

Status: Point in time view as at 01/04/2008.

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

^{F1}FIRST SCHEDULE

ORDINARY CAUSE RULES 1993

Textual Amendments

- F1** Sch. 1 (with appendices 1 and 2) substituted (1.1.1994) for Sch. 1 (with appendix) by [S.I. 1993/1956](#), para. 2, [Sch.1](#).
Sch. 1 (except rule 29.10) excluded (1.4.1997) by [S.I. 1997/291](#), [rule 3.24](#), Sch. 3
Sch. 1 extended (14.2.2000) by [S.I. 2000/124](#), [reg. 30\(5\)](#)

[^{F1}INITIATION AND PROGRESS OF CAUSES]

CHAPTER 30

DECREES, EXTRACTS AND EXECUTION

Interpretation of this Chapter

- 30.1. In this Chapter, “decree” includes any judgment, deliverance, interlocutor, act, order, finding or authority which may be extracted.

Taxes on money under control of the court

- 30.2. (1) Subject to paragraph (2), in a cause in which money has been consigned into court under the ^{M1}Sheriff Court Consignations (Scotland) Act 1893, no decree, warrant or order for payment to any person shall be granted until there has been lodged with the sheriff clerk a certificate by an authorised officer of the Inland Revenue stating that all taxes or duties payable to the Commissioners of Inland Revenue have been paid or satisfied.
- (2) In an action of multiplepinding, it shall not be necessary for the grant of a decree, warrant or order for payment under paragraph (1) that all of the taxes or duties payable on the estate of a deceased claimant have been paid or satisfied.

Marginal Citations

- M1** [1893 c.44](#).

Decrees for payment in foreign currency

- 30.3. (1) Where decree has been granted for payment of a sum of money in a foreign currency or the sterling equivalent, a party requesting extract of the decree shall do so by

Status: Point in time view as at 01/04/2008.

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)

minute endorsed on or annexed to the initial writ stating the rate of exchange prevailing on the date of the decree sought to be extracted or the date, or within 3 days before the date, on which the extract is ordered, and the sterling equivalent at that rate for the principal sum and interest decerned for.

- (2) A certificate in Form G18, from the Bank of England or a bank which is an institution authorised under the ^{M2}Banking Act 1987 certifying the rate of exchange and the sterling equivalent shall be lodged with the minute requesting extract of the decree.
- (3) The extract decree issued by the sheriff clerk shall mention any certificate referred to in paragraph (2).

Marginal Citations

M2 1987 c.22.

When decrees extractable

30.4. (1) Subject to the following paragraphs:—

- (a) [^{F1}subject to sub-paragraph (c),] a decree in absence may be extracted after the expiry of 14 days from the date of decree;
 - (b) [^{F1}subject to sub-paragraph (c),] any decree pronounced in a defended cause may be extracted at any time after whichever is the later of the following:—
 - (i) the expiry of the period within which an application for leave to appeal may be made and no such application has been made;
 - (ii) the date on which leave to appeal has been refused and there is no right of appeal from such refusal;
 - (iii) the expiry of the period within which an appeal may be marked and no appeal has been marked; or
 - (iv) the date on which an appeal has been finally disposed of; and
 - (c) where the sheriff has, in pronouncing decree, reserved any question of expenses, extract of that decree may be issued only after the expiry of 14 days from the date of the interlocutor disposing of the question of expenses unless the sheriff otherwise directs.
- (2) The sheriff may, on cause shown, grant a motion to allow extract to be applied for and issued earlier than a date referred to in paragraph (1).
 - (3) In relation to a decree referred to in paragraph (1)(b) or (c), paragraph (2) shall not apply unless—
 - (a) the motion under that paragraph is made in the presence of parties; or
 - (b) the sheriff is satisfied that proper intimation of the motion has been made in writing to every party not present at the hearing of the motion.
 - (4) Nothing in this rule shall affect the power of the sheriff to supersede extract.

Textual Amendments

F1 Words in rule 30.4(1)(a)(b) inserted (1.11.1996) by S.I. 1996/2445, para. 3(41)(a)(b)

Status: Point in time view as at 01/04/2008.

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 of certain awards notwithstanding appeal

- 30.5. The sheriff clerk may issue an extract of an award of custody, access or aliment notwithstanding that an appