject to the said section 24, when the tenant has not so bound himself an action of removing may be raised at any time, but—
- (a) in the case of a lease of lands exceeding 2 acres in extent for 3 years and upwards, an interval of not less than one year nor more than 2 years shall elapse between the date of notice of removal and the term of removal first in date;
- (b) in the case of a lease of lands exceeding 2 acres in extent, whether written or verbal, held from year to year [^{F165}or] under tacit relocation, or for any

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

other period less than 3 years, an interval of not less than 6 months shall elapse between the date of notice of removal and the term of removal first in date; and

- (c) in the case of houses let with or without land attached not exceeding 2 acres in extent, as also of land not exceeding 2 acres in extent without houses, as also of mills, fishings, shootings, and all other heritable subjects excepting land exceeding 2 acres in extent, and let for a year or more, 40 days at least shall elapse between the date of notice of removal and the term of removal first in date.

(3) In any defended action of removing the sheriff may order the defender to find caution for violent profits.

(4) In actions of declarator of irritancy and removing by a superior against a vassal, the pursuer shall call as parties the last entered vassal and such heritable creditors and holders of postponed ground burdens as are disclosed by a search for 20 years prior to the raising of the action and the expense of the search shall form part of the pursuer's expenses of process.

Textual Amendments

F165 Word substituted by S.I. 1983/1546, para. 2(a)

Marginal Citations

M31 1949 c.75(2:3).

Form of notice of removal

104 Notices under sections 34, 35 and 36 of the ^{M32}[^{F166}Act of 1907] shall be as nearly as may be in terms of Form L as set out in the Appendix to this Schedule, and a letter of removal may be in terms of Form M as set out in the Appendix to this Schedule.

Textual Amendments

F166 Words substituted by S.I. 1983/1546, para. 2(b)

Marginal Citations

M32 1907 c.51(36:3).

Form of notice under section 37

105 Notices under section 37 of the [^{F167}Act of 1907] shall be as nearly as may be in terms of Form N as set out in the Appendix to this Schedule, and such form may be used also for notices to the proprietor by or on behalf of the tenant.

Textual Amendments

F167 Words substituted by S.I. 1983/1546, para. 2(b)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Removal notices

- 106 Removal notices under sections 34, 35, 36, 37 and 38 of the [^{F168}Act of 1907] may be given by a messenger-at-arms or sheriff officer, or by registered letter signed by the person entitled to give such notice, or by the law agent or factor of such person, posted at any post office within the United Kingdom in time to admit of its being delivered at the address thereon on or prior to the last date upon which by law such notice must be given, addressed to the person entitled to receive such notice, and bearing the particular address of such person at the time if the same be known, or, if the same be not known, then to the last known address of such person.

Textual Amendments

F168 Words substituted by [S.I. 1983/1546, para. 2\(b\)](#)

Evidence of notice to remove

- 107 (1) A certificate of notice under rule 104 dated and endorsed upon the lease or extract, or upon the letter of removal, and signed by the sheriff officer, messenger-at-arms, or by the person giving the notice, or his law agent, or factor, or an acknowledgement of notice endorsed on the lease or extract of letter of removal by the party in possession or his agent shall be sufficient evidence that notice has been given.
- (2) Where there is no lease, a certificate endorsed upon a copy of the notice or letter, certified to be correct, by the person, sheriff officer, messenger-at-arms, law agent, or factor sending the same, which certificate shall be signed by such party sending the notice or letter, shall also be sufficient evidence that notice has been given.
- (3) A certificate of notice under rule 105 dated and endorsed upon a copy of the notice or letter signed by the party sending the notice, shall be sufficient evidence that such notice has been given.

Applications under Part II of the Conveyancing and Feudal Reform (Scotland) Act 1970

- [^{F169}107A] An application or counter-application to the sheriff under Part II of the ^{M33}Conveyancing and Feudal Reform (Scotland) Act 1970 shall be brought—
- (a) as an ordinary cause, where any other remedy is craved; or
 - (b) as a summary application, where no other remedy is craved.
- (2) An interlocutor of the sheriff disposing of an application or counter-application under paragraph (1) shall be final and not subject to appeal except as to a question of title or as to any other remedy granted.]

Textual Amendments

F169 [Rule 107A](#) inserted (9.4.1990) by [S.I. 1990/661, para. 2\(3\)](#)

Marginal Citations

M33 [1970 c.35\(31:1\)](#).

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SUMMARY SUSPENSION

Summary application for suspension of charge

- 108 Where a charge has been given on a decree of court granted by the sheriff or a decree of registration proceeding upon a bond, bill, contract, or other form of obligation registered in any sheriff court books, or in the Books of Council and Session, or any others competent or on letters of horning following on such decree, for payment of any sum of money the person so charged may apply in the sheriff court having jurisdiction over him for suspension of such charge and diligence.

Sist of diligence

- 109 On sufficient caution being found in the hands of the sheriff clerk for the sum charged for with interest thereon, and expenses, and a further sum to be fixed by the sheriff in respect of expenses to be incurred in the suspension process, the sheriff may sist diligence, order intimation and answers, and proceed to dispose of the cause in a summary manner.

Objections

- 110 If objections are taken to the competency or regularity of suspension proceedings, the judgement of the sheriff, on such objections, may be appealed to the sheriff principal whose judgement thereon shall be final.

ARRESTMENT

Service of schedule of arrestment

- 111 If a schedule of arrestment has not been personally served upon an arrestee, the arrestment shall only have effect if a copy of the schedule is also sent in a registered or recorded delivery letter to the last known place of residence of the arrestee, or, if such place of residence is unknown, or if the arrestee is a firm or corporation, to the arrestee's principal place of business if known, or, if not known, to any known place of business of the arrestee, and the officer shall in his execution certify that this has been done and specify the address in question.

Report of arrestment

- 112 (1) An arrestment on the dependence of a cause used prior to service shall fall unless the cause shall have been served within 20 days from the date of arrestment and
- (a) in the case of defended causes, has been tabled within 20 days of the first ordinary court day occurring subsequent to the expiry of the period of notice, or
 - (b) in the case of undefended causes, decree in absence has been taken within 20 days of the expiry of the period of notice.
- (2) when such an arrestment has been executed the party using it or his agent shall forthwith report the execution to the sheriff clerk.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

MULTIPLEPOINDING

Action of multiplepoinding

- 113 An action of multiplepoinding may be raised by any party holding, or having an interest in or claim on, the fund *in medio*.

Service of initial writ

- 114 The pursuer shall serve the initial writ on all persons so far as known to him having an interest in the fund *in medio*, including the holder of the fund where the pursuer is not the holder.

Order or advertisement

- 115 The sheriff may make an order for advertisement of the action in such newspapers as he considers necessary.

Condescence on the fund

- 116 If the pursuer is the holder of the fund *in medio* he shall condescend in detail on the said fund in the condescence of the initial writ.

Lodging of notice of appearance

- 117 If any party intends to lodge defences to the competency of the action, objections to the condescence of the fund *in medio* or a claim on the fund *in medio*, he shall, before expiry of the appropriate period of notice lodge a notice of appearance, which shall be as nearly as possible in terms of Form O as set out in the Appendix to this Schedule, and shall specify therein the purpose of his intended appearance.

Lodging of process

- 118 Where a notice of appearance has been lodged, the cause shall table, and the pursuer shall lodge a process in accordance with rule 37.

Lodging of defences, objections and claims where the holder is the pursuer

- 119 (1) Where the holder of the fund *in medio* is the pursuer, the sheriff at tabling shall appoint a period within which any defences, objections or claims shall be lodged, and appoint a date on which the cause shall appear on the procedure roll.
- (2) Defences, objections and claims shall be lodged with the sheriff clerk in a single document under separate headings.
- (3) Each claimant shall lodge with his claim any documents founded on in his claim, so far as the same are within his custody or power.

Condescence on the fund by holder who is not pursuer

- 120 Where the holder of the fund *in medio* is not the pursuer, the sheriff, at tabling shall appoint a period within which he is to lodge in process a detailed condescence

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

of the fund in his hands together with a list of all persons, so far as known to him, having an interest in the said fund, and shall appoint a date on which the cause shall appear on the procedure roll; and the procedure for the lodging of defences, objections and claims specified in rule 119 shall be followed.

Disposal of defences

- 121 (1) At the hearing on the procedure roll, where defences have been lodged, the sheriff may order the initial writ and defences to be adjusted in accordance with rule 122 and thereafter shall close the record thereon and regulate further procedure.
- (2) Unless the sheriff otherwise directs, defences shall be disposed of before any further procedure in the action.

Objections to fundin medio

- 122 (1) Where objections to the *fundin medio* have been lodged the sheriff may, after disposal of any defences, order the condescence of the fund and objections to be adjusted and thereafter shall close the records thereon and regulate further procedure.
- (2) If no objections to the *fundin medio* have been lodged, or if objections have been lodged and disposed of, the sheriff, without order for intimation to any party, may on the motion of the holder of the fund approve the condescence on the fund and find the holder liable only in once and single payment.

Consignation of the fund

- 123 (1) At any time after the [^{F170}condescence] of the *fundin medio* has been approved, the sheriff may order it to be consigned or deposited in the hands of the sheriff clerk, or may order the whole or any part of the fund to be sold and the proceeds of sale to be consigned as aforesaid.
- (2) After such consignation or deposit, it shall be competent for the holder of the *fundin medio* to apply for his exoneration and discharge.

Textual Amendments

F170 Word substituted by S.I. 1983/1546, para. 2(c)

Expenses

- 124 The sheriff may allow the holder of the *fundin medio*, on his exoneration and discharge, his expenses out of the said fund as a first charge thereon.

Further service or advertisement

- 125 The sheriff may, on the motion of any party *orex proprio motu*, at any time order further advertisement or service on any person.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Ranking of claims

- 126 (1) After disposal of any defences, and after approval on the condescence of the fund *in medio*, the sheriff, where there is no competition on the fund, may rank and prefer the claimants and grant decree in terms of said ranking.
- (2) Where there is competition the sheriff may order claims to be adjusted in accordance with rule 122 and thereafter shall close the records thereon and regulate further procedure.

Remit to Reporter

- 127 (1) Where several claims have been lodged the sheriff may remit to a Reporter to prepare a scheme of division and report.
- (2) The expenses of such remit, when approved by the sheriff, shall be made a charge upon the fund to be deducted before division.

DISPOSAL OF MONEY PAYABLE TO PERSONS UNDER LEGAL DISABILITY

Disposal of money payable to persons under legal disability

- 128 (1) Where in any action of damages by or on behalf of a person under legal disability, arising out of injury sustained by such person, or out of the death of some other person in respect of whose death the person under legal disability is entitled to damages, a sum of money becomes payable to such person, such sum shall unless otherwise ordered, be paid into court and shall be invested, applied, or otherwise dealt with and administered by the court for the benefit of the person entitled thereto, and the receipt of the sheriff clerk shall be a sufficient discharge in respect of the amount paid in.
- (2) The sheriff clerk of any sheriff court is also authorised at the request of any competent court to accept custody of any sum of money paid into such court in any action of damages by or for behoof of a person under legal disability provided always that such person is then resident within the jurisdiction of such sheriff court and such sum shall be invested or otherwise dealt with as in this rule.
- (3) Where any money is paid into the court under this rule it shall thereafter be paid out by the sheriff clerk or otherwise applied for the benefit of the person entitled thereto after such intimation and service and such enquiry as the sheriff may direct.
- (4) On payment into court under this rule of money which has become payable to a person under legal disability, the sheriff clerk shall:—
- (a) issue to the person making the payment a receipt in or as nearly as may be in terms of Form P as set out in the Appendix to this Schedule to which receipt there shall be added a form in terms of Form Q as set out in the Appendix to this Schedule;
 - (b) transmit forthwith to the Secretary of State a copy of the said receipt, having appended thereto the additional particulars specified in Form R as set out in the Appendix to this Schedule and the person making the payment shall forthwith complete and transmit to the Secretary of State Form Q intimating the payment into court.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Any sum which in terms of this rule is ordered to be invested, shall be invested in any manner in which trustees are authorised to invest by virtue of the ^{M34}Trustee Investments Act 1961, and no such sum shall be invested otherwise than in accordance with this rule.

Modifications etc. (not altering text)

C19 Sch. 1 rule 128(1)–(3)(5) extended by S.I. 1988/110, **rules 82, 125(10)**

Marginal Citations

M34 1961 c.62(98:4,128).

MISCELLANEOUS

Recall or variation of decrees for aliment or orders for financial provision and of decrees regarding the custody of and access to children

[^{F171}126] Subject to paragraph (4), applications to which paragraph (2) applies shall be made by minute lodged in the original process in which decree was pronounced or an order granted.

- (2) This rule applies to applications for—
- (a) the recall or variation of a sheriff court decree for payment of aliment whether pronounced in favour of a spouse, a parent, or any other person or pronounced in respect of a legitimate or illegitimate child; or
 - (b) recall or variation of a periodical allowance;
 - (c) variation of the date or method of payment of a capital sum;
 - (d) variation of the date of transfer of property;
 - (e) the recall or variation of any decree regulating the custody of or access to legitimate or illegitimate children; or
 - (f) the recall or variation of an incidental order as defined in section 14(2) of the ^{M35}Family Law (Scotland) Act 1985 made before, on, or after, the date of the decree of divorce.
- (3) The sheriff shall order the minute to be served on any other party and appoint answers to be lodged within a specified time and shall thereafter without closing the record, and after such proof or other procedure as to the sheriff seems necessary, dispose of the application.
- (4) In an action of divorce or of separation, a party may, without making application under paragraph (1), crave an order relating to custody, aliment of or access to the children of the marriage, or aliment of one of the parties, notwithstanding that an order to the same or different effect has been made in a previous sheriff court process whether in the same or another sheriff court and the sheriff may make such new order thereanent as the circumstances at the date of the order require, whereupon the previous order shall cease to apply.]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F171 Rule 129 substituted by S.I. 1986/1230, para. 3(16)

Marginal Citations

M35 1985 c.37(49:3).

Intimation

[^{F172}13(1)] In an action where—

- (i) adultery is averred by the pursuer or defender;
- (ii) the name of the person with whom adultery is alleged to have been committed is disclosed in the action; and
- (iii) such person is not a party to the action,

the sheriff shall not allow inquiry until a copy of the initial writ and a form of intimation as nearly as may be in accordance with Form H1 as set out in the Appendix to this Schedule have been intimated to such person or until the sheriff is satisfied that the address of such person is unknown.

- (b) An order for such intimation may be contained in the original warrant of citation or intimation may be appointed to be made at a later stage.
- (c) The requirement to intimate under this paragraph shall not apply where the pursuer alleges rape upon, or incest with, a named person by the defender.

(2) In an action in which the pursuer alleges sodomy or any homosexual relationship between the defender and a named person, the pursuer shall, immediately after the expiry of the period of notice, enrol a motion for intimation to that person, and the sheriff, at the hearing of the motion, may make such order for intimation or for dispensing with intimation to that person as seems just.

- (b) Where intimation is ordered under this paragraph, a form of intimation as nearly as may be in accordance with Form H2 as set out in the Appendix to this Schedule and a copy of the initial writ shall be intimated to the named person.

(3) Where the sheriff makes an order dispensing with intimation under paragraph (2), he may also make an order that the name of that person be deleted from the condescendence in the initial writ.

(4) In an action in which the sheriff may make an order in respect of the custody of a child—

- (a) who is in the care of a local authority; or
- (b) who is a child of one spouse (including an illegitimate or an adopted child), being a child under the age of 16 years and who is liable to be maintained by a third party,

the pursuer shall intimate a copy of the initial writ and form of intimation as nearly as may be in accordance with Form H3 as set out in the Appendix to this Schedule to the local authority or third party concerned.

(5) In an action relating to a marriage which was entered into under a law which permits polygamy and in which a decree of separation or a decree of divorce is sought, and either party to the marriage in question has any spouse additional to the other party, the warrant of citation shall include an order for intimation of the action to such

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

additional spouse and the pursuer shall intimate a copy of the initial writ and form of intimation as nearly as may be in accordance with Form H4 as set out in the Appendix to this Schedule to such additional spouse.

- (6) In an action in which the sheriff may make an order in respect of the custody of a child who is *inde facto* custody of a third party, the pursuer shall intimate a copy of the initial writ and form of intimation as nearly as may be in accordance with Form H5 as set out in the Appendix to this Schedule to the third party concerned.
- (7) In an action in which the sheriff—
- (a) proposes to commit the care of a child to an individual other than one of the parties to the marriage or to a local authority under section 10 of the ^{M36}Matrimonial Proceedings (Children) Act 1958 or section 11(1)(a) of the ^{M37}Guardianship Act 1973; the pursuer shall intimate a copy of the initial writ and form of intimation as nearly as may be in accordance with Form H6 as set out in the Appendix to this Schedule to the individual or local authority concerned; or
 - (b) has made an order placing a child under the supervision of a local authority under section 12 of the ^{M38}Matrimonial Proceedings (Children) Act 1958 or section 11(1)(b) of the ^{M39}Guardianship Act 1973; the sheriff clerk shall send a form of intimation thereof as nearly as may be in accordance with Form H6A as set out in the Appendix to this Schedule to the local authority concerned.
- (8) In an action for custody of a child by a person by virtue of [^{F173}section 47] of the ^{M40}Children Act 1975, that person shall give notice to—
- (a) the local authority within whose area that person resides within seven days of lodging the action; or
 - (b) in any other case, such local authority as the court may direct under section 49(1) of the ^{M41}Children Act 1975,
- by intimating to the local authority a copy of the initial writ together with a notice as nearly as may be in accordance with Form T2 as set out in the Appendix to this Schedule.
- (9) In an action in which an order is sought by a pursuer or defender under section 8(1) of the ^{M42}Family Law (Scotland) Act 1985 for the transfer of property subject to security in which the consent of the creditor has not been obtained, the party seeking the order shall intimate a copy of the initial writ and form of intimation as nearly as may be in accordance with Form H7 as set out in the Appendix to this Schedule, to the creditor.
- (10) Intimation under paragraph (4) or (5) may be dispensed with if the sheriff is satisfied that the address of the person to whom intimation is to be made is unknown.
- (11) Intimation under this rule shall be on a period of notice of [^{F174}21] days unless the sheriff shall consider it appropriate in the circumstances to appoint another period; provided that in no circumstances shall the period of notice be less than forty eight hours.
- (b) All warrants for intimation except those under paragraph (2), or where the period of notice is varied, may be signed by the sheriff clerk in conjunction with a warrant of citation under rule 8(1).

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (12) A person receiving intimation under paragraph (1), (2), (4), (5), (6), (7)(a) or (9) may apply within the period of notice by minute craving to be sisted as a party and for leave to lodge defences of answers as the case may be.
- (13) A minute lodged under paragraph (12) shall be accompanied by the service copy of the intimation.
- (b) On receiving such a minute, the sheriff clerk shall assign a diet in the cause for a date after the expiry of the period of notice and the sheriff shall, at the diet, regulate the further procedure in the cause.
- (c) The sheriff may authorise proof by affidavit evidence in respect of any matter not in dispute between the parties.]

Textual Amendments

F172 Rule 130 inserted by S.I. 1986/1230, para. 3(17)

F173 Words substituted by S.I. 1986/1966, para. 2(9)

F174 “21” substituted by S.I. 1988/1978, para. 15

Marginal Citations

M36 1958 c.40(49:3).

M37 1973 c.29(49:9,10).

M38 1958 c.40(49:3).

M39 1973 c.29 (49:9,10).

M40 1975 c.72(49:9,10).

M41 1975 c.72(49:9,10).

M42 1985 c.37(49:3).

Notices in actions of [F175 divorce and] separation . . . F176

- 13[F177(1)] Where the facts set out in section 1(2)(d) (two years’ non-cohabitation and the defender’s consent to decree) of the ^{M43}Divorce (Scotland) Act, 1976, are relied on in an action of separation . . . ^{F176}, a notice as nearly as may be in terms of Form S as set out in the Appendix to this Schedule shall be sent with the copy of the initial writ served on the defender, together with a notice as nearly as may be in terms of Form T as set out in the Appendix to this Schedule.
- [F178(2) Where the facts set out in section 1(2)(d) of the ^{M44}Divorce (Scotland) Act 1976 (two years non-cohabitation and the defender’s consent to decree) are relied upon in an action of divorce, a notice as nearly as may be in terms of Form S1 as set out in the Appendix to this Schedule shall be sent with the copy of the initial writ served on the defender together with a notice as nearly as may be in terms of Form T as set out in the Appendix to this Schedule.
- (3) Where the facts set out in section 1(2)(e) of the Divorce (Scotland) Act 1976 (five years non-cohabitation) are relied upon in an action of separation . . . ^{F176}, a notice as nearly as may be in terms of Form S2 as set out in the Appendix to this Schedule shall be sent with the copy of the initial writ served on the defender.
- (4) Where the facts set out in section 1(2)(e) of the Divorce (Scotland) Act 1976 (five years non-cohabitation) are relied upon in an action of divorce, a notice as nearly as may be in terms of Form S3 as set out in the Appendix to this Schedule shall be sent with the copy of the initial writ served on the defender.]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F175** Words inserted by S.I. 1984/255, **para. 3(20)(a)**
- F176** Words repealed by S.I. 1986/1230, **para. 3(18)**
- F177** “—(1)” inserted by S.I. 1984/255, **para. 3(20)(b)**
- F178** Rule 131(2)–(4) inserted by S.I. 1984/255, **para. 3(20)(c)**

Marginal Citations

- M43** 1976 c.39(49:3).
- M44** 1976 c.39(49:3).

Consent to grant of decree

- 132 (1) Where in an action of [^{F179}divorce or an action of] separation . . . ^{F180} in which the facts set out in section 1(2)(d) of the ^{M45}Divorce (Scotland) Act, 1976, (two years non-cohabitation and the defender’s consent to decree) are relied on, the defender wishes to indicate to the court that he consents to the grant of a decree, he shall do so by giving notice in writing to that effect to the sheriff clerk at the sheriff court referred to in the initial writ who shall, on receipt of such notice, lodge it in process.
- (2) For the purposes of paragraph (1) a notice of consent in the form set out in Form T containing a statement that the defender consents to the grant of a decree shall be treated as notice under that paragraph if it is signed by the defender; and the evidence of one witness shall be sufficient for establishing that the signature on the notice of consent bearing to be that of the defender is in fact that of the defender.
- (3) Where in an action of [^{F179}divorce or an action of] separation . . . ^{F180} the initial writ contains an averment for the purposes of the said section 1(2)(d) that the defender consents to the grant of a decree, he may give notice in writing to the court that he has not consented to a decree being granted or that he withdraws any consent which he has already given.
- (4) In a case where the defender gives notice under paragraph (3) the sheriff clerk shall intimate its terms to the pursuer.
- (5) On receiving intimation under paragraph (4) of a notice given under paragraph (3) the pursuer shall if none of the other facts mentioned in section 1(2) of the Divorce (Scotland) Act, 1976, are averred in the initial writ, lodge a motion for the action to be sisted, and the sheriff may grant that motion.
- (6) If such a motion is granted and the sist is not recalled or renewed within a period of 6 months from the date of the interlocutor granting the sist, the pursuer shall be deemed to have abandoned the action.

Textual Amendments

- F179** Words inserted by S.I. 1984/255, **para. 3(21)**
- F180** Words repealed by S.I. 1986/1230, **para. 3(19)**

Marginal Citations

- M45** 1976 c.39(49:3).

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Applications under the Family Law (Scotland) Act 1985

[^{F181}132A] Where, in an action in which an alimentary crave is or may be made, a party seeks an order under section 7(2) of the ^{M46}Family Law (Scotland) Act 1985 (“the 1985 Act”) (variation or termination of agreement on aliment) he shall do so either in the initial writ or by separate minute in the process.

- (2) Where an order referred to in paragraph (1) is sought in any other circumstances, application for the order shall be by way of summary application.
- (3) Where a party seeks an order under section 16 (1)(a) of the 1985 Act (order setting aside or varying term of agreement relating to a periodical allowance), application for the order shall be by way of summary application.
- (4) Where a party in an action of divorce seeks an order under section 16(1)(b) of the 1985 Act (agreement or financial provision not fair and reasonable), he shall do so either in the initial writ or by separate minute in the process or, if appropriate, by way of counter-claim.]

Textual Amendments

F181 Rule 132A inserted by S.I. 1986/1230, para. 3(20)

Marginal Citations

M46 1985 c.37(49:3).

Applications to declare removal of a child unlawful

[^{F182}132B] Where, in any proceedings for custody of a child, an interested party wishes to make an application under section 23(2) of the Child Abduction and Custody Act ^{M47}1985 for declarator that the removal of the child from the United Kingdom was unlawful, he shall make such application in the initial writ or counter-claim, or by separate minute in the process, as the case may be.]

Textual Amendments

F182 Rule 132B inserted by S.I. 1986/1966, para. 2(10)

Marginal Citations

M47 1985 c.60(20).

[^{F183} FAMILY LAW ACT 1986]

Textual Amendments

F183 Rules 132C–132E inserted by S.I. 1988/614, para. 2

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Averments of other proceedings relating to children

132C A party to any cause which includes an application for a custody order (as defined by section 1(1)(b) of the ^{M48}Family Law Act 1986), shall make averments in his pleadings giving particulars of any other proceedings known to him (whether in Scotland or elsewhere and whether concluded or not) which relate to the child in respect of whom the custody order is sought.

Marginal Citations

M48 1986 c.55(49:9).

Disclosure of information

132D Where the court pronounces an interlocutor ordering a person to disclose information to the court as to a child’s whereabouts under section 33(1) of the Family Law Act 1986, it may do so by ordaining that person to appear before it or to lodge an affidavit.

Applications for interdict or interim interdict

132E An application by a person mentioned in section 35(4)(b) or (c) of the Family Law Act 1986 for interdict or interim interdict under section 35(3) of that Act shall be made by minute in the cause in which the application is to be made.

Specification of prior maintenance orders

[^{F184}132F In any proceedings in which an order for aliment or periodical allowance is sought, or is sought to be varied or recalled, by any party, the pleadings of that party shall contain an averment specifying whether and, if so, when and by whom, a maintenance order (within the meaning of section 106 of the Debtors (Scotland) Act 1987) has been granted in favour of or against that party or of any other person in respect of whom the order is sought.]

Textual Amendments

F184 Rule 132F inserted (3.12.1990) by S.I. 1990/2238, para. 6

Referral to Family Conciliation Service

[^{F185}132F In any cause where the custody of, or access to, a child is in dispute the sheriff may, at any stage in the proceedings where he considers it appropriate to do so, refer the parties to a specified Family Conciliation Service.]

Textual Amendments

F185 Rule 132F inserted (9.4.1990) by S.I. 1990/661, para. 2(4)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

APPOINTMENT OF CURATORAD LITEM

Special application for appointment of acurator ad litem

- 133 (1) In an action of [^{F186}divorce or an action of] separation . . . ^{F187} where it appears to the sheriff that the defender is suffering from mental disorder within the meaning of the ^{M49}Mental Health (Scotland) Act, [^{F188}1984], the sheriff shall:—
- (a) appoint a curatorad litem to the defender; and
 - (b) in an action of [^{F186}divorce or an action of] separation . . . ^{F187} under section 1(2)(d) of the ^{M50}Divorce (Scotland) Act, 1976, make an order informing the Mental Welfare Commission for Scotland of the ground of the action and requesting them to provide a report indicating whether in their opinion the defender is capable of deciding whether or not to give consent to the granting of decree.
- (2) The pursuer shall within 7 days of the making of an order under head (a) of paragraph (1) appointing a curatorad litem to the defender, send to the curator a certified copy initial writ and defences, if any.
- (3) The curatorad litem may, within 14 days of the Commission providing the report under head (b) of paragraph (1), or in any other case in which no such report is requested, within 21 days of his appointment under head (a) of that paragraph lodge:—
- (i) a notice of appearance;
 - (ii) defences to the action;
 - (iii) a minute adopting defences already lodged; or
 - (iv) a minute stating that he does not intend to lodge defences;
- and may appear in the action at any time to protect the interests of the defender.

Textual Amendments

F186 Words inserted by S.I. 1984/255, para. 3(21)

F187 Words repealed by S.I. 1986/1230, para. 3(21)(a)

F188 “1984” substituted by S.I. 1986/1230, para. 3(21)(b)

Marginal Citations

M49 1984 c.36(85).

M50 1976 c.39(49:3).

EUROPEAN COURT

European Court

- 134 (1) Interpretation:

In this Rule—

- (a) any expression defined in Schedule 1 to the ^{M51}European Communities Act, 1972, has the meaning there given to it;

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (b) “The European Court” means the Court of Justice of the European Communities;
- (c) “reference” means a reference to the European Court for a preliminary ruling under Article 177 of the European Economic Community Treaty, Article 150 of the European Atomic Energy Community Treaty or Article 41 of the European Coal and Steel Community Treaty [F189 or a ruling on the interpretation of the Conventions, as defined in section 1(1) of the Civil Jurisdiction and Judgements Act M52 1982, under article 3 of Schedule 2 to that Act.]
- (d) “appeal” shall include an application for leave to appeal.
- (2) A reference may be made by the sheriff *ex proprio motu* or on the motion of any party to the proceedings in the sheriff court.
- (3) A reference shall be made in the form of a request for a preliminary ruling of the European Court as nearly as may be in terms of Form U as set out in the Appendix to this Schedule.
- (4a) When the sheriff decides that a reference be made, he shall continue the cause *simpliciter* for the purpose and within 4 weeks thereafter draft a reference.
 - (b) On the reference being drafted, the sheriff clerk shall forthwith send a copy to each of the parties.
 - (c) Within 4 weeks from the date when copies of the draft have been sent to parties, each party may lodge in the hands of the sheriff clerk and send to each of the other parties in the proceedings a note of any adjustments he desires to have made in the draft reference.
 - (d) Within 14 days after the latest date on which any such note may be lodged the sheriff, after considering any such adjustments, shall make and sign the reference.
 - (e) The sheriff clerk shall forthwith intimate the making of the reference to the parties in the proceedings.
- (5) On a reference being made the proceedings shall, unless the sheriff when making such a reference otherwise orders be sisted until the European Court has given a preliminary ruling on the question or questions referred to it, provided that the sheriff shall have power to recall such sist for the purpose of making any interim order which a due regard to the interests of the parties may require.
- (6) A copy of the reference certified by the sheriff clerk shall be transmitted by the sheriff clerk to the Registrar of the European Court, but unless the sheriff otherwise directs, such copy shall not be sent to the Registrar so long as an appeal or further appeal against the making of the reference is pending, and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing that appeal.

Textual Amendments

F189 Words inserted by S.I. 1986/1946, para. 2(7)

Marginal Citations

M51 1972 c.68(29:5).

M52 1982 c.27(45:3).

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

[^{F190}SIMPLIFIED DIVORCE PROCEDURE]

Textual Amendments

F190 Rules 135–143 inserted by S.I. 1984/255, para. 3(22)

Simplified procedure

- 135 (1) The provisions of this rule and of the following rules of this section shall have effect in relation to applications for divorce other than by initial writ which are hereinafter referred to as “simplified divorce applications”, and—
- (a) the following rules of this section shall apply to simplified divorce applications;
 - (b) “the Act of 1976” means the ^{M53}Divorce (Scotland) Act 1976.
- (2) This rule applies to an application for divorce by a party to a marriage if, but only if—
- (a) that party applies for divorce in reliance on the facts set out in section 1(2)(d) (two years non-cohabitation and the defender’s consent to decree), or section 1(2)(e) (five years non-cohabitation) of the Act of 1976;
 - (b) in an application for divorce under section 1(2)(d) of the Act of 1976, the other party consents to decree of divorce being granted;
 - (c) no other proceedings are pending in any court which could have the effect of bringing the marriage to an end;
 - (d) there are no children of the marriage under the age of sixteen years;
 - (e) neither party applies for an order for financial provision on divorce; and
 - (f) neither party suffers from mental disorder within the meaning of the ^{M54}Mental Health (Scotland) Act [^{F191}1984].
- (3) If an application made under this rule ceases to be an application to which this rule applies at any time before it is finally disposed of, that application shall cease to have effect and shall be dismissed.

Textual Amendments

F191 “1984” substituted by S.I. 1986/1230, para. 3(22)

Marginal Citations

M53 1976 c.39(49:3).

M54 1984 c.36(85).

Form of application

- 136 (1) A simplified divorce application relying on the facts set out in section 1(2)(d) of the Act of 1976 shall be made in accordance with Form SDA1 as set out in the Appendix to this Schedule.
- (2) A simplified divorce application relying on the facts set out in section 1(2)(e) of the Act of 1976 shall be made in accordance with Form SDA2 as set out in the Appendix to this Schedule.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) An application made under paragraph (1) or (2) shall be signed by the applicant, and the form of consent in accordance with Form SDA3 as set out in the Appendix to this Schedule in an application under paragraph (1) shall be signed by the party giving consent, failing which the application shall not have effect.

Lodging applications

- 137 The applicant shall deliver the application or cause it to be delivered (by post or by hand) duly completed and signed to the sheriff clerk together with—
- (a) an extract or certified copy of his marriage certificate; and
 - (b) the fee specified in respect of a simplified divorce application.

Citation

- 138 (1) It shall be the duty of the sheriff clerk to cite any person or intimate any document in connection with a simplified divorce application. The form of citation in an application under rule 136(2) shall be in accordance with Form SDA4 as set out in the Appendix to this Schedule.
- (2) The sheriff clerk may arrange for citation or intimation required in paragraph (1) to be made by registered or recorded delivery post or, on payment to the sheriff clerk of the specified additional fee, by sheriff officer [^{F192}or, if appropriate, by any other method provided for by rule 139].
- (3) Any citation of or intimation to a person by sheriff officer in terms of this rule shall be effected either by personal service or by being left in the hands of an inmate of, or employee at, the dwelling place or place of business of that person.
- (4) On the face of the envelope used for postal service under this rule there shall be written or printed a notice as nearly as may be in the following form—
- “This letter contains a citation to or intimation from the Sheriff Court (*specify court*). If delivery of the letter cannot be made within 7 days of the date of posting it is to be returned immediately thereafter to the sheriff clerk (*specify court and address*).”
- (5) Notwithstanding the provisions of section 4(2) of the Citation Amendment (Scotland) Act ^{M55}1882, in all cases of postal service the period of notice shall start to run on the day of posting.
- (6) The following periods of notice shall apply to any citation or intimation under this rule—
- [^{F193}(a) 21 days when the defender is resident or has a place of business within Europe]
 - [^{F194}(b)] 42 days when the addressee is resident or has a place of business outside Europe.
- (7) The sheriff may, on cause shown, shorten or extend the period of notice on such conditions as to the form or manner of service as the sheriff may direct, but in any case where the period of notice is reduced at least two days notice shall be given.
- (8) Where a period of notice expires on a Saturday, Sunday, public or court holiday the period of notice shall be deemed to expire on the first following day on which the sheriff clerk’s office is open for civil court business.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F195}(9) Where, in an application, the facts in section 1(2)(e) of the Act of 1976 are relied on and the address of the respondent is unknown—
- (a) citation of the respondent shall be effected by displaying a copy of the application and notice as nearly as may be in accordance with Form SDA6 as set out in the Appendix to this Schedule on the walls of court and the period of notice shall be [^{F196}21] days; and
 - (b) intimation shall be made to—
 - (i) every child of the marriage between the parties and
 - (ii) one of the next of kin of the respondent who has reached the age of 12 years in the case of a girl and 14 years in the case of a boy.
- (10) Intimation to a person referred to in sub-paragraph 9(b)(i) and (ii) shall be effected by intimating a copy of the application and form of intimation as nearly as may be in accordance with Form SDA7 as set out in the Appendix to this Schedule.
- (11) Intimation to a person referred to in sub-paragraph 9(b)(i) and (ii) shall not be required under paragraph 10 if the address of that person is unknown to the applicant.]

Textual Amendments

F192 Words inserted by S.I. 1986/1946, para. 2(8)

F193 Rule 138(6)(a) substituted for rule 138(6)(a)(b) by S.I. 1988/1978, para. 16

F194 Sub-paragraph relettered sub-paragraph (b) by S.I. 1988/1978, para. 16

F195 Rule 138(9)–(11) substituted for rule 138(9)(10) by S.I. 1986/1230, para. 3(23)

F196 “21” substituted by S.I. 1988/1978, para. 16(2)

Marginal Citations

M55 1882 c.77(45:2).

Citation of or service on persons outwith Scotland

- [^{F197}136(1) Subject to the following provisions of this rule, any simplified divorce application may be served outwith Scotland on any person—
- (a) at a known residence or place of business in England and Wales, Northern Ireland, the Isle of Man, the Channel Islands or any country with which the United Kingdom does not have a convention providing for service of writs in that country—
 - (i) in accordance with the rules for personal service under the domestic law of the place in which service is to be effected; or
 - (ii) by posting in Scotland a copy of the application in a registered or recorded delivery letter or the nearest equivalent which the available postal services permit addressed to the person at his residence or place of business;
 - (b) in a country which is a party to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters dated 15 November 1965—
 - (i) by a method prescribed by the internal law of the country where service is to be effected for the service of documents in domestic actions upon persons who are within its territory:

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) by or through a central authority in the country where service is to be effected at the request of the Foreign Office;
 - (iii) by or through a British Consular authority at the request of the Foreign Office;
 - (iv) where the law of the country in which the person resides permits, by posting in Scotland a copy of the application in a registered or recorded delivery letter or the nearest equivalent which the available postal services permit addressed to the person at his residence; or
 - (v) where the law of the country in which the person resides permits, service by *anhuissier*, other judicial officer or competent official of the country where service is to be made;
- (c) in a country with which the United Kingdom has a convention on the service of writs in that country other than the convention in sub-paragraph (b), by one of the methods approved in the relevant convention.
- (2) An application which requires to be posted in Scotland for the purposes of this rule shall be posted by the sheriff clerk and the form for citation in rule 138 shall apply to a postal citation under this rule as they apply to a citation under that rule.
- (3) On the face of the envelope used for postal service under this rule there shall be written or printed a notice in the same or similar terms as that required in the case of ordinary service under rule 138.
- (4) Where service is effected by a method specified in paragraph (1)(b)(ii) or (iii), the sheriff clerk shall—
- (a) send a copy of the application with citation attached with a request for service to be effected by delivery to the defender or his residence to the Secretary of State for Foreign and Commonwealth Affairs; and
 - (b) lodge in process a certificate of execution of service signed by the authority which has effected service.
- (5) Where service is effected by the method specified in paragraph (1)(b)(v), the sheriff clerk shall—
- (a) send to the official in the country in which service is to be effected a copy of the application with citation attached with a request for service to be effected by delivery to the defender or his residence; and
 - (b) lodge in process a certificate of execution of service by the official who has effected service.
- (6) Every writ or document and every citation and notice on the face of the envelope under paragraph (3) shall be accompanied by a translation in an official language of the country in which service is to be executed unless English is an official language of that country.
- (7) A translation under paragraph (6) shall be certified as a correct translation by the person making it and the certificate shall contain the full name, address and qualifications of the translator and be lodged along with the execution of citation or certificate of execution.]

Textual Amendments

F197 Rule 139 substituted by S.I. 1986/1946, para. 2(9)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Opposition to applications

- 140 (1) Any person who has been cited or to whom intimation has been made in connection with a simplified divorce application may [^{F198}challenge the jurisdiction of the court or] oppose the granting of decree of divorce by letter to the court giving reasons for his opposition to the application.
- (2) If opposition to a simplified divorce application is made in terms of paragraph (1) the sheriff shall dismiss the application unless he is satisfied that the reasons given for the opposition are frivolous.
- (3) The sheriff clerk shall intimate the decision of the sheriff in respect of any opposition to the application to all parties concerned with the application.
- [^{F199}(4) The lodging of a letter under paragraph (1) shall not imply acceptance of the jurisdiction of the court.]

Textual Amendments

F198 Words inserted by S.I. 1986/1946, para. 3(10)(a)

F199 Rule 140(4) inserted by S.I. 1986/1946, para. 2(10)(b)

Decree

- 141 (1) The sheriff may grant decree in terms of the simplified divorce application on the expiry of the period of notice if such application has been properly served [^{F200}provided that, when the application has been served in a country to which the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters dated 15 November 1965 applies, decree shall not be granted until it is established to the satisfaction of the sheriff that the requirements of article 15 of that Convention have been complied with].
- (2) The sheriff clerk shall, not sooner than 14 days after the granting of decree in terms of paragraph (1), issue to each party to the application an extract of the decree of divorce as nearly as may be in accordance with Form SDA5 as set out in the Appendix to this Schedule.

Textual Amendments

F200 Words inserted by S.I. 1986/1946, para. 2(11)

Appeal

- 142 A respondent may, within 14 days of the date of an interlocutor granting decree of divorce, appeal against that interlocutor by addressing a letter to the [^{F201}court] giving reasons for his appeal.

Textual Amendments

F201 Words substituted by S.I. 1986/1230, para. 3(24)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Subsequent applications

- 143 (1) After the granting of decree of divorce, a party to a simplified divorce application may, in the event of a material change in the circumstances of one or other or both of the parties, make a subsequent application to the sheriff in respect of any matter.
- (2) A subsequent application shall be made by minute in the original process of the simplified divorce application and such minute shall specify that there has been a material change in the circumstances of one or other or both of the parties since the granting of decree of divorce and shall specify the nature of such change of circumstances.

[^{F202}DAMAGES]

Textual Amendments

F202 Rules 144–149 inserted (*retrospectively* as to rules 147–149) by S.I. 1984/921 paras. 3, 4(2)

DAMAGES (SCOTLAND) ACT 1976

Action for Damages under the ^{M56} Damages (Scotland) Act 1976

- 144 (1) This rule and rules 145 and 146 apply to any action in which, following the death of any person from personal injuries, damages are claimed either by the executor of the deceased in respect of the relevant injuries, or by any relative of the deceased in respect of the death of the deceased.
- (2) The term “relative” shall have the meaning assigned to it by section 10 of and Schedule 1 to the Damages (Scotland) Act 1976.

Marginal Citations

M56 1976 c.13(122:3).

Intimation to persons having title to sue under Schedule 1 to the Damages (Scotland) Act 1976

- 145 (1) In an action to which rule 144 applies the pursuer shall specify in the initial writ—
- (a) that he is the only person with a title to sue the defender in respect of the injuries or death, or
 - (b) that there are other persons having a title to sue the defender in respect of the injuries or death and shall name and design such persons, or
 - (c) that there are other persons having a title to sue the defender but whose names or whereabouts are to the pursuer unknown and cannot reasonably be ascertained.
- (2) The sheriff shall grant warrant for intimation of the action to any person named and designed in the initial writ in terms of sub-paragraph (b) of paragraph (1) hereof and

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

the pursuer shall intimate the action to every such person as nearly as may be in accordance with Form CC as set out in the Appendix to this Schedule.

- (3) The sheriff may, on the motion of a party to the action, *orex proprio motu* order such advertisement of the action or intimation of it to be made to such persons as he deems appropriate.

Applications to sist as additional pursuer

- 146 (1) A person to whom intimation has been made in accordance with rule 145 may apply to the sheriff to be sisted as an additional pursuer in the action and such person shall give notice of his application to all parties to the action.
- (2) Where a person to whom intimation has been made in accordance with rule 145 does not apply to be sisted as an additional pursuer in the existing action but subsequently raises a further action against the same defender in respect of the same injuries or death, that person shall not, except on cause shown, be awarded the expenses of the subsequent action.

INTERIM PAYMENT OF DAMAGES

Applications for interim payment of damages

- 147 (1) In any action of damages for personal injuries, the pursuer may at any time after the lodging of defences apply to the sheriff for an order that the defender or, where there are two or more defenders, any one or more of the defenders, make an *interim* payment of damages.
- (2) An application in terms of paragraph (1) shall be made by motion which shall be served on the defender or defenders on a period of notice of [F²⁰³21] days.
- (3) If after hearing the parties on the motion the sheriff is satisfied either—
- (a) that the defender or defenders have admitted liability in the pursuer's action, or
 - (b) that, if the action proceeded to proof, the pursuer would succeed in the action on the question of liability without any substantial finding of contributory negligence on his part or on the part of any person in respect of whose injury or death the pursuer's claim arises, and would obtain decree for damages against the defender or, where there are two or more defenders, against any one or more of them,
- the sheriff may, if he thinks fit, order the defender or, where there are two or more defenders, any one or more of them, to make an *interim* payment to the pursuer of such amount, not exceeding such reasonable proportion of the damages which in the opinion of the sheriff is likely to be recovered by the pursuer, as he deems appropriate.
- (4) A payment ordered to be made in terms of paragraph (3) may be ordered to be made in a lump sum or otherwise as the sheriff may deem appropriate.
- (5) The sheriff shall not make an order under this rule unless he is satisfied that the defender concerned is either—
- (a) a person who is insured in respect of the pursuer's claim, or
 - (b) a public authority, or

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (c) a person whose means and resources are such as to enable him to make an *interim* payment.
- (6) Notwithstanding the making or refusal of an order for *interim* payment, a second or subsequent application may be made upon cause shown by reason of a change of circumstances.
- (7) Subject to the terms of rule 128 or otherwise as the sheriff in his discretion may determine, any *interim* payment shall be made to the pursuer.
- (8) The provisions of this rule shall apply *mutatis mutandis* to a counter-claim for damages for personal injury made by a defender.
- (9) For the purposes of this rule the term “personal injuries” shall include any disease or any impairment of a person’s physical or mental condition.

Textual Amendments

F203 “21” substituted by [S.I. 1988/1978, para. 17](#)

Final orders where interim payment made

- 148 Where a defender has made an *interim* payment in terms of rule 147 the sheriff may, when granting final decree, make such order with respect to the *interim* payment as he deems necessary to give effect to the defender’s final liability to the pursuer, and in particular may order—
- (a) that the pursuer repay to the defender any sum by which the *interim* payment exceeds the amount which the defender is liable to pay to the pursuer, or
 - (b) that any other defender or third party make payment of any part of the *interim* payment which the defender who made it is entitled to recover from that other defender or third party by way of contribution or indemnity or in respect of any remedy or relief relating to or connected with the pursuer’s claim.

PROVISIONAL DAMAGES

Applications for further awards of damages

- 149 An application for a further award of damages in terms of section 12 of the ^{M57} Administration of Justice Act 1982 (award of provisional damages for personal injuries) shall be made by minute in the original process.

Marginal Citations

M57 [1982 c.53\(122:3\)](#).

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 05/04/1993

[^{F204} CHILD SUPPORT ACT 1991]

Textual Amendments

F204 Rules 150-154 and heading inserted (5.4.1993) by S.I. 1993/919, para. 2(2)

^{F205}*Interpretation*

- 150 In this Part of the Rules–
- “the Act of 1991” means the Child Support Act 1991 ^{F206};
 - “child” has the meaning assigned in section 55 of the Act of 1991; and
 - “crave relating to aliment” means–
 - (a) for the purposes of rule 151(1), a crave for decree of aliment in relation to a child or for recall or variation of such a decree; and
 - (b) for the purposes of rule 151(3), a crave for decree of aliment in relation to a child or for the recall or variation of such a decree or for the variation or termination of an agreement on aliment in relation to a child; and
 - “maintenance assessment” has the meaning assigned in section 55 of the Act of 1991.

Textual Amendments

F205 Sch. 1, rules 150-154 inserted (5.4.1993) by S.I. 1993/919, art. 2(2)

F206 1991 c.48.

^{F207}*Initial writs etc.*

- 151 (1) An initial writ, minute or counterclaim which contains a crave relating to aliment, and to which section 8(6), (7), (8) or (10) of the Act of 1991 (top up maintenance orders) applies shall–
- (a) include an article of condescendence stating, where appropriate–
 - (i) that a maintenance assessment under section 11 of the Act of 1991 (maintenance assessments); is in force;
 - (ii) the date of the maintenance assessment;
 - (iii) the amount and frequency of periodical payments of child support maintenance fixed by the maintenance assessment; and
 - (iv) the grounds on which the sheriff retains jurisdiction under section 8(6), (7), (8) or (10) of the Act of 1991; and
 - (b) unless the sheriff on cause shown otherwise directs, be accompanied by any document issued by the Secretary of State to the party intimating

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

the making of the maintenance assessment referred to in paragraph (1)(a) above.

- (2) An initial writ, minute or counterclaim which contains a crave relating to aliment, and to which section 8(6), (7), (8) or (10) of the Act of 1991 does not apply, shall include an article of condescendence stating either–
 - (a) that the habitual residence of the absent parent, person with care or qualifying child, within the meaning of section 3 of the Act of 1991, is outwith the United Kingdom; or
 - (b) that the child is not a child within the meaning of section 55 of the Act of 1991.
- (3) In an action for declarator of non-parentage or illegitimacy–
 - (a) the initial writ shall include an article of condescendence stating whether the pursuer previously has been alleged to be the parent in an application for a maintenance assessment under sections 4, 6 or 7 of the Act of 1991 (applications for maintenance assessment); and
 - (b) where an allegation of paternity has been made against the pursuer, the Secretary of State shall be named as a defender in the action and rule 152 shall apply to the award of expenses in any such case.
- (4) An initial writ, minute or counterclaim which involves parties in respect of whom a decision has been made in any application, review or appeal under the Act of 1991 relating to any child of those parties, shall–
 - (a) include an article of condescendence stating that such a decision has been made and giving details of that decision; and
 - (b) unless the sheriff on cause shown otherwise directs, be accompanied by any document issued by the Secretary of State to the parties intimating that decision.

Textual Amendments

F207 Sch. 1, rules 150-154 inserted (5.4.1993) by S.I. 1993/919, art. 2(2)

^{F208} *Restriction of expenses*

152 Where the Secretary of State is named as a defender in an action for declarator of non-parentage or illegitimacy to which rule 151(3) applies, and the Secretary of State does not defend the action, no expenses shall be awarded against the Secretary of State.

Textual Amendments

F208 Sch. 1, rules 150-154 inserted (5.4.1993) by S.I. 1993/919, art. 2(2)

Effect of maintenance assessments

^{F209} 153 The sheriff clerk shall, on receiving notification that a maintenance assessment has been made, cancelled or has ceased to have effect so as to affect an order of a kind prescribed for the purposes of section 10 of the Act of 1991, endorse on

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

the interlocutor sheet relating to that order a certificate, in either Form CSA 1 or CSA 2, as set out in the Appendix to this Schedule.

Textual Amendments

F209 Sch. 1, rules 150-154 inserted (5.4.1993) by S.I. 1993/919, art. 2(2)

^{F210}*Effect of maintenance assessments on extracts relating to aliment*

154 (1) Where an order relating to aliment is affected by a maintenance assessment, any extract of that order issued by the sheriff clerk shall be endorsed with the following certificate:—

“A maintenance assessment having been made under the Child Support Act 1991 on (*insert date*), this order, in so far as it relates to the making or securing of periodical payments to or for the benefit of (*insert name(s) of child/children*), ceases to have effect from (*insert date 2 days after the date on which the maintenance assessment was made*).”.

(2) Where an order relating to aliment has ceased to have effect on the making of a maintenance assessment, and that maintenance assessment is later cancelled or ceases to have effect, any extract of that order issued by the sheriff clerk shall be endorsed also with the following certificate:—

“The jurisdiction of the child support officer under the Child Support Act 1991 having terminated on (*insert date*), this order, in so far as it relates to (*insert name(s) of child/children*), again shall have effect as of (*insert date of termination of child support officer’s jurisdiction*).”.

Textual Amendments

F210 Sch. 1, rules 150-154 inserted (5.4.1993) by S.I. 1993/919, art. 2(2)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

APPENDIX

FORMS

FORM A rule 3
INITIAL WRIT
SHERIFFDOM OF AT

A.B. (design him; if he sues in any special capacity set that forth).
Pursuer.

AGAINST

C.D. (design him; if sued in any special capacity set that forth).
Defender.

The Pursuer craves the Court (here set forth the specific decree, warrant or order asked).

Condescendence.
(State in numbered paragraphs the facts which form the ground of action).

Pleas-in-Law

(State in numbered sentences)

(To be signed) A.B., Pursuer;

or
X.Y. (add designation and business address)
Solicitor for Pursuer

FORM B rule 5(1)
WARRANT OF CITATION

(Place and date) Grants warrant to cite the defender by serving a copy of the writ and warrant upon a period of notice of days, and appoints him, if he intends to defend, to lodge a notice of intention to defend with the Sheriff Clerk at within the said period of notice after such service ^[11](and Grants Warrant to arrest on the dependence). (Meantime grants interim interdict, or warrant to arrest on the dependence, or sequestrates and grants warrant to inventory; or otherwise, as the case may be and to arrest to found jurisdiction.)

^[11]Form B1 rule 5(2)
{WARRANT OF CITATION}
CONSISTORIAL ACTION

19
Grants Warrant to cite the defender by serving a copy of the Writ and Warrant upon a period of notice of days, and appoints him, if he intends to defend, or to dispute any claim made or make any claim to lodge the appropriate document with the sheriff clerk at (Meantime grants interim interdict, or warrant to arrest on the dependence as the case may be.)

FORM B2 ^[11]rule 5(3)
WARRANT OF CITATION SUMMARY APPLICATION

{Place and date} Grants warrant to cite the defender (or respondent) by serving a copy of the writ and warrant upon a period of notice of days, and appoints him to answer within the Sheriff Court House at (in Room No. or in Chambers, or as the case may be), on the day of at o'clock noon,

^{112A} ... [Where necessary add (meantime sequestrates and grants warrant to inventory and secure); or (grants warrant to arrest in the dependence); or (otherwise as the case may be).]

^[11]Form B3 Rule 5(4)
WARRANT OF CITATION—SUMMARY APPLICATION WHERE TIME TO PAY DIRECTION MAY BE APPLIED FOR

{Place and date} Grants warrant to cite the defender by serving a copy of the writ and warrant, together with Form B6 as set out in the Appendix to the First Schedule to the Sheriff Courts (Scotland) Act 1907, upon a period of notice of days, and appoints him to answer within the Sheriff Court House at (in Room No., or in Chambers, or as the case may be), on the day of at o'clock noon; Appoints the defender if he admits the claim and intends to apply for a time to pay direction (and where appropriate for recall or restriction of an attachment) either to appear at that diet and make such application or to lodge the appropriate part of Form B6 duly completed with the sheriff clerk at {place} at least seven days before the diet; [where appropriate add meantime sequestrates and grants warrant to inventory and secure or grants warrant to arrest on the dependence or otherwise as the case may be].

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM B4 Rule 5(5)
 WARRANT OF CITATION WHERE TIME TO PAY DIRECTION MAY BE APPLIED FOR

(Place and date) Grants warrant to cite the defender by serving a copy of the writ and warrant, together with Form B5 as set out in the Appendix to the First Schedule to the Sheriff Courts (Scotland) Act 1907, upon a period of notice of _____ days and appoints him (a) if he intends to defend to lodge a notice of intention to defend or (b) if he does not intend to defend but admits the claim and intends to apply for a time to pay direction (and where appropriate for recall or restriction of an arrestment) to lodge the appropriate part of Form B5 duly completed, with the sheriff clerk at _____ within the period of notice after such service [and grants warrant to arrest on the dependence]. [Where appropriate add meantime grants interim interdict or warrant to arrest on the dependence or sequestrates and grants warrant to inventory or otherwise, as the case may be [and to arrest to found jurisdiction.]]

FORM B5 Rule 5(6)
 NOTICE TO BE SERVED ON DEFENDER IN ORDINARY ACTION WHERE TIME TO PAY DIRECTION MAY BE APPLIED FOR
 ACTION RAISED BY

.....
 PURSUER DEFENDER
 AT SHERIFF COURT
 Including Address
 COURT DATE OF EXPIRY OF
 REF NUMBER PERIOD OF NOTICE
 /

THIS SECTION MUST BE COMPLETED BY PURSUER BEFORE SERVICE

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
Under the Debtors (Scotland) Act 1987

The Act gives you a right to apply to the court for a "time to pay direction" which is an order saying that you can pay any sum of money you are ordered to pay to the pursuer (which may include interest and court expenses) either by way of instalments or deferred lump sum. A deferred lump means that you must pay all the amount at one time within a specified period set by the court.

In addition when making a "time to pay direction" the court may recall or restrict an arrestment made on your property by the pursuer in connection with the action or debt (for example your bank account may have been frozen).

HOW TO APPLY FOR A TIME TO PAY DIRECTION WHEN CLAIM ADMITTED AND YOU DO NOT WANT TO DEFEND THE ACTION

1. Attached to this Notice at pages 3 and 4 is an application for a "time to pay direction" and recall or restriction of an arrestment, if appropriate. If you want to make an application you should lodge the completed application with the court before the expiry of the period of notice—the date of which is given above. No court fee is payable when lodging the application.

2. Before completing the application please read carefully the notes overleaf on page 2. In the event of difficulty you may contact the court's Civil Department at the address above or any Sheriff Clerk's Office, Citizens Advice Bureau or a solicitor.

NOTE

Where this form is being served on a defender along with Form HH (notice to additional defender) the reference to "date of expiry of period of notice" should be amended to "date for lodging of defences or an application for a time to pay direction" and the references to "before the expiry of the period of notice" should be amended to "on or before the date for lodging of defences or an application for a time to pay direction".

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

HOW TO COMPLETE THE APPLICATION

PLEASE WRITE IN INK USING BLOCK CAPITALS

PART A of the application will have been completed in advance by the pursuer and gives details of the pursuer and you as the defender.

PART B—If you wish to apply to pay by instalments enter the amount and tick the appropriate box at B3(1). If you wish to apply to pay the full sum due in one deferred payment enter the period of deferment you propose at B3(2).

PART C—You should give full details of your financial position in the appropriate boxes.

PART D—If you wish the court when making the "time to pay direction" to recall or restrict an arrestment made in connection with the action then enter the appropriate details about what has been arrested and the place and date of the arrestment at 5, and attach Schedule of Arrestment or copy.

Sign the application where indicated and detach pages 3 and 4. Retain the copy initial writ and pages 1 and 2 of this form as you may need them at a later date. You should ensure that your application arrives at the court before the expiry of the period of notice.

WHAT WILL HAPPEN NEXT

If the pursuer objects to your application a hearing will be fixed and the court will advise you in writing of the date and time.

If the pursuer does not object to your application, then a copy of the court order for payment (called an extract decree) will be served on you by the pursuer's solicitor advising when payment should commence or be made.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 COURT..... (Ref. No.) 19...
 APPLICATION FOR A TIME TO PAY DIRECTION
 Under the Debtors (Scotland) Act 1987

PART A* By

 **DEFENDER**

*(This section must be completed by pursuer before service)
 IN AN ACTION RAISED BY

 **PURSUER**

PART B
 1. The applicant is a defender in the action brought by the above named pursuer.
 2. The defender admits the claim and applies to the court for a "time to pay direction".
 3. The defender applies (1) To pay by instalments of £.....
 (Tick one box only) EACH WEEK FORTNIGHT MONTH
OR
 (2) To pay the sum ordered in one payment within WEEKS/MONTHS

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
PART C
 4. The Defender's financial position is:—
 (Tick one box only)

Weekly	Fortnightly	Monthly	Weekly	Fortnightly	Monthly
My outgoings are:			My income is:		
Rent/Mortgage	£	_____	Wages/Pensions	£	_____
Heating	£	_____	Social Security	£	_____
Food	£	_____	Other	£	_____
HP	£	_____			
Other	£	_____			
Total			Total		
£ _____			£ _____		

Dependants: Children—how many _____
 Dependent relatives—how many _____

Here list all capital (if any), eg value of house; amount in bank/building society account; shares or other investments:

Here list any outstanding debts:

PART D
 5. The defender seeks to recall or restrict an arrestment of which the details are as follows (please state, and attach Schedule of Arrestment or copy):—
 6. This application is made under section 1(1) and 2(3) of the Debtors (Scotland) Act 1987.

Therefore the defender asks the court
 *Delete what does not apply
 "a. to make a "time to pay direction".
 "b. to recall the above arrestment.
 "c. TO RESTRICT the above arrestment (in which case state restriction wanted):—

(signed)
 Defender

Date:—

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 Form B6 OC Rule 5(6)
 NOTICE TO BE SERVED ON DEFENDER IN SUMMARY APPLICATION WHERE TIME TO PAY DIRECTION MAY BE APPLIED FOR
 IN SUMMARY APPLICATION BY

.....

 **PURSUER** **DEFENDER**

AT **SHERIFF COURT**
 Including Address

COURT DATE OF HEARING
 REF NUMBER
 /

THIS SECTION MUST BE COMPLETED BY PURSUER BEFORE SERVICE

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3

Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

Under the Debtors (Scotland) Act 1987

The Act gives you the right to apply to the court for a “time to pay direction” which is an order saying that you can pay any sum of money you are ordered to pay to the pursuer (which may include interest and court expenses) either by way of instalments or deferred lump sum. A deferred lump sum means that you must pay all the amount at one time within a specified period set by the court.

In addition when making a “time to pay direction” the court may recall or restrict an arrestment made on your property by the pursuer in connection with the action or debt (for example your bank account may have been frozen).

HOW TO APPLY FOR A TIME TO PAY DIRECTION WHEN CLAIM ADMITTED AND YOU DO NOT WANT TO DEFEND THE ACTION

1. You may apply for a “time to pay direction” (and where appropriate for recall or restriction of an arrestment) by either
 (a) appearing at the hearing—the date of which is given above and asking the court to make a “time to pay direction” (and where appropriate to recall or restrict an arrestment). If you prefer you may ask a solicitor or someone else to appear for you.

OR

(b) Completing and returning to the court at least seven days before the hearing, the application form at pages 3 and 4 of this notice. The address of the court is given above. No court fee is payable when lodging the application.

2. Before completing the application please read carefully the notes overleaf on page 2. In the event of difficulty you may contact the court’s Civil Department at the address above or any Sheriff Clerk’s Office, Citizens Advice Bureau or a Solicitor.

COURTS, SCOTLAND: 3

Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

HOW TO COMPLETE THE APPLICATION

PLEASE WRITE IN INK USING BLOCK CAPITALS

PART A of the application will have been completed in advance by the pursuer and gives details of the pursuer and you as the defender.

PART B—If you wish to apply to pay by instalments enter the amount and tick the appropriate box at B3(1). If you wish to apply to pay the full sum due in one deferred payment enter the period of deferment you propose at B3(2).

PART C—You should give full details of your financial position in the appropriate boxes.

PART D—If you wish the court when making the “time to pay direction” to recall or restrict an arrestment made in connection with the action then enter the appropriate details about what has been arrested and the place and date of the arrestment at Part D5, and attach Schedule of Arrestment or copy.

Sign the application where indicated and detach pages 3 and 4. Retain the copy initial writ and pages 1 and 2 of this form as you may need them at a later stage. You should ensure that your application arrives at the court at least seven days before the hearing.

WHAT WILL HAPPEN NEXT

If the court makes a “time to pay direction” a copy of the court order for payment (called an extract decree) will be served on you by the pursuer’s solicitor advising when payment should commence or be made.

If the court does not make a “time to pay direction” and makes an order for payment against you an order to pay (called a charge) may be served on you.

COURTS, SCOTLAND: 3

Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

COURT (Ref. No.) 19

APPLICATION FOR A TIME TO PAY DIRECTION

Under the Debtors (Scotland) Act 1987

PART A* By

 **DEFENDER**
 *(This section must be completed by pursuer before service) IN A SUMMARY APPLICATION BY
 **PURSUER**

PART B
 1. The applicant is a defender in the action brought by the above named pursuer.
 2. The defender admits the claim and applies to the court for a “time to pay direction”.
 3. The defender applies (1) To pay by instalments of £
 (Tick one box only) EACH WEEK FORTNIGHT MONTH
 **OR**
 (2) To pay the sum ordered in one payment within
 WEEKS/MONTHS

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

PART C
 4. The Defender's financial position is:—
 (Tick one box only)

Weekly		Fortnightly		Monthly		Weekly		Fortnightly		Monthly	
My outgoings are:						My income is:					
Rent/Mortgage	£					Wages/Pensions	£				
Heating	£					Social Security	£				
Food	£					Other	£				
HP	£										
Other	£										
<hr/>						<hr/>					
Total £						Total £					

Dependants: _____ Dependent relatives _____
 Children—how many _____ —how many _____

Here list all capital (if any) eg value of house; amount in bank/building society account; shares or other investments: _____

Here list any outstanding debts: _____

PART D
 5. The defender seeks to recall or restrict an arrestment of which the details are as follows (please state, and attach Schedule of Arrestment or copy):—

6. This application is made under section 1(1) and 2(3) of the Debtors (Scotland) Act 1987.

Therefore the defender asks the court

"a. to make a "time to pay direction".
 "b. to recall the above arrestment.
 "c. to restrict the above arrestment (in which case state restriction wanted):—

(signed)
 Defender

Date:—

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

FORM C rule 9
 CITATION

A. B. Pursuer against C. D. Defender Court Ref No
 (Place and date) C. D., defender. You are hereby served with this copy writ and warrant, and required to answer thereto, conform to the said warrant.

IF YOU WISH TO DEFEND THIS ACTION you must lodge a notice of intention to defend with the Sheriff Clerk at _____ within _____ days after this date and at the same time present this copy initial writ.

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.

(To be signed) P. Q., Sheriff Officer,
 or
 X. Y., (add designation and business address),
 Solicitor for Pursuer

[¹⁰FORM CC Rule 145(2)

INTIMATION TO PERSONS HAVING A TITLE TO SUE

(Place, date)
 TAKE NOTICE that an action has been raised in Sheriff Court (address) by (name and design) against (name and design). It is believed that you may have a title or interest to sue the said (name) in an action based upon [the injuries from which the late (name and design) died] or (the death of the late (name and design)]. You may therefore be entitled to enter this action as an additional pursuer. If you wish to do so, you may apply to the Sheriff at the above-mentioned Sheriff Court to be sisted as an additional pursuer within [¹⁰21] days after the expiry of _____ days from the date of service hereof. In the event of your making such an application you are required to serve notice of it on all of the parties to the action.

The date of service hereof is reckoned as commencing on the day of posting.

Solicitor for Pursuer]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 [1]FORM C1 rule 9
 CONSISTORIAL ACTION Court Ref No

(AB) Pursuer against (CD) Defender
 (Place and date) You are hereby served with this writ and warrant, and required to answer thereto, conform to the said warrant.
 IF YOU WISH TO DEFEND THIS ACTION or IF YOU WISH TO MAKE ANY CLAIM you should consult a solicitor with a view to lodging the appropriate document with the sheriff clerk at [1] within [12] days after this date and at the same time present this copy initial writ.
 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.

(To be signed) (E.F.) Sheriff Officer
 or
 (GH) (add designation and business address)
 Solicitor for Pursuer]

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 [1]FORM C2 Rule 9(2A)
 CITATION WHERE TIME TO PAY DIRECTION MAY BE APPLIED FOR

[A.B.], Pursuer against [C.D.], Defender Court Ref No

(Place and date) [C.D.], defender. You are hereby served with this copy writ and warrant, together with Form B5 and required to answer thereto, conform to the warrant. Form B5 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).

IF YOU WISH TO DEFEND THIS ACTION you must lodge a notice of intention to defend with the sheriff clerk at [1] within the period of notice being [1] days after this date and at the same time present this copy initial writ.

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

IF YOU ADMIT THE CLAIM AND WISH TO APPLY FOR A TIME TO PAY DIRECTION, you must complete the enclosed Form B5 and return it to the sheriff clerk within the period of notice.

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 Pursuer]

Date:—]

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM D rule 9(2)
 CERTIFICATE OF CITATION

(Place and date) I, [1], hereby certify that upon the day of [1] I duly cited C.D., the defender, to answer to the foregoing writ. This I did by (set forth mode of service, if by officer and not by post, add in presence of L.M. (design him), witness, hereto with me subscribing [1] in actions [1] in which a time to pay direction may be applied for set forth any form sent in accordance with rule 5 and in actions of divorce and separation also set forth any forms sent in accordance with rule 13[1]).

(To be signed)
 P.Q., Sheriff Officer,
 L.M., Witness,
 or
 X.Y. (add designation and business address),
 Solicitor for Pursuer

FORM E rule 11

ADVERTISEMENT
 Court Ref No

An action has been raised in [1] Sheriff Court by A.B. pursuer calling as a defender C.D. whose last known address was [1].

If the said C.D. wishes to defend the action [1] or to make any claim therein he/she should immediately contact the sheriff clerk (address) from whom he/she may obtain the service copy initial writ.]

Tel No. [1]
 X.Y. (add designation and business address)
 Solicitor for Pursuer
 or
 P.Q., Sheriff Officer

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 [FORM E1 Rule 11(1)(b)]
 DISPLAY ON THE WALLS OF COURT
 Court Ref No.
 An Action has been raised in Sheriff Court by
 A.B. pursuer calling as a defender C.D. whose last known address was

If C.D. wishes to defend the action or to make any claim therein he/she should immediately contact the Sheriff Clerk (address) from whom he/she may obtain the service copy Initial Writ.

Tel No:—
 (Signed) Sheriff Clerk
 Date:— (insert date)]

FORM F rule 33
 NOTICE OF INTENTION TO DEFEND

(Place and date)—C.D. (design him) Defender, intends to defend the action against him (and others) at the instance of A.B. (design him).

C.D. Defender
 or
 X.Y. (add address)
 Defender's Solicitor

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM G rule 50(4)

THIRD PARTY NOTICE

Third Party Notice in the Cause between
 A.B. Pursuer
 and
 C.D. Defender
 E.F. Third Party

to E.F.
 This Notice is served upon you by the above named C.D. by virtue of an order granted by Sheriff in the action in which the above named A.B. is the pursuer and C.D. the defender. In the action the pursuer claims against defender E. in respect of (or otherwise as the case may be) as more fully appears in the copy initial writ and defences (or copy record in the action) enclosed herewith. The defender denies any liability but maintains that if there is any liability he shares that liability with you, as more fully appears from his defences lodged in the above action and enclosed herewith.

or
 (otherwise as the case may be)
 And take notice that if you wish to resist either the claim of the pursuer against the defender, or the claim of the defender against you, you must lodge answers in the action not later than being the date appointed by the Court for the regulation of further procedure and must appear or be represented in court on that date, otherwise the Court may pronounce such decree against you as it thinks fit.

Date this day of
 (Signed) 19
 (Solicitor for the
 Defender).

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM H rule 64(1)

NOTICE TO ADDITIONAL DEFENDER

To (designation and address) Court Ref No

Take notice that in the action in which A.B. is the Pursuer and C.D. is the Defender, in copies of the (initial writ and defences) (closed record) which are herewith enclosed, your name has, by order of the Court dated , been added/substituted as a Defender to the said action; and the action, originally directed against the said C.D. is directed against you.

IF YOU WISH TO DEFEND THIS ACTION you must lodge defences thereto with the Sheriff Clerk at within days from the date of service hereof.

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 proceed and obtain decree against you in your absence.

(Date)—
 (Signed) P.Q., Sheriff Officer;
 or
 X.Y. (add designation and business address)
 Solicitor for Pursuer (or Defender)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.) Rule 64(1)(c)
 [1]FORM HH
 NOTICE TO ADDITIONAL DEFENDER WHERE A TIME TO PAY DIRECTION MAY BE APPLIED FOR
 BE APPLIED FOR
 To (designation and address) Court Ref No
 Take notice that in the action in which [AB] is the pursuer and [CD] is the Defender, your name has, by order of the court dated [] been added/substituted as a defender to the action; and the action, originally directed against [CD] is directed against you. Copies of the initial writ and defences [or closed record] are [or is] enclosed. You are also served with form B5. Form B5 is served on you because it is considered that you may be entitled to apply for time to pay direction (and for the recall or restriction of an arrestment).
 IF YOU WISH TO DEFEND THIS ACTION you must lodge defences thereto with the sheriff clerk at [] within [] days from the date of service hereof.
 IF YOU ADMIT THE CLAIM AND WISH TO APPLY FOR A TIME TO PAY DIRECTION you must complete the enclosed form B5 and return it to the sheriff clerk at [] within [] days from the date of service hereof.
 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 proceed and obtain decree against you in your absence.

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

Date:— []

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.) Rule 130(1)(a)
 [2]FORM H1
 FORM OF INTIMATION TO ALLEGED ADULTERER IN ACTION OF DIVORCE OR SEPARATION
 To (name and address as in the Warrant)
 Take note that in an action number ('A' number), you are alleged to have committed adultery. A copy of the Initial Writ is attached. If you wish to dispute the truth of the allegation made against you, you may lodge a minute with the Sheriff Clerk (insert full address of Sheriff Clerk) for leave to appear as a party. Your minute must be lodged within [21] days from (insert date), the date of posting of this intimation.
 Date:— (insert date) (Signed) A. B.
 [Solicitor for Pursuer]

NOTE
 The minute to be lodged with the Sheriff Clerk must be in proper form. You should crave to be sisted as a party to the action and seek leave to lodge defences or answers. The minute must be accompanied by the appropriate fee of (£).
 It may be in your best interests to consult a solicitor who, if necessary will advise you on the availability of legal aid.

FORM H2 Rule 130(2)(b)
 FORM OF INTIMATION TO PERSON WITH WHOM AN IMPROPER ASSOCIATION IS ALLEGED TO HAVE OCCURRED
 To (name and address as in the Warrant)
 Take note that in an action number ('A' number), the defender is alleged to have had an improper association with you. A copy of the Initial Writ is attached. If you wish to dispute the truth of the allegation made against you, you may lodge a minute with the Sheriff Clerk (insert full address of Sheriff Clerk) for leave to appear as a party. Your minute must be lodged within [21] days from (insert date), the date of posting of this intimation.
 Date:— (insert date) (Signed) A. B.
 [Solicitor for Pursuer]

NOTE
 The minute to be lodged with the Sheriff Clerk must be in proper form. You should crave to be sisted as a party to the action and seek leave to lodge defences or answers. The minute must be accompanied by the appropriate fee of (£).
 It may be in your best interests to consult a solicitor who, if necessary, will advise you on the availability of legal aid.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM H3 Rule 130(4)
 FORM OF INTIMATION TO A LOCAL AUTHORITY OR THIRD PARTY WHO
 MAY BE LIABLE TO MAINTAIN A CHILD

To *(name and address as in the Warrant)*
 Take note that in an action number ('A' number), the Court may make an order in respect of the custody of *(name and address)* a child in your care *[or liable to be maintained by you]*. A copy of the Initial Writ is attached. If you wish to appear as a party, you may lodge a minute with the Sheriff Clerk *(insert full address of Sheriff Clerk)*, for leave to do so. Your minute must be lodged within ^[1021] days from *(insert date)*, the date of posting of this intimation.

Date:— *(insert date)* (Signed) A.B.
 [Solicitor for Pursuer]

NOTE
 The minute to be lodged with the Sheriff Clerk must be in proper form. You should crave to be sisted as a party to the action and seek leave to lodge defences or answers. The minute must be accompanied by the appropriate fee of (£). It may be in your best interests to consult a solicitor who, if necessary, will advise you on the availability of legal aid.

FORM H4 Rule 130(5)
**FORM OF INTIMATION TO ADDITIONAL SPOUSE OF EITHER PARTY IN
 PROCEEDINGS RELATING TO A POLYGAMOUS MARRIAGE**

To *(name and address as in the Warrant)*
 Take note that an action for divorce *[or separation]* number ('A' number), involves *(name and designation)* your spouse. A copy of the Initial Writ is attached. If you wish to appear as a party, you may lodge a minute with the Sheriff Clerk *(insert full address of Sheriff Clerk)*, for leave to do so. Your minute must be lodged within ^[1021] days from *(insert date)*, the date of posting of this intimation.

Date:— *(insert date)* (Signed) A.B.
 [Solicitor for Pursuer]

NOTE
 The minute to be lodged with the Sheriff Clerk must be in proper form. You should crave to be sisted as a party to the action and seek leave to lodge defences or answers. The minute must be accompanied by the appropriate fee of (£). It may be in your best interests to consult a solicitor who, if necessary, will advise you on the availability of legal aid.

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM H5 Rule 130(6)
 FORM OF INTIMATION TO PERSON HAVING De Facto CUSTODY OF
 CHILDREN

To *(name and address as in the Warrant)*
 Take note that in an action number ('A' number), the court may make an order in respect of the custody of *(name and address)* a child/children at present in your custody. A copy of the Initial Writ is attached. If you wish to appear as a party, you may lodge a minute with the Sheriff Clerk *(insert full address of Sheriff Clerk)*, for leave to do so. Your minute must be lodged within ^[1021] days from *(insert date)*, the date of posting of this intimation.

Date:— *(insert date)* (Signed) A.B.
 [Solicitor for Pursuer]

NOTE
 The minute to be lodged with the Sheriff Clerk must be in proper form. You should crave to be sisted as a party to the action and seek leave to lodge defences or answers. The minute must be accompanied by the appropriate fee of (£). It may be in your best interests to consult a solicitor who, if necessary, will advise you on the availability of legal aid.

FORM H6 Rule 130(7)(a)
**FORM OF INTIMATION TO LOCAL AUTHORITY OR THIRD PARTY TO WHOM
 CARE OF A CHILD IS TO BE GIVEN**

To *(name and address as in the Warrant)*
 Take note that in an action number ('A' number), the court proposes to commit to your care the child *(name and address)*. A copy of the Initial Writ is attached. If you wish to appear as a party, you may lodge a minute with the Sheriff Clerk *(insert full address of Sheriff Clerk)*, for leave to do so. Your minute must be lodged within ^[1021] days from *(insert date)*, the date of posting of this intimation.

Date:— *(insert date)* (Signed) A.B.
 [Solicitor for Pursuer]

NOTE
 The minute to be lodged with the Sheriff Clerk must be in proper form. You should crave to be sisted as a party to the action and seek leave to lodge defences or answers. The minute must be accompanied by the appropriate fee of (£). It may be in your best interests to consult a solicitor who, if necessary, will advise you on the availability of legal aid.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

FORM H6A Rule 130(7)(b)
 FORM OF INTIMATION TO LOCAL AUTHORITY OF SUPERVISION ORDER
 Initial Writ
 in
 A.B. (Address) Pursuer(s)
 against
 C.D. (Address) Defender(s)

To (name and address of local authority)

TAKE NOTICE
 That on (date) in the Sheriff Court at (place) the Sheriff made a supervision order under section 12 of the Matrimonial Proceedings (Children) Act 1958/section 11(1)(b) of the Guardianship Act 1973, placing the child (name and address) under your supervision. A certified copy of the sheriff's interlocutor is attached hereto.

Date:— (insert date) (Signed) A.B.
 Sheriff Clerk

*Delete as appropriate

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

FORM H7 Rule 130(9)
 FORM OF INTIMATION TO CREDITOR IN APPLICATION FOR ORDER FOR THE
 TRANSFER OF PROPERTY UNDER SECTION 8 OF THE FAMILY LAW
 (SCOTLAND) ACT 1985

To (name and address as in the Warrant)
 Take note that in an action number ('A' number) an order is sought for the transfer of property (specify the order), over which you hold a security. A copy of the Initial Writ is attached. If you wish to appear as a party, you may lodge a minute with the Sheriff Clerk (insert full address of Sheriff Clerk), for leave to do so. Your minute must be lodged within [10/21] days from (insert date), the date of posting of this intimation.

Date:— (insert date) (Signed) A.B.
 [Solicitor for Pursuer]

NOTE
 The minute to be lodged with the Sheriff Clerk must be in proper form. You should crave to be sisted as a party to the action and seek leave to lodge defences or answers. The minute must be accompanied by the appropriate fee of (£).
 It may be in your best interests to consult a solicitor who, if necessary, will advise you on the availability of legal aid.]

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

[FORM H8 Rule 99(2)
 SEQUESTRATION FOR RENT—NOTICE INFORMING DEFENDER OF RIGHT TO
 APPLY FOR CERTAIN ORDERS UNDER THE DEBTORS (SCOTLAND) ACT 1987

Where articles are sequestered for rent you have the right to apply to the sheriff for certain orders under the Debtors (Scotland) Act 1987.

1. You may apply to the sheriff within 14 days from the date articles are sequestered for an order releasing any article on the ground that—

(a) it is exempt from sequestration for rent. (Articles which are exempt are listed in section 16 of the Debtors (Scotland) Act 1987.); or

(b) its inclusion in the sequestration for rent or its subsequent sale is unduly harsh.

2. Where a mobile home, such as a caravan, is your only or principal residence and it has been sequestered for rent you may apply to the sheriff before a warrant to sell is granted for an order that for a specified period no further steps shall be taken in the sequestration.

Any enquiry relating to the above rights should be made to a solicitor, Citizens Advice Bureau or other local advice centre or to the sheriff clerk at (address).]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM I rule 75(1)
 CITATION

K.L. (design him), you are required to attend at Sheriff Court on 19 at as a witness for the in the action at the instance of A.B. (design him), against C.D. (design him) (and to bring with you (specify documents)). If you fail to attend without reasonable excuse having demanded and been paid your travelling expenses you may be ordered to pay a penalty not exceeding £250 and warrant may be granted for your arrest.

(Date) (Signed) P.Q., Sheriff Officer;
 or
 X.Y. (add designation and business address)
 Solicitor for Pursuer (or defender)

Note:
 Within certain specified limits claim for necessary outlays and loss of earnings will be met. Claims should be made to the person who has cited you to attend court and 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 to the person who has cited you.

FORM J rule 75(1)
 CERTIFICATE OF CITATION

I certify that on 19 I duly cited K.L. (design him) to attend at Sheriff Court on 19 at as a witness for the in the action at the instance of A.B. (design him) against E.F. (design him) (and I required him to bring with him (specify documents)). This I did (set forth mode of citation).

(Date) (Signed) P.Q., Sheriff Officer;
 or
 X.Y. (add designation and business address)
 Solicitor for Pursuer (or Defender)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM K rule 81(1)
 NOTICE IN OPTIONAL PROCEDURE FOR COMMISSION AND DILIGENCE

Order by the Sheriff Court at
 In the cause (reference No.)
 in which
 A.B. (design) is Pursuer
 and
 C.D. (design) is Defender

To (name and designation of party or parties or haver, from whom the documents are sought to be recovered)
 Take notice that you are hereby required to produce to the sheriff clerk at within 7 days of the service upon you of this order—

- (1) this order itself which must be produced intact;
- (2) a certificate signed and completed in terms of the form appended hereto; and
- (3) all documents in your possession falling within the specification enclosed herewith, together with a list of inventory of such documents signed by you as relative to this order and your certificate.

Production may be made either by lodging the above at the said office of the sheriff clerk, or by registered or recorded delivery letter or registered postal packet enclosing the same, and addressed to the said sheriff clerk at said office.

(Signature and business address of the solicitor of the party in whose favour commission and diligence has been granted)

(Date)
Note: If you claim confidentiality for any of the documents produced by you, such documents must nevertheless be produced, but may be placed in a special sealed enclosure by themselves, marked "confidential".

CERTIFICATE
 I hereby certify with reference to the order of the sheriff court at in the cause (reference No.) and the relative specification of documents, served upon me and marked respectively X, Y, —

- (1) that the documents which are produced and which are enumerated in the inventory signed by me and marked Z, are the whole documents in my possession falling under the specification

or
 that I have no documents in my possession falling within the specification.

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

(2) that, to the best of my knowledge and belief, there are in existence other documents falling within the specification, but not in my possession, names (describe them by reference to one or more of the descriptions of documents in the specification), which were last seen by me on or about (date), at (place), in the hands of (name and address of the person)

or
 that I know of the existence of no documents in the possession of any person, other than myself, which fall within the specification.
 (Signed)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

FORM L rule 104

NOTICE OF REMOVAL

To (name, designation, and address of party in possession).
 You are required to remove from (describe subjects) at the term of (or if different terms, state them and the subjects to which they apply), in terms of lease (describe it) or (in terms of your letter of removal of date) or (otherwise as case may be).

FORM M rule 104

LETTER OF REMOVAL

To (name and designation of addressee).
 (Place and date) I am to remove from (state subjects by usual name of short description sufficient for identification) at the term of

K. L. (add designation and address)

If not holograph to be attested thus—

M. N. (add designation and address), witness.

FORM N rule 105

NOTICE OF REMOVAL UNDER S.37 OF [“1907”] ACT

To K. L. (designation and address).
 You are required to remove from () that portion of ground (describe it); or the mill of (describe it); or the shootings of the lands and estate of (describe them); or (other subjects to which this notice is applicable), at the term of Whitsunday (insert year) (or Martinmas, as the case may be, inserting after the year the words, being the 15th day of May, or the 11th day of November, or the 28th day of May, or the 28th day of November, as the case may be).

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

FORM O rule 117

NOTICE OF APPEARANCE

A. B. Pursuer against C. D., E. F., and G. H. Defendants

Court Ref No.

(Place and date)—C. D. (design him) defender, intends to appear in the above action and lodge “defences to the competency of the action” objections to the condensation of the fund *in medio* “a claim on the fund *in medio*”

(Signed) C. D., Defender

or

X. Y. (add designation and business address)

Solicitor for Defender

*delete as appropriate

FORM P rule 128(4)

RECEIPT

In the Sheriff Court of _____ at _____
 Receipt for a Payment into Court
 In the cause, matter or proceeding (state names of parties or other appropriate description)
 (Place and date)

A. B. (design him) _____ has this day paid into Court the sum of £ _____ being a payment into Court in terms of [“rule 128”] of _____ of money which in an action of damages, has become payable to a person under legal disability.

(Note) If the payment is made under [“rule 128(2)"] add “the custody of which money has been accepted at the request of (name of Court making request).”

(Signed) _____ Sheriff Clerk

N.B. The person paying the money into Court is required to complete and transmit the subjoined Form Q to the Secretary of State, forthwith.

TO BE PERFORATED

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

FORM Q Rule 128(4)
 LETTER INTIMATING PAYMENT
 (Address)
 (Date)

To
 The Secretary of State
 Sir,
 I/We paid into the Sheriff Court at _____ in the (State
 on _____ 19____, the sum of _____
 name of cause, matter or _____ proceeding),
 Yours faithfully
 (Signature)

FORM R Rule 128(4)
 ADDITIONAL PARTICULARS FOR RECEIPT

The above-mentioned payment into Court was:—
 (a) Lodged on Deposit Receipt No _____ with the
 (state name of Bank) pending the Orders of the Court.
 (b) Deposited in the National Savings Bank, Account No _____
 (c) (Otherwise as the case may be, stating similar particulars).

Name and address of Solicitor (or Insurance Company) representing
 the person who made the payment into Court:—
 (Date)
 (Signed)
 Sheriff Clerk

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

FORM S rule 131

Form of Notice to defender where it is stated he consents to the granting of decree of separation...¹⁷

TAKE NOTICE that the copy initial writ served on you together with this Notice states that you consent to the grant of decree of separation—

- If you do so consent the consequences to you are that—
 - provided the pursuer establishes the fact that there has been no cohabitation between the parties to the marriage at any time during a continuous period of two years after the date of the marriage and immediately preceding the bringing of this action and that you consent, a decree of separation will be granted;
 - on the grant of decree of separation you will be obliged to live apart from the pursuer but the marriage will continue to subsist; a husband will continue to have a legal obligation to support his wife and children;
 - apart from these consequences there may be others applicable to you depending upon your particular circumstances.
- If you do consent to the grant of decree you may apply to the Court in this action—
 - for payment by the pursuer to you of aliment; and
 - for an order providing for access to or the custody, maintenance and education of any child of the marriage, or any child accepted as such, who is under 16 years of age.

[¹⁷(3) In order to make such an application you require to give notice in the appropriate form to the Court. If you wish to make such an application you should consult a solicitor.]

- If after considering the foregoing, you wish to consent to decree, you should complete and sign the attached Form of Notice of Consent and send it to the Sheriff Clerk at the Sheriff Court referred to in the initial writ within [¹⁷21] days of the date of this Notice.
- If after consenting you wish to withdraw your consent you must immediately inform the Sheriff Clerk at the Sheriff Court referred to in the initial writ in writing that you withdraw your consent to decree being granted against you in the action at the instance of (insert name and address of your husband or wife as the case may be).

(Date) (Signed)
 (Signature of Pursuer of his Agent)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.) rule 131
FORM S1

Form of Notice to defender where it is stated he consents to the granting of decree of divorce

Take Notice that the copy initial writ served on you together with the Notice states that you consent to the grant of decree of divorce.

1. If you do so consent the consequences to you are that—
 - (a) provided the pursuer establishes the fact that there has been no cohabitation between the parties to the marriage at any time during a continuous period of two years after the date of the marriage and immediately preceding the bringing of this action and that you consent, a decree will be granted;
 - (b) on the grant of a decree of divorce you may lose your rights of succession to the pursuer's estate;
 - (c) decree of divorce will end the marriage thereby affecting any right to such pension as may depend upon marriage continuing or upon your being left a widow: the State widow's pension will not be payable to you when the pursuer dies;
 - (d) apart from these consequences there may be others applicable to you depending upon your particular circumstances;
2. If you do consent to the grant of decree you are still entitled to apply to the Sheriff in this action—
 - (a) to make financial provision for you under the Divorce (Scotland) Act 1976 by making an order—
 - (i) for the payment by the pursuer to you of a periodical allowance;
 - (ii) for the payment by the pursuer to you of a capital sum;
 - (iii) varying the terms of any marriage settlement;
 - (b) to make an order providing for the custody, maintenance and education of any child of the marriage, or any child accepted as such, who is under 16 years of age.
3. In order to make such an application to the Sheriff you require to give notice in the appropriate form to the Court. If you wish to make such an application you should consult a solicitor.
4. If after considering the foregoing you wish to consent to decree you should complete and sign the attached Form of Notice of Consent, and send it to the sheriff clerk at the Sheriff Court referred to in the initial writ, within ^[10]21 days of the receipt of this Notice.
5. If after consenting you wish to withdraw your consent you must immediately inform the sheriff clerk at the Sheriff Court referred to in the initial writ in writing that you withdraw your consent to decree being granted against you in the action at the instance of (insert name and address of your husband or wife as the case may be).

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.) rule 131
FORM S2

Form of Notice to defender in an action of separation ...¹⁰ where it is stated there has been five years non-cohabitation

1. Take Notice that the copy initial writ served on you together with this Notice states that there has been no cohabitation between you and the pursuer at any time during a continuous period of 5 years after the date of the marriage and immediately preceding the commencement of this action and that if the pursuer establishes this as a fact and the Court is satisfied that there are grounds justifying decree of separation a decree will be granted, unless in the opinion of the Court the grant of decree would result in grave financial hardship to you.
2. On the grant of decree of separation you will be obliged to live apart from the pursuer but the marriage will continue to subsist. A husband will continue to have a legal obligation to support his wife and children.
3. You are entitled, whether or not you dispute that there has been no such cohabitation during such a period, to apply to the Sheriff in this action—
 - (a) if you are the wife, for payment by the pursuer to you of alimony; and
 - (b) for an order providing for the custody, maintenance and education of any child of the marriage, or any child accepted as such, who is under 16 years of age.
4. In order to make such an application you require to give notice in the appropriate form to the Court. If you wish to make such an application you should consult a solicitor.

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.) rule 131
FORM S3

Form of Notice to defender in an action of divorce where it is stated there has been five years non-cohabitation

1. Take Notice that the copy initial writ served on you together with this Notice states that there has been no cohabitation between you and the pursuer at any time during a continuous period of 5 years after the date of the marriage and immediately preceding the commencement of this action and that if the pursuer establishes this as a fact and the Court is satisfied that the marriage has broken down irretrievably a decree will be granted, unless in the opinion of the Court the grant of decree would result in grave financial hardship to you.
2. Decree of divorce will end the marriage thereby affecting any right to such pension as may depend upon the marriage continuing or upon your being left a widow: the State widow's pension will not be payable to you when the pursuer dies. You may also lose your rights of succession to the pursuer's estate.
3. You are entitled, whether or not you dispute that there has been no such cohabitation during such a period, to apply to the sheriff in this action—
 - (a) to make financial provision for you under the Divorce (Scotland) Act 1976 by making an order—
 - (i) for the payment by the pursuer to you of a periodical allowance;
 - (ii) for the payment by the pursuer to you of a capital sum;
 - (iii) varying the terms of any marriage settlement;
 - (b) to make an order providing for the custody, maintenance and education of any child of the marriage or of any child accepted as such, who is under 16 years of age.
4. In order to make such an application you require to give notice in the appropriate form to the Court. If you wish to make such an application you should consult a solicitor.]

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM T rule 131

Form of Notice of Consent in actions [10] of divorce and] of separation . . . [15] under section 1(2)(d) of the Divorce (Scotland) Act, 1976. I (full name and address of the defender to be inserted by the pursuer or the pursuer's solicitor before sending Notice) have received a copy of the initial writ in the action against me at the instance of (full name and address of pursuer to be inserted by him or his solicitor before sending Notice).

I understand that it states that I consent to the grant of decree [10] (of divorce or of separation . . . [15]) in this action.

I have considered the consequences to me mentioned in the Notice sent together with this Notice.

I consent to the grant of decree [10] (of divorce or of separation . . . [15]) in this action.

(Dated) (Signed) [15]
 Defender [15]

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 [10] FORM T1 rule 3(8)

Form of consent of parent [10], tutor, curator] or guardian in proceedings for custody of children under section 47 of the Children Act 1975

IN
 PURSUER(S)
 DEFENDER(S)

I, (name and address)
 confirm that I am the mother/father/guardian [10] (tutor-curator] of the child (insert full name of the child as it is given on the birth certificate, and the child's present address)

I understand that if I consent to the granting of custody to the pursuer(s), the care, possession and control of the child may be granted to the pursuer(s) by the court.

I hereby consent to the making of a custody order in relation to the child (name of child)
 in favour of (name and address of pursuer(s))

Dated at (place) the day of 19

Signature of person consenting
 Signature of Witness
 Full Name
 Designation
 Address
 Signature of Witness
 Full Name
 Designation
 Address

*Delete whichever is inappropriate.

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM T2 [10] rule 130(8)]

Notice to local authority under section 49(1) of the Children Act 1975 of presentation of an initial writ for custody of a child under section 47 of that Act.

Initial Writ
 in
 A.B. (address) Pursuer(s)
 for
 Custody of the child E.F.

To (name and address)

TAKE NOTICE

1. That the pursuer has presented an initial writ to the Sheriff Court at (address) for the custody of the child E.F. A copy of the writ is attached to this notice.

2. That you are required under section 49(2) of the Children Act 1975 to submit to the court a report on all the circumstances of the child and on the proposed arrangements for the care and upbringing of the child.

Dated the day of 19
 (Signed)
 (Address)
 [Solicitor for the pursuer]]

FORM U rule 134(3)

REQUEST FOR PRELIMINARY RULING OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES
 (Here set out a statement of the case for the European Court, giving brief particulars of the case and issues between the parties, and relevant facts found by the Court, any relevant rules and provisions of Scots Law, and the relevant Treaty provisions, acts, instruments or rules of Community Law giving rise to the reference.)
 The preliminary ruling of the Court of Justice of the European Communities is accordingly sought on the following questions—1, 2, etc. (Insert the questions on which the ruling is sought).

Dated the day of 19)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 [17]Form V rule 11A

Form of Certificate by Medical Officer of Hospital or similar Institution
 I (name and designation) certify that, having had transmitted to me a copy initial writ in an action of divorce or of separation . . . at the instance of (name and designation) Pursuer, against (name and designation) Defender, (a) I have on the . . . day of . . . personally delivered a copy thereof to the said defender who is under my care at (address) and I have explained the contents or purport thereof to him (or her).

or
 (b) I have not delivered a copy thereof to the said defender who is under my care at (address) and I have not explained the contents or purport thereof to him (or her) and that for the following reasons (state reasons).

(Address and date) (Signature and designation)
 [18]Form V1 Rule 11A(3)

FORM OF INTIMATION TO CHILDREN, NEXT OF KIN AND Curator Bonis IN AN ACTION OF DIVORCE OR SEPARATION WHERE THE DEFENDER SUFFERS FROM A MENTAL DISORDER
 To (name and address as in the Warrant)

Take note that an action of divorce [or separation] number ('A' number) has been raised against (name, and designation) your (father, mother, brother or other relative, or ward, as the case may be). A copy of the Initial Writ is attached. If you wish to appear as a party, you may lodge a minute with the Sheriff Clerk (insert full address of Sheriff Clerk), for leave to do so. Your minute must be lodged within [19]21 days from (insert date), the date of posting of this intimation.

Date:— (insert date) (Signed) A.B.
 [Solicitor for Pursuer]

NOTE
 The minute to be lodged with the Sheriff Clerk must be in proper form. You should crave to be sisted as a party to the action and seek leave to lodge defences or answers. The minute must be accompanied by the appropriate fee of (£ . . .). It may be in your best interests to consult a solicitor who, if necessary, will advise you on the availability of legal aid.

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 Form V2 Rule 11A(3)

FORM OF INTIMATION TO CHILDREN AND NEXT OF KIN IN AN ACTION OF DIVORCE OR SEPARATION WHERE THE DEFENDER'S ADDRESS IS UNKNOWN
 To (name and address as in the Warrant)

Take note that an action of divorce [or separation] number ('A' number), has been raised against (name) your (father, mother, brother or other relative as the case may be). If you know of his/her present address, you are requested to forward the same to the Sheriff Clerk (insert full address of Sheriff Clerk) forthwith. You may also if you wish to appear as a party lodge a minute with the Sheriff Clerk for leave to do so. Your minute must be lodged within [20]21 days from (insert date), the date of posting of this intimation.

Date:— (insert date) (Signed) A.B.
 [Solicitor for Pursuer]

NOTE
 The minute to be lodged with the Sheriff Clerk must be in proper form. You should crave to be sisted as a party to the action and seek leave to lodge defences or answers. The minute must be accompanied by the appropriate fee of (£ . . .). It may be in your best interests to consult a solicitor who, if necessary, will advise you on the availability of legal aid.]

Form W rule 11A
Form of Transmission to Medical Officer of Hospital or similar Institution

To (insert name and address)
 In accordance with the Sheriff Courts (Scotland) Act 1907 a copy of the initial writ at the instance of (name and address) against (name and address) is sent herewith and you are requested to deliver it personally to the said . . . and to explain the contents or purport thereof to him (or her) unless you are satisfied that such delivery or explanation would be dangerous to his (or her) health or mental condition. You are further requested to complete and return to me in the enclosed stamped and addressed envelope the certificate appended hereto, striking out what is not applicable.

(Address and date) (Solicitor for Pursuer)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 Form X rule 72(5)

AB for the pursuer having considered the evidence contained in the affidavits and the other documents all as specified in the Schedule hereto and being satisfied that upon the evidence a motion for decree (in terms of the crave of the initial writ) or (in such restricted terms as may be appropriate) may properly be made, moves the court accordingly.

In respect whereof
 (Signed)
 (designation)

SCHEDULE
 (Number and specify documents considered)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
FORM Z rule 90A

Extract
Decree of
Divorce
AT SHERIFF COURT
the day of
in an action of Divorce
in the Sheriff Court of
at the instance of
Pursuer
Defender

who were married at (place) on (date)
The sheriff pronounced Decree:
(1) divorcing the Defender from the Pursuer
(2) awarding custody to the Pursuer/Defender of the following child/children:
(3) ordaining payment:
(a) by the of £ per as aliment for each of said child/children until sixteen years of age;
(b) by the Defender to the Pursuer of a periodical allowance of £ per payable until her death or remarriage;
(c) by the Defender to the Pursuer of a sum of £
(d) by the of expenses;
(4) finding the Defender liable to the Pursuer in expenses as the same may be subsequently taxed and decreed for;
(5) granting leave to any party showing interest to apply to the Court for any order required anent custody and aliment until 19 .

And the said Sheriff Grants Warrant for all lawful execution hereon:
Extracted at day of 19 this by me Sheriff Clerk of

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
FORM Z rule 136(1)
Under the Divorce (Scotland) Act 1976, Section 1(2)(d) Simplified Procedure

Sheriff Clerk
Sheriff Court House
(Tel)

APPLICATION FOR DIVORCE (WITH CONSENT OF OTHER PARTY TO THE MARRIAGE) HUSBAND AND WIFE HAVING LIVED APART FOR AT LEAST 2 YEARS
Before completing this form, you should have read the leaflet entitled "Do it yourself Divorce", which explains the circumstances in which a divorce may be sought by that method. If simplified procedure appears to suit your circumstances, you may use this form to apply for divorce. Below you will find directions designed to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact any Sheriff Clerk's Office or Citizens Advice Bureau or the Court of Session Divorce Section, Edinburgh.

Directions for making application
WRITE IN INK, USING BLOCK CAPITALS

Application (Part 1)
Consent of Husband/Wife (Part 2)
Affidavit (Part 3)
Returning completed Application Form to Court

1. Complete and sign Part 1 of the form (pages 3-7), paying particular attention to the notes opposite each section.
2. When you have filled in Part 1 of the form, attach the (blue) Instruction Sheet SP1 to it and send both documents to your husband/wife for completion of the consent at part 2 (page 9).
NOTE: If your husband/wife does NOT complete and sign the form of consent, your application cannot proceed further under the simplified procedure. In that event, if you still wish to obtain a divorce, you should consult a solicitor.
3. When the application has been returned to you with the Consent (Part 2) duly completed and signed, you should then take the form to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit in Part 3 (page 10) can be completed and sworn.
4. When directions 1-3 above have been carried out, your application is now ready to be sent to the Court at the above address. With it you must enclose:
(i) Your marriage certificate (the document headed "Extract of an entry in a register of Marriages", which will be returned to you in due course); and
(ii) Either a cheque or postal order in respect of the Court fee, crossed and made payable to "the Sheriff Clerk".

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
OR a completed form SP15, claiming exemption from the Court fee.
5. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the Sheriff Clerk immediately.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
 Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

PART 1

WRITE IN INK USING BLOCK CAPITALS

1. NAME AND ADDRESS OF APPLICANT

Surname Other name(s)
 in full

Present

Address Daytime
 Telephone
 Number
 if any

2. NAME AND ADDRESS OF HUSBAND/WIFE*

Surname Other name(s)
 in full

Present

Address Daytime
 Telephone
 Number
 if any

3. JURISDICTION
 Please indicate with a tick () in the appropriate box or boxes which of the following apply

PART A

(i) I consider myself to be domiciled in Scotland

(ii) I have lived in Scotland for a period of at least 12 months immediately before the date of signing this application

(iii) My husband/wife considers himself/herself to be domiciled in Scotland

(iv) My husband/wife has lived in Scotland for a period of at least 12 months immediately before the date of signing this application

COURTS, SCOTLAND: 3
 Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

PART B

(v) I have lived at the address shown in Section 1 for at least 40 days immediately before the date I signed this application

(vi) My husband/wife has lived at the address shown in Section 2 for at least 40 days immediately before the date I signed this application

4. DETAILS OF PRESENT MARRIAGE

Place of Marriage (Registration District)

Date of Marriage: Day Month Year

5. PERIOD OF SEPARATION

(i) Please state the date on which you ceased to live with your husband/wife. (If more than 2 years, just give the month and year) Day month Year

(ii) Have you lived with your husband/wife since that date (Tick () box which applies) YES NO

(iii) If yes, for how long in total did you live together before finally separating again? months

6. RECONCILIATION

Is there any reasonable prospect of reconciliation with your husband/wife? (Tick () box which applies) YES NO

Do you consider that the marriage has broken down irretrievably? (Tick () box which applies) YES NO

7. CONSENT

Does your husband/wife consent to a divorce being granted? (Tick () box which applies) YES NO

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

8.
MENTAL DISABILITY
 As far as you are aware is your husband/wife incapable of managing his/her affairs because of a mental disorder (whether illness or deficiency)? (Tick () box which applies)

YES	NO
If yes, give details	

9.
CHILDREN
 Are there any children of the marriage under the age of 16? (Tick () box which applies)

YES	NO
-----	----

10.
OTHER COURT ACTIONS
 Are you aware of any Court actions currently proceeding in any country (including Scotland) which may affect your marriage? (Tick () box which applies)

YES	NO
If yes, give details	

11.
REQUEST FOR DIVORCE AND DISCLAIMER OF FINANCIAL PROVISION
 I confirm that the facts stated in Sections 1–10 above apply to my marriage.
 I do NOT ask the Court to make any financial awards in connection with this application.
 I request the Court to grant decree of divorce from my husband/wife.

.....
 (Date) (Signature)

IMPORTANT—Part 1 MUST be completed, signed and dated before sending the application form to your husband/wife.

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

PART 2

CONSENT BY APPLICANT'S HUSBAND/WIFE TO DIVORCE
NOTE: Before completing this Part of the form, please read the notes opposite

I,,
 (Full names, in BLOCK letters, of Applicant's husband/wife)
 residing at,
 (Address, also in BLOCK letters)

HEREBY STATE THAT

a. I have read Part 1 of this application;
 b. The Applicant has lived apart from me for a continuous period of 2 years immediately preceding the date of the application (Section 11 of Part 1);
 c. I do not ask the Court to make any order for payment to me by the Applicant of a periodical allowance (ie a regular payment of money weekly or monthly, etc for maintenance);
 d. I do not ask the Court to make any order for payment to me by the Applicant of a capital sum (ie a lump sum payment);
 e. I understand that divorce may result in the loss to me of property rights;
 and
f. I CONSENT TO DECREE OF DIVORCE BEING GRANTED IN RESPECT OF THIS APPLICATION

.....
 (Date) (Signature)

NOTE: You may withdraw your consent, even after giving it, at any time before divorce is granted by the Court. Should you wish to do so, you must immediately advise:
 Address of Court
 (Tel)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

PART 3

APPLICANT'S AFFIDAVIT

To be completed only after Parts 1 and 2 have been signed and dated

1. (insert Applicant's full name)

residing at (insert Applicant's present home address)

Town..... Country.....

SWEAR that to the best of my knowledge and belief:

- (1) the facts stated in Part 1 of this Application are true; and
- (2) the signature in Part 2 of this Application is that of my husband/wife.

Signature of Applicant

To be completed by Justice of the Peace, Notary Public or Commissioner for Oaths

Sworn at (Place)

this.....day of19...

before me (full name)

(full address)

Signature

"Justice of the Peace"/"Notary Public"/"Commissioner for Oaths"
*Delete as appropriate

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
Form SDA2 rule 136(2)
Under the Divorce (Scotland) Act 1976, Section 1(2)(e) Simplified Procedure

Sheriff Clerk
Sheriff Court House
.....
(Tel)

APPLICATION FOR DIVORCE
HUSBAND AND WIFE HAVING LIVED APART FOR AT LEAST 5 YEARS

Before completing this form, you should have read the leaflet entitled "Do it yourself Divorce", which explains the circumstances in which a divorce may be sought by that method. If the simplified procedure appears to suit your circumstances, you may use this form to apply for divorce.

Below you will find directions designed to assist you with your application. Please follow them carefully. In the event of difficulty, you may contact the Sheriff Clerk's Office or Citizens Advice Bureau or the Court of Session Divorce Section, Edinburgh.

Directions for making application

WRITE IN INK, USING BLOCK CAPITALS

- 1. Complete and sign Part 1 of the form (pages 3-7), paying particular attention to the notes opposite each section.
- 2. When you have completed Part 1, you should take the form to a Justice of the Peace, Notary Public, Commissioner for Oaths or other duly authorised person so that your affidavit in Part 2 (page 8) can be completed and sworn.
- 3. When directions 1 and 2 above have all been carried out, your application is now ready to be sent on to the Sheriff Clerk at the above address. With it you must enclose:
 - (i) Your marriage certificate (the document headed "Extract of an entry in a register of marriages": the certificate will be returned to you in due course)—check the notes on page 2 to see if you need to obtain a letter from the General Register Office stating that there is no record of your husband/wife having divorced you; and
 - (ii) Either a cheque or postal order in respect of the Court fee, crossed and made payable to "the Sheriff Clerk" or a completed form SP15 claiming exemption from the Court fee.
- 4. Receipt of your application will be promptly acknowledged. Should you wish to withdraw the application for any reason, please contact the Sheriff Clerk immediately.

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

PART 1

WRITE IN INK, USING BLOCK CAPITALS

1. NAME AND ADDRESS OF APPLICANT

Surname Other name(s)

Present in full

Address Daytime Telephone Number if any

2. NAME OF HUSBAND/WIFE

Surname Other name(s)

..... in full

3. ADDRESS OF HUSBAND/WIFE (if address of your husband/wife is not known, please enter "not known" in this section and proceed to section 4)

Present

Address Daytime Telephone Number if any

4. Only complete this section if you do not know the present address of your husband/wife

NEXT-OF-KIN

Name Address

Relationship to your husband/wife

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

PART 2

APPLICANT'S AFFIDAVIT

(To be completed only after Part 1 has been signed and dated)

1. (insert Applicant's full name)

residing at (insert Applicant's present home address)

Town..... Country.....

SWEAR that to the best of my knowledge and belief the facts stated in Part 1 of this Application are true.

Signature of Applicant

Sworn at (Place)

this day of 19...

before me (full name).....

(full address).....

To be completed by
Justice
of the Peace, Notary
Public
or Commissioner for
Oaths

Signature

Justice of the Peace/Notary Public/
*Commissioner for Oaths

*Delete as appropriate

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
FORM SDA3 rule 136(3)

**Under the Divorce (Scotland) Act 1976, Section 1(2)(d)
Simplified Procedure**

M.
CONSENT TO APPLICATION FOR DIVORCE
HUSBAND AND WIFE HAVING LIVED APART FOR AT LEAST 2 YEARS

In Part 1 of the enclosed form your husband/wife is applying for divorce on the ground that the marriage has broken down irretrievably because you and (s)he have lived apart for at least two years AND you consent to the divorce being granted.

Such consent must be given formally in writing at Part 2 of the application form. BEFORE completing that part, you are requested to read it over carefully so that you understand the effects of consenting to divorce. Thereafter—

If you wish to consent

- (a) Check the details given by the applicant at Part 1 of the form to ensure that they are correct to the best of your knowledge;
- (b) Complete Part 2 (Form of Consent) by entering your name and address at the appropriate place and adding your signature and the date; and
- (c) Return the whole application form to your husband/wife at the address given in Part 1.

Once your husband/wife has completed the remainder of the form and has submitted it to the Court, a copy of the whole application (including your consent) will later be served upon you formally by the Court. In the event of the divorce being granted, you will automatically be sent a copy of the extract decree. (Should you change your address before receiving the copy extract decree, please notify the Court immediately).

If you do NOT wish to consent

Please return the application form, with Part 2 uncompleted, to your husband/wife and advise him/her of your decision.

The Court will NOT grant a divorce under this application if Part 2 of the form is not completed by you.

Sheriff Clerk
Sheriff Court

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
 Sheriff Courts (Scotland) Act 1907 (c.51) (contd.) rule 138(1)
 Form SDA4

CITATION IN SECTION 1(2)(e) CASES
 Under the Divorce (Scotland) Act 1976, Section 1(2)(e)
 Simplified Procedure

M 19

**APPLICATION FOR DIVORCE
 HUSBAND AND WIFE HAVING LIVED APART FOR AT LEAST 5
 YEARS**

Your husband/wife has applied to the Court for divorce on the ground that the marriage has broken down irretrievably because you and (s)he have lived apart for a period of at least 5 years.
 A copy of the application is hereby served upon you.

1. Please note:
 - (a) that the Court may not make financial awards under this procedure and that your husband/wife is making no claim against you for payment of a periodical allowance (ie regular payment of money weekly, monthly etc for his/her maintenance) or a capital sum (ie lump sum).
 - (b) that your husband/wife states that you will not suffer grave financial hardship in the event of decree of divorce being granted.
2. Divorce may result in the loss to you of property rights (eg the right to succeed to the Applicant's estate on his/her death) or the right, where appropriate, to a widow's pension.
3. If you wish to oppose the granting of a divorce, you should put your reasons in writing and send your letter to the address shown below. Your letter must reach the Court before
4. In the event of the divorce being granted, you will be sent a copy of the extract decree. (Should you change your address before receiving the copy extract decree, please notify the Court immediately.)

Sheriff Clerk/
 Sheriff Officer
 Sheriff Clerk
 Sheriff Court House

(tel)

EXPLANATORY NOTE: If you wish to exercise your right to claim a financial award you should immediately advise the Court that you oppose the application for that reason, and thereafter consult a solicitor.

COURTS, SCOTLAND: 3
 Sheriff Courts (Scotland) Act 1907 (c.51) (contd.) rule 141(1)
 Form SDA5

SHERIFF COURT

At the
 day of Nineteen Hundred and
 in an action in the Sheriff Court of

at at the instance of
 Applicant
 Respondent

who were married at (place) on (date)

the Sheriff pronounced decree divorcing the Respondent from the Applicant

Extracted at the day of
 Nineteen Hundred and by me Sheriff Clerk of
 Sheriff Clerk]

[FORM SDA6 Rule 138(9)
 FORM OF INTIMATION FOR DISPLAY ON WALLS OF COURT

Court Ref. No.:
 An application for divorce has been made in Sheriff Court by
 A.B. calling as defender C.D.
 If C.D. wishes to oppose the granting of decree of divorce he/she should immediately contact the Sheriff Clerk from whom he/she may obtain a copy of the application.

Tel No:—
 (Signed) Sheriff Clerk
 Date:—(insert date)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)
 FORM SDA 7 Rule 138(10)
 FORM OF INTIMATION TO CHILDREN AND NEXT OF KIN IN SIMPLIFIED
 DIVORCE APPLICATION
 To (name and address)

TAKE NOTICE that an application for divorce (number of application) has been made against (name of respondent) your [father, mother, brother or other relative as the case may be]. A copy of the application is attached. If you know of his/her present address, you are requested to forward it to the Sheriff Clerk (insert full address of Sheriff Clerk) forthwith. You may also, if you wish, oppose the granting of decree of divorce by sending a letter to the court giving your reasons for your opposition to the application. Your letter must be sent to the Sheriff Clerk within [19*21] days from (insert date), the date of posting of this intimation.

Date:—(insert date) (Signed) A.B.
 Sheriff Clerk

NOTE
 It may be in your best interests to consult a solicitor, who if necessary, will advise you on the availability of legal aid.]

- *Rule 2 substituted by S.I. 1988/1978, para. 3
- *Rule 3 renumbered rule 3(1) by S.I. 1986/255, para. 3(2)
- *Rule 3(2)-(4) added by S.I. 1986/1946, para. 2(2)(b)
- *Rule 3(4) substituted by S.I. 1988/1978, para. 4(1)
- *Paragraph added by S.I. 1984/255, para. 3(2)
- *Paragraph renumbered by S.I. 1986/1946, para. 2(2)(a)
- *Words repealed by S.I. 1986/1230, para. 3(3)(a)
- *Words substituted by S.I. 1988/1978, para. 4(2)
- *Paragraph substituted by S.I. 1986/1946, para. 2(2)(b)
- *Paragraphs inserted by S.I. 1986/513, para. 2(2)
- *Words inserted by S.I. 1986/1946, para. 2(2)(a)
- *Words substituted by S.I. 1986/1946, para. 2(2)(b)
- *Words inserted by S.I. 1986/255, para. 3(3)(a)
- *Words inserted by S.I. 1986/1978, para. 5(1)
- *Words repealed by S.I. 1986/1230, para. 3(3)
- *Rule 5(2) inserted by S.I. 1984/255, para. 3(3)(c)
- *Paragraph renumbered by S.I. 1984/255, para. 3(3)(b)
- *Words substituted by S.I. 1988/1978, para. 5(2)
- *Rule 5(4)-(6) inserted by S.I. 1988/1978, para. 5(3)
- *Rule 7(1)(a) substituted for rule 7(1)(a)(i) by S.I. 1988/1978, para. 6
- *Sub-paragraph relettered as sub-paragraph (b) by S.I. 1988/1978, para. 6
- *Words inserted by S.I. 1986/1230, para. 3(4)(a)
- *Words inserted by S.I. 1984/255, para. 3(4)(a)
- *Words repealed by S.I. 1986/1230, para. 3(4)(b)
- *Rule 9(2) inserted by S.I. 1984/255, para. 3(4)(c)
- *Rule 9(2) inserted by S.I. 1988/1978, para. 7(2)
- *Paragraph renumbered by S.I. 1984/255, para. 3(4)(b)
- *Word inserted by S.I. 1986/1230, para. 3(4)(c)
- *Rule 11(1)(2) substituted by S.I. 1986/1230, para. 3(5)(a)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

- *Word substituted by S.I. 1986/1230, para. 3(5)(b)
- *Rule 1(15) inserted by S.I. 1986/1230, para. 3(5)(c)
- *Rule 1(1A) inserted by S.I. 1986/255, para. 3(6)
- *Word substituted by S.I. 1986/1230, para. 3(6)(a)
- *Words repealed by S.I. 1986/1230, para. 3(6)(b)
- *1984* substituted for "1907" by S.I. 1986/1230, para. 3(6)(c)
- *Rule 1(1A)(3) substituted by S.I. 1986/1230, para. 3(6)(d)
- *Rule 1(1A)(5) inserted by S.I. 1986/1230, para. 3(6)(e)
- *Rule 1(2) substituted by S.I. 1986/1946, para. 2(3)
- *Rule 1(3) substituted by S.I. 1988/1978, para. 8
- *Rule 1(3A) inserted (9.4.1990) by S.I. 1990/661, para. 2(2)
- *Rule 20A inserted by S.I. 1986/1946, para. 2(3)
- *"at" inserted by S.I. 1986/1946, para. 2(3)(a)
- *Words inserted by S.I. 1986/1946, para. 2(4)(b)
- *Words inserted by S.I. 1988/1978, para. 9
- *Word inserted by S.I. 1986/1946, para. 2(4)(c)
- *Rule 2(1)(b) inserted by S.I. 1986/1946, para. 2(4)(d)
- *Rule 2(1)(2) substituted by S.I. 1986/1946, para. 2(4)
- *Rule 2(1A) inserted by S.I. 1986/1946, para. 2(5)
- *Rule 2(1B, 2(1C) inserted by S.I. 1988/1978, para. 10
- *Words repealed by S.I. 1986/1230, para. 3(8)
- *Words substituted by S.I. 1986/1946, para. 2(5)
- *Rule 2(2)(2) repealed by S.I. 1986/1230, para. 3(8)(c)
- *Paragraph renumbered paragraph (2) by S.I. 1986/1230, para. 3(8)(c)
- *Rule 2(3) substituted by S.I. 1984/255, para. 3(9)
- *Words substituted by S.I. 1986/1946, para. 2(6)(a)
- *Words repealed by S.I. 1986/1230, para. 3(9)
- *Words inserted by S.I. 1986/255, para. 3(10)
- *Words repealed by S.I. 1986/1230, para. 3(10)
- *Words inserted by S.I. 1986/1946, para. 2(6)
- *Rule 3(4) substituted by S.I. 1986/1230, para. 3(11)
- *"(1)" inserted by S.I. 1986/1230, para. 3(12)(a)
- *Words repealed by S.I. 1984/255, para. 3(12)(a)
- *"(1)" inserted by S.I. 1986/1230, para. 3(12)(a)
- *Words inserted by S.I. 1984/255, para. 3(12)(b)
- *Words substituted by S.I. 1986/1230, para. 3(12)(b)
- *Rule 5(2)(3) inserted by S.I. 1986/1230, para. 3(12)(c)
- *Rule 5(7A) inserted by S.I. 1988/1978, para. 11
- *Rule 5(8)(1) substituted by S.I. 1984/255, para. 3(13)(a)
- *Words repealed by S.I. 1986/1230, para. 3(13)
- *Rule 5(8)(3) inserted by S.I. 1984/255, para. 3(13)(b)
- *Rule 5(8A) inserted by S.I. 1984/255, para. 3(14) and substituted by S.I. 1986/1230, para. 3(14)
- *Words inserted by S.I. 1988/1978, para. 12
- *Rule 7(2)(1) substituted by S.I. 1984/255, para. 3(15)(a)
- *Words substituted by virtue of S.I. 1986/1230, para. 3(15)(a) and S.I. 1986/1946, para. 2(7)
- *Word substituted by S.I. 1986/1946, para. 2(7)(b)(a)
- *1984* substituted by S.I. 1986/1230, para. 3(15)(b)
- *Words inserted by S.I. 1984/255, para. 3(15)(b)
- *Rule 7(2)(1) repealed by S.I. 1984/255, para. 3(15)(c)
- *Rule 7(2A) inserted by S.I. 1986/436, para. 2
- *Rule 6(4A) inserted by S.I. 1986/1946, para. 2(8)
- *Word inserted by S.I. 1984/255, para. 3(16)
- *Rule 9(1A) inserted by S.I. 1984/255, para. 3(17)
- *Rule 9(2)(3) substituted for rule 9(2) by S.I. 1988/1978, para. 13
- *"(1)" inserted by S.I. 1988/1978, para. 14(a)
- *Rule 9(2)(3) inserted by S.I. 1988/1978, para. 14(b)
- *Word substituted by S.I. 1981/1546, para. 2(a)
- *Words substituted by S.I. 1981/1546, para. 2(b)
- *Rule 10(7A) inserted (9.4.1990) by S.I. 1990/661, para. 2(3)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3

Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

- ⁽¹⁾Word substituted by S.I. 1983/546, para. 2(1)
- ⁽²⁾Rule 129 substituted by S.I. 1986/1230, para. 3(16)
- ⁽³⁾Rule 130 inserted by S.I. 1986/1230, para. 3(17)
- ⁽⁴⁾Words substituted by S.I. 1986/1966, para. 2(9)
- ⁽⁵⁾"21" substituted by S.I. 1988/1978, para. 15
- ⁽⁶⁾Words inserted by S.I. 1984/255, para. 3(20)(a)
- ⁽⁷⁾Words repealed by S.I. 1986/1230, para. 3(18)
- ⁽⁸⁾"(1)" inserted by S.I. 1984/255, para. 3(20)(b)
- ⁽⁹⁾Rule 131(2)-(4) inserted by S.I. 1984/255, para. 3(20)(c)
- ⁽¹⁰⁾Words inserted by S.I. 1984/255, para. 3(21)
- ⁽¹¹⁾Words repealed by S.I. 1986/1230, para. 3(19)
- ⁽¹²⁾Rule 132A inserted by S.I. 1986/1230, para. 3(20)
- ⁽¹³⁾Rule 132B inserted by S.I. 1986/1966, para. 2(10)
- ⁽¹⁴⁾Rules 132C-132E inserted by S.I. 1988/614, para. 2
- ⁽¹⁵⁾Rule 132F inserted (3.12.1990) by S.I. 1990/2238, para. 6
- ⁽¹⁶⁾Rule 132F inserted (9.4.1990) by S.I. 1990/661, para. 2(4)
- ⁽¹⁷⁾Words repealed by S.I. 1986/1230, para. 3(16)
- ⁽¹⁸⁾"1984" substituted by S.I. 1986/1230, para. 3(21)(b)
- ⁽¹⁹⁾Words inserted by S.I. 1986/1966, para. 2(7)
- ⁽²⁰⁾Rules 135-143 inserted by S.I. 1984/255, para. 3(22)
- ⁽²¹⁾"1984" substituted by S.I. 1986/1230, para. 3(22)
- ⁽²²⁾Words inserted by S.I. 1986/1966, para. 2(8)
- ⁽²³⁾Rule 138(6)(a) substituted for rule 138(6)(a)(b) by S.I. 1988/1978, para. 16
- ⁽²⁴⁾Sub-paragraph reinserted sub-paragraph (b) by S.I. 1988/1978, para. 16
- ⁽²⁵⁾Rule 138(9)-(11) substituted for rule 138(9)(10) by S.I. 1986/1230, para. 3(23)
- ⁽²⁶⁾"21" substituted by S.I. 1988/1978, para. 16(2)
- ⁽²⁷⁾Rule 139 substituted by S.I. 1988/1966, para. 2(9)
- ⁽²⁸⁾Words inserted by S.I. 1986/1966, para. 3(10)(a)
- ⁽²⁹⁾Rule 140(b) inserted by S.I. 1986/1966, para. 2(10)(b)
- ⁽³⁰⁾Words inserted by S.I. 1986/1966, para. 2(11)
- ⁽³¹⁾Words substituted by S.I. 1986/1230, para. 3(24)
- ⁽³²⁾Rules 144-146 inserted (repealed as to rules 147-149) by S.I. 1984/921 paras. 3, 4(2)
- ⁽³³⁾"21" substituted by S.I. 1988/1978, para. 17
- ⁽³⁴⁾Words substituted by 1984/255, para. 3(23)(a)
- ⁽³⁵⁾Form B1 inserted by S.I. 1984/255, para. 3(23)(b), Sch.
- ⁽³⁶⁾Words substituted by S.I. 1984/255, para. 3(23)(c)
- ⁽³⁷⁾Form B3-B6 inserted by S.I. 1988/1978, para. 18(4), Sch. 1
- ⁽³⁸⁾Form CC inserted by S.I. 1984/921, para. 5, Sch.
- ⁽³⁹⁾"21" substituted by S.I. 1988/1978, para. 18(2)
- ⁽⁴⁰⁾Form C1 substituted by S.I. 1984/255, para. 3(23)(d), Sch.
- ⁽⁴¹⁾Form C2 inserted by S.I. 1988/1978, para. 18(4), Sch.
- ⁽⁴²⁾Words inserted by S.I. 1986/1230, para. 4(1)(a)
- ⁽⁴³⁾Words inserted by S.I. 1988/1978, para. 18(3)
- ⁽⁴⁴⁾Words substituted by S.I. 1986/1230, para. 4(1)(b)
- ⁽⁴⁵⁾Form E1 inserted by S.I. 1986/1230, para. 4(2)(a), Sch.
- ⁽⁴⁶⁾Form H1 inserted by S.I. 1988/1978, para. 18(4), Sch.
- ⁽⁴⁷⁾Form H1-417 inserted by S.I. 1986/1230, para. 4(2)(b), Sch.
- ⁽⁴⁸⁾Form H8 inserted by S.I. 1988/1978, para. 18(4), Sch. 1
- ⁽⁴⁹⁾"1987" substituted by S.I. 1983/546, para. 2(6)
- ⁽⁵⁰⁾Words substituted by S.I. 1986/1230, para. 4(1)(c)
- ⁽⁵¹⁾Words inserted by S.I. 1984/255, para. 3(23)(e) and repealed by S.I. 1986/1230, para. 4(1)(d)
- ⁽⁵²⁾Form S, para. (3) substituted by S.I. 1984/255, para. 3(23)(e)(i)
- ⁽⁵³⁾Form S1-S3 inserted by S.I. 1984/255, para. 3(23)(f), Sch.
- ⁽⁵⁴⁾Words repealed by S.I. 1986/1230, para. 4(1)(e)
- ⁽⁵⁵⁾Words inserted by S.I. 1984/255, para. 3(23)(g)
- ⁽⁵⁶⁾Words inserted by S.I. 1984/255, para. 3(23)(h) and repealed by S.I. 1986/1230, para. 4(1)(f)
- ⁽⁵⁷⁾Word repealed by S.I. 1986/1230, para. 4(1)(1)(h)
- ⁽⁵⁸⁾Forms T1 and T2 inserted by S.I. 1986/513, para. 2(4), Sch.

COURTS, SCOTLAND: 3

Sheriff Courts (Scotland) Act 1907 (c.51) (contd.)

- ⁽¹⁾Word inserted by S.I. 1986/1966, para. 2(11)
- ⁽²⁾Word repealed by S.I. 1986/1230, para. 4(1)(a)
- ⁽³⁾Forms V, W, X and Z inserted by S.I. 1984/255, para. 3(23)(g), Sch.
- ⁽⁴⁾Word repealed by S.I. 1986/1230, para. 4(1)(b)
- ⁽⁵⁾Forms V1 and V2 inserted by S.I. 1986/1230, para. 4(2)(c), Sch.
- ⁽⁶⁾Form SDA1 inserted by S.I. 1984/255, para. 3(23)(h), Sch.
- ⁽⁷⁾Form SDA6-SDA7 inserted by S.I. 1986/1230, para. 4(2)(d), Sch.

Sch. 1 certain rules and forms applied by S.I. 1976/476, para. 3, S.I. 1988/1978, para. 2(1), Sch. rule 2, Appendix 2 and S.I. 1990/661, para. 3

rule 128(1)-(3) Sch. 1 applied by Bankruptcy Act 1985 (c.66, SIF 66), s. 47(4) (as amended by S.I. 1986/517, para. 5)

(5) extended by S.I. 1988/110, rules 82, 125(10)

S. 6 **Sheriff Courts (Scotland) Act 1913 (2 and 3 Geo. 5 (c.28))**
repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55, SIF 56), s. 7(2), ss. 11, 26(2), Sch. 3

S. 1(3) **Sheriff Courts and Legal Officers (Scotland) Act 1927 (c.35)**
after "foregoing subsections" there is inserted "that subject to subsections (4) and (5) below" by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36.1), s. 47(a)

(4)(5) after s. (3) there is added by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36.1), s. 47(b) the following:
(4) The right vested—
(a) in the Secretary of State under subsection (1) above shall include the right to transfer the sheriff clerk of one sheriff court district to another, whether of sheriff clerk or (however styled) of sheriff clerk deputy, in another sheriff court district;
(b) in the Lord Advocate under subsection (2) above shall include the right to transfer the procurator fiscal of one district to an office, whether of procurator fiscal or (however styled) of procurator fiscal deputy, in another district;
where in the opinion of the Secretary of State or, as the case may be, of the Lord Advocate the transfer is for the purpose of securing efficient organisation and administration.
(5) It is hereby declared that, for the purposes of subsection (3) above, a transfer under subsection (4) above is not a removal from office.

S. 7 repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(1), Sch. 1 Pt. 1 Op. 3

Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 (c.42)
S. 4(2)(b)(c) the repeal of s. 4(2)(b)(c) by Consumer Credit Act 1974 (c.39, SIF 60), s. 1(2)(d), Sch. 3 is no longer prospective; S.I. 1982/1551 art. 5, Sch. 2 Pt. 1

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 (c.42) (contd.)

(3) after s. 4(2) there is added by Civil Jurisdiction and Judgments Act 1982 (c.27, SIF 453), s. 2(2), Sch. 1, Pt. II para. 1 the following:

“(3) This section does not apply—

(a) in the case of an agreement entered into after the dispute in respect of which the agreement is intended to have effect has arisen; or

(b) where the contract is one referred to in Rule 3 of Schedule 8 to the Civil Jurisdiction and Judgments Act 1982.”

Sheriff Courts (Civil Jurisdiction and Procedure) (Scotland) Act 1963 (c.22)

S. 3 for section 3 there is substituted by Family Law (Scotland) Act 1985 (c.37, SIF 463), s. 23 the following:

“(1) An action under section 2 of the Family Law (Scotland) Act 1985 for aliment only (whether or not expenses are also sought) may be brought before the sheriff as a summary cause if the aliment claimed in the action does not exceed—

(a) in respect of a child under the age of 18 years, the sum of £35 per week; and

(b) in any other case, the sum of £70 per week;

and any provision in any enactment limiting the jurisdiction of the sheriff in a summary cause by reference to any amount, or limiting the period for which a decree granted by him shall have effect, shall not apply in relation to such an action.

(2) Without prejudice to any other enactment, the sheriff shall have jurisdiction in an action for aliment brought as a summary cause by virtue of subsection (1) above if—

(a) the pursuer resides within the jurisdiction of the sheriff, and

(b) the action could, by virtue of section 6 of the principal Act (which relates to jurisdiction), have been brought in the sheriff court of another sheriffdom.

(3) The Lord Advocate may by order vary the amounts prescribed in paragraphs (a) and (b) of subsection (1) above.

(4) The power to make an order under subsection (3) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power to vary or revoke any order made thereunder.”

Sheriff Courts (Scotland) Act 1971 (c.58)

S. 4(3) from “(which)” to “the said section 28” repealed by Interpretation Act 1978 (c.30 SIF 115:1), s. 25, Sch. 3

S. 6 paragraph (b) and the word “or” which precedes it repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36:1), ss. 20, 59, Sch. 4

S. 10(1) for subsection (1) of s. 10 there is substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55, SIF 36:3), s. 10(a) the following:

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1971 (c.58) (contd.)

“(1) Where a vacancy occurs in the office of sheriff principal of any sheriffdom the Secretary of State may, if it appears to him expedient so to do in order to avoid delay in the administration of justice in that sheriffdom, authorise the sheriff principal of any other sheriffdom to perform the duties of sheriff principal of the first-mentioned sheriffdom (in addition to his own duties) until the Secretary of State otherwise decides.

(1A) Where the sheriff principal of any sheriffdom is unable to perform, or rules that he is precluded from performing, all or some part of his duties as sheriff principal the Secretary of State may authorise the sheriff principal of any other sheriffdom to perform the duties of sheriff principal, or as the case may be that part of those duties, on the first-mentioned sheriffdom (in addition to his own duties) until the Secretary of State otherwise decides.”

S. 11(1) for subsection (1) of s. 11 there is substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55, SIF 36:3), s. 10(b) the following:

“(1) Where a vacancy occurs in the office of sheriff principal of any sheriffdom the Secretary of State may, if it appears to him expedient so to do in order to avoid delay in the administration of justice in that sheriffdom, appoint a person to act as sheriff principal of the sheriffdom.

(1A) Where the sheriff principal of any sheriffdom is unable to perform, or rules that he is precluded from performing, all or some part of his duties as sheriff principal the Secretary of State may appoint a person to act as sheriff principal of the sheriffdom, or as the case may be to perform that part of the duties of the sheriff principal.

(1B) A person appointed under subsection (1) or (1A) above shall be known as a temporary sheriff principal.”

S. 17(1)(b) amended by Debtors (Scotland) Act 1980 (c.4, SIF 30:1), s. 10(2)

S. 32 extended by Debtors (Scotland) Act 1987 (c.18, SIF 45:2), ss. 97, 108(2), Sch. 7 para. 5, 9(1)

for s. 32(1)(c) there is substituted by Civil Evidence (Scotland) Act 1988 (c.32, SIF 47), ss. 2(2)(4), 10(3) the following:

“(c) providing in respect of any category of civil proceedings for written statements (including affidavits) and reports, admissible under section 21(b) of the Civil Evidence (Scotland) Act 1988, to be received in evidence, on such conditions as may be prescribed, without being spoken to by a witness;”

after para. (d) there is inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36:1), s. 29, Sch. 2 para. 12(a)

“(d) regulating the expenses which may be awarded by the sheriff to parties in proceedings before him;”

in para. (f) of the proviso after “Act” there is inserted “(as amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36:1), ss. 23, 59, Sch. 2 para. 12(b))”

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1971 (c.58) (contd.)

the amendments by Social Work (Scotland) Act 1968 (c.49, SIF 81:3) is no longer prospective

S. 33(1) for subsection (1) there is substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.40, SIF 36:1), s. 74(1), Sch. 8 para. 20(1) the following:

“(1) There shall be established a body (to be known as the Sheriff Court Rules Council), and hereafter in this section and section 34 called “the Council” which shall have the functions conferred on it by section 34, and which shall consist of—

(a) two sheriffs principal, three sheriffs, one advocate, five solicitors and two whole-time sheriff clerks, all appointed by the Lord President of the Court of Session, after consultation with such persons as appear to him to be appropriate;

(b) two persons appointed by the Lord President after consultation with the Secretary of State, being persons appearing to the Lord President to have—

(i) a knowledge of the working procedures and practices of the civil courts;

(ii) a knowledge of consumer affairs; and

(iii) an awareness of the interests of litigants in the civil courts; and

(c) one person appointed by the Secretary of State, being a person appearing to the Secretary of State to be qualified for such appointment.”

(3) for “consultation with such persons as may appear to him appropriate,” there is substituted “such consultation as is mentioned in paragraph (a) or, as the case may be, (b) of subsection (1) above” by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.40, SIF 36:1), s. 74(1), Sch. 8 para. 20(2)

S. 33(4) “whole-time sheriff clerk as” repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36:1), s. 59, Sch. 2 para. 13, Sch. 4

S. 35(1)(a)(b) for “the hundred pounds” there is substituted “one thousand five hundred pounds” by virtue of S.1, 1988/1993, art. 3

(1A) after subsection (1) there is inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36:1), s. 59, Sch. 2 para. 14 the following:

“(1A) For the avoidance of doubt it is hereby declared that nothing in subsection (1) above shall prevent the Court of Session from making different rules of procedure and practice in relation to different descriptions of summary cause proceedings.”

(2) for s. 3(2) there is substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36:1), s. 18(1) the following:

“(2) There shall be a form of summary cause process, to be known as a “small claim” which shall be used for the purposes of such descriptions of summary cause proceedings as are prescribed by the Lord Advocate by order.”

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1971 (c.58) (contd.)
 (3) No enactment or rule of law relating to admissibility or corroboration of evidence before a court of law shall be binding in a small claim.
 (4) An order under subsection (2) above shall be by statutory instrument but shall not be made unless a draft of it has been approved by a resolution of each House of Parliament.
 S. 36(4) repealed by Debtors (Scotland) Act 1987 (c.18, SIF 45:2), s. 108, Sch. 7 paras. 5, 9(1), Sch. 8
 Ss. 36A, 36B after section 36 there is inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36:1), s. 18(2) the following:
 “Further provisions as to small claims.
 36A. Where the pursuer in a small claim is not—
 (a) a partnership or a body corporate; or
 (b) acting in a representative capacity,
 he may require the sheriff clerk to effect service of the summons on his behalf.
 36B.—(1) No award of expenses shall be made in a small claim in which the value of the claim does not exceed such sum as the Lord Advocate shall prescribe by order.
 (2) Any expenses which the sheriff may award in any other small claim shall not exceed such sum as the Lord Advocate shall prescribe by order.
 (3) Subsections (1) and (2) above do not apply to a party to a small claim—
 (a) who being a defender—
 (i) has not stated a defence; or
 (ii) having stated a defence, has not proceeded with it; or
 (iii) having stated and proceeded with a defence, has not acted in good faith as to its merits; or
 (b) on whose part there has been unreasonable conduct in relation to the proceedings or the claim;
 nor do they apply in relation to an appeal to the sheriff principal.
 (4) An order under this section shall be by statutory instrument but shall not be made unless a draft of it has been approved by a resolution of each House of Parliament.”
 S. 37(1) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55, SIF 36:3), s. 16(4)(i), in s. 37(1) after “sheriff” where secondly occurring there is inserted “—(a)” and at the end there is added:—
 “(b) may, subject to section 7 of the Sheriff Courts (Scotland) Act 1907, on the motion of any of the parties to the cause, if he is of the opinion that the importance or difficulty of the cause make it appropriate to do so, remit the cause to the Court of Session.”
 (2A) s. 37(2A) inserted after subsection (2) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55, SIF 36:3), s. 16(4) and, as amended as indicated below, the new subsection is as follows:
 “(2A) In the case of any action in the sheriff court [“being an action for divorce or an action] in relation to the custody [tutory, curatory]

COURTS, SCOTLAND: 3
Sheriff Courts (Scotland) Act 1971 (c.58) (contd.)
 or adoption of a child the sheriff may, of his own accord, at any stage remit the action to the Court of Session.”
 Words inserted by Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1985 (c.15, SIF 36:3), s. 4(1), Sch. 1 para. 12
 Words inserted by Law Reform (Parent and Child) (Scotland) Act 1986 (c.9, SIF 49:6), s. 9, (3)(1), Sch. 1 para. 11
 (2B)(2C) after s. (2A) there is inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36:1), s. 18(3)(a) the following:
 “(2B) In the case of any small claim the sheriff at any stage—
 (a) may, if he is of the opinion that a difficult question of law or a question of fact of exceptional complexity is involved, of his own accord or on the motion of any party to the small claim;
 (b) shall, on the joint motion of the parties to the small claim, direct that the small claim be treated as a summary cause (not being a small claim) or ordinary cause, and in that case the small claim shall be treated for all purposes (including appeal) as a summary cause (not being a small claim) or ordinary cause as the case may be.
 (2C) In the case of any cause which is not a small claim by reason only of any monetary limit applicable to a small claim or to summary causes, the sheriff at any stage shall, on the joint motion of the parties to the cause, direct that the cause be treated as a small claim and in that case the cause shall be treated for all purposes (including appeal) as a small claim and shall proceed accordingly.”
 (3) subsection (3) substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55, SIF 36:3), s. 16(4) and, as amended as indicated below, the new subsection is as follows:
 “(3). A decision—
 (a) to remit, or not to remit, under subsection (2A) [(2B) or (2C)] above; or
 (b) to make, or not to make, a direction by virtue of paragraph (b) of, or the proviso to, subsection (2) above,
 shall not be subject to review, but from a decision to remit, or not to remit, under subsection (1)(b) above an appeal shall lie to the Court of Session.”
 Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36:1), s. 18(3)(b)
 S. 38 for from “any summary cause” to “(b)” there is substituted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 36:1), s. 18(4) the following:
 “—(a) any summary cause an appeal shall lie to the sheriff principal on any point of law from the final judgment of the sheriff; and
 (b) any summary cause other than a small claim an appeal shall lie”
 s. 38 excluded by Debtors (Scotland) Act 1987 (c.18, SIF 45:2), ss. 103(1), 108(2), Sch. 7 paras. 5, 9(1)

COURTS, SCOTLAND: 3.4
Sheriff Courts (Scotland) Act 1971 (c.58) (contd.)
 S. 41(2) “section 39” section 40” repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55, SIF 36:3, 72:2), ss. 11(2), 28(2), Sch. 3
 List of Omissions
 The following provisions referred to in the list of omissions for this Act have been repealed:
 s. 39 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55, SIF 72:2), s. 28(2), Sch. 3
 s. 40 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55, SIF 36:3, 72:2), ss. 11(2), 28(2), Sch. 3
 Sch. 1 para. 4 repealed by Rent (Scotland) Act 1984 (c.58, SIF 75:4), s. 11(3), Sch. 10
Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (c.14)
 S. 2(3) for “£25” there is substituted “level 3 on the standard scale” by Criminal Justice Act 1982 (c.48, SIF 39:1), s. 56, Sch. 7 para. 11
 S. 4(5) for “£200” there is substituted “level 1 on the standard scale” by virtue of (E.W.) Criminal Justice Act 1982 (c.48, SIF 39:1), ss. 38, 46, (S.) Criminal Procedure (Scotland) Act 1975 (c.21, SIF 39:1), ss. 289F, 289G and (N.L.) S.4. 1984/703 (N.L.3), arts. 5, 6
 S. 9 for from “the exploration” to “resources” there is substituted “any activity falling within subsection (2) of section 21 of the Oil and Gas (Enterprise) Act 1982” by Oil and Gas (Enterprise) Act 1982 (c.23, SIF 88), s. 37, Sch. 3 para. 34
 for “section 3(2) of the Continental Shelf Act 1964” there is substituted “subsection (1) of that section” by Oil and Gas (Enterprise) Act 1982 (c.23, SIF 88), s. 37, Sch. 3 para. 34
 S. 10(2)(3)(5) repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(1), Sch. 1 Pt. 1 Group 3
Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55)
 S. 11(1) from “and accordingly” onwards repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(1), Sch. 1 Pt. 1 Group 3
 (2) repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(1), Sch. 1 Pt. 1 Group 3
 List of Omissions
 The following provisions referred to in the list of omissions for this Act have been repealed:
 s. 12 repealed by Bankruptcy (Scotland) Act 1985 (c.66, SIF 66), s. 25(2), Sch. 8

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *Sheriff Courts (Scotland) Act 1907*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- COURTS, SCOTLAND: 4**
- Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55) (contd.)**
- S. 25(4)(c) repealed by Prescription and Limitation (Scotland) Act 1984 (c.45, SIF 97), s. 6(2), Sch. 2
- S. 25(c) ... repealed by Solicitors (Scotland) Act 1988 (c.42, SIF 762), s. 4(2)(3), Sch. 2
- S. 26 ... repealed by Legal Aid (Scotland) Act 1986 (c.47, SIF 772), ss. 43, 45, Sch. 4 para. 3(1), Sch. 5
- 4. District Courts**
- District Courts (Scotland) Act 1975 (c.20)**
- S. 1A after s. 1 there is inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 361), s. 33 the following:
- 1A.—(1) Where it appears to the Secretary of State that—
- (a) there is insufficient business for the district court in a particular commission area; and
- (b) such insufficiency of business is likely to continue,
- he may by order provide that the district court for that area cease to exist on a specified date.
- (2) Where it appears to the Secretary of State that, in a commission area in which there is no district court, there is likely to be sufficient business to justify the establishment of such a court, he may by order provide for the establishment of such a court in that area on a specified date.
- (3) An order under subsection (1) or (2) above may contain all such provisions as appear to the Secretary of State to be necessary or expedient for rendering the order of full effect and any incidental, supplemental or consequential provisions which appear to him to be necessary or expedient for the purposes of the order, including, but without prejudice to the generality of the foregoing words, provisions amending, repealing or revoking any enactment (whether passed or made before or after the commencement of this enactment).
- (4) Before making an order under subsection (1) or (2) above, the Secretary of State shall consult the district or islands council for the area concerned, and such other persons as appear to him to have an interest in the proposed order.
- (5) Orders under subsection (1) or (2) above shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- S. 2(1) after "and" there is inserted "subject to section 10 of the Bail etc. (Scotland) Act 1980 (sittings of sheriff and district courts)" by Bail etc. (Scotland) Act 1980 (c.4, SIF 391), s. 1(2)(2), Sch. 1 para. 2
- S. 3(3) the repeal of s. 3(3) by Criminal Law Act 1977 (c.45, SIF 391), s. 65(5), Sch. 13 is no longer prospective
- S. 11(7) at the end of s. 11(7) there is inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 361), s. 34(a) the following:
- COURTS, SCOTLAND: 4, 5**
- District Courts (Scotland) Act 1975 (c.20) (contd.)**
- "and, notwithstanding that he remains a duly nominated member of the authority, may be removed from office in like manner as a justice appointed under that section."
- S. 13A after section 13 there is inserted by Statute Law (Repeals) Act 1989 (c.43), s. 1(2), Sch. 2 Pt. 1 para. 2 the following:
- 13A.—(1) Subject to subsections (2) and (3) below, a person shall be disqualified for being appointed or acting as a justice of the peace if he is a person whose estate has been sequestrated in Scotland or who has been adjudged bankrupt elsewhere than in Scotland.
- (2) Where a person is disqualified under this section by reason of his estate having been sequestrated, the disqualification shall cease if and when—
- (a) the award of sequestration is recalled or reduced; or
- (b) he is discharged under or by virtue of the Bankruptcy (Scotland) Act 1985.
- (3) Where a person is disqualified under this section by reason of having been adjudged bankrupt, the disqualification shall cease if and when—
- (a) the adjudication of bankruptcy against him is annulled; or
- (b) he is discharged."
- S. 15(2)(aa) in s. 15(2) at the end of paragraph (a) there is inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 361), s. 34(b) the following:
- "(aa) that by reason of the justice's conduct it is expedient that he should cease to exercise judicial functions as a justice for the area;"
- S. 19 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 361), s. 59, Sch. 1
- S. 27(1) repeal of words by Criminal Law Act 1977 (c.45, SIF 391), s. 65(5), Sch. 13 (to which footnote 1 on p. 17 relates) is no longer prospective
- List of Omissions**
- The following provisions referred to in the list of omissions for this Act have been repealed:
- S. 21 ... repealed by Legal Aid (Scotland) Act 1986 (c.47, SIF 772), ss. 43, 45(1), Sch. 4 para. 3(1), Sch. 5
- Sch. 1 para. 6 ... repealed by Wages Act 1986 (c.48, SIF 432), s. 32(2), Sch. 5 Pt. III
- 5. Lyon Courts**
- Lyon King of Arms Act 1592 (c.29)**
- S. (3) in s. (3) "messengers and", "and messengers" and the words from "With power" to the end repealed by Debtors (Scotland) Act 1987 (c.18, SIF 452), s. 108, Sch. 7 para. 5, 9(1), Sch. 8
- COURTS, SCOTLAND: 5**
- Lyon King of Arms Act 1592 (c.29) (contd.)**
- S. (5) in s. (5) "and incarcinations" and the words from "under the pane" to the end repealed by Debtors (Scotland) Act 1987 (c.18, SIF 452), s. 108, Sch. 7 paras. 5, 9(1), Sch. 8
- Lyon King of Arms Act 1609 (c.95)**
- The words from "the fourth part" to "Together also with" repealed by Debtors (Scotland) Act 1987 (c.18, SIF 452), s. 108, Sch. 7 paras. 5, 9(1), Sch. 8
- Lyon King of Arms Act 1672 (c.47)**
- The words from "are judges" to "office and" repealed by Debtors (Scotland) Act 1987 (c.18, SIF 452), s. 108, Sch. 7 paras. 5, 9(1), Sch. 8
- Lyon King of Arms Act 1867 (c.17)**
- S. 2 for "according to the present law and practice" there is substituted "in accordance with Part V of the Debtors (Scotland) Act 1987 and any Act of Sederant made thereunder" by Debtors (Scotland) Act 1987 (c.18, SIF 452), s. 108, Sch. 6 para. 5, Sch. 7 para. 5, 9(1)
- S. 10 from "Provided also" to the end of the section repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73, SIF 361), s. 59, Sch. 2 para. 3, Sch. 4
- S. 11 from "and after the death" onwards repealed by Statute Law (Repeals) Act 1986 (c.12), s. 1(1), Sch. 1 Pt. 1 Grp. 4
- Sch. B by virtue of S.I. 1990/644, art. 2, Sch. the fees in relation to the matters specified in Sch. B to the Act and repeated in column 1 of the Schedule to the said S.I. (which is printed below) are varied by substituting those specified in column 3 of the Schedule below (the fees payable immediately before the coming into force of the said S.I. being shown in column 2)

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

COURTS, SCOTLAND: 5
Lyon King of Arms Act 1867 (c.17) (contd.)

SCHEDULE		Article 2
Column 1 (Matter to which fee relates)	Column 2 (Fee formerly payable)	Column 3 (Fee payable)
	£	£
On every patent of arms with supporters	502.00	547.00
On every patent of arms without supporters	312.00	340.00
On every matriculation of arms with supporters, without a new patent	166.00	186.00
On every matriculation of arms without supporters, without a new patent	125.00	140.00
On every matriculation of arms without a new patent of arms, but with a patent of supporters	315.00	347.00
On every genealogy recorded	105.00	115.00
Additional for each member of the pedigree	3.25	4.00
Certificate regarding change of surname	37.00	41.00
Search in register of arms	3.25	4.00
Search in register of genealogies	7.00	7.00
General search in heraldic MSS	37.00	37.00
General search in genealogical MSS	37.00	37.00
On every extract from a register	7.00	8.00
On entering a caveat	22.00	24.00
On admission of a messenger-at-arms to practise in the district of Edinburgh	114.00	125.00
On admission of messenger-at-arms to practise out of the district of Edinburgh	99.00	109.00
Annual dues of a messenger-at-arms practising in the district of Edinburgh	18.00	20.00
Annual dues of a messenger-at-arms practising out of the district of Edinburgh	18.00	20.00
On renewal of a messenger's bond of caution	37.00	37.00
On recording resignation or change of residence of a messenger	3.25	4.00

COURTS, SCOTLAND: 5
Lyon King of Arms Act 1867 (c.17) (contd.)

Column 1 (Matter to which fee relates)	Column 2 (Fee formerly payable)	Column 3 (Fee payable)
	£	£
On search for a messenger's cautioner	3.25	4.00
On every certified statement of name and designation of such cautioner, and date of bond	7.00	7.00
On each petition or paper lodged in a process against a messenger	7.00	7.00
On each interlocutor in a process against a messenger	7.00	7.00
On extracting each warrant, decree, or precept of suspension, first sheet	7.00	8.00
On ditto, each subsequent sheet	3.25	4.00
On affixing seal of office to warrant, decree or precept	7.00	8.00
On examining executions of service and intimations of precepts of suspension, marking them on the record and giving out certificates	7.00	8.00
On lending process and taking receipt	3.25	4.00
On return of process and scoring receipt	3.25	4.00
On re-admission of a messenger-at-arms	22.00	24.00
On the appointment of a herald	10.00	10.00
On the appointment of a pursuivant	10.00	10.00

VALID FROM 05/04/1993

[^{F211}FORM CSA 1 RULE 153

CERTIFICATE RELATING TO THE MAKING OF A MAINTENANCE ASSESSMENT UNDER THE CHILD SUPPORT ACT 1991

Textual Amendments

F211 Forms CSA 1,2 in Sch. 1, Appendix inserted (5.4.1993) by **S.I. 1993/919, rule 3**,Sch.

Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

(insert place)(insert date) Notification has been received from the child support officer of the making of a maintenance assessment under the Child Support Act 1991. I certify that the decree or order granted on *(insert date)* insofar as it relates to the making or securing of periodical payments for *(insert name(s) of child/children)* ceases to have effect from *(insert date, which should be the date 2 days after date on which the maintenance assessment was made)*. signed(*signature of sheriff clerk*)

VALID FROM 05/04/1993

[FORM CSA 2 RULE 153

CERTIFICATE RELATING TO THE CANCELLATION OR CEASING TO HAVE EFFECT
OF A MAINTENANCE ASSESSMENT UNDER THE CHILD SUPPORT ACT 1991

Modifications etc. (not altering text)

C20 Forms CSA 1,2 in Sch. 1, Appendix inserted (5.4.1993) by [S.I. 1993/919](#), [rule 3](#), Sch.

(insert place)(insert date) I certify that notification has been received from the child support officer that the jurisdiction of the child support officer under the Child Support Act 1991 terminated on *(insert date of termination of child support officer's jurisdiction)*. signed (*signature of sheriff clerk*)

F212F212 SECOND SCHEDULE

Textual Amendments

F212 Sch. 2 repealed by Statute Law Revision Act 1927 (c. 42), [Sch. Pt. I](#)

F212

Status:

Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations.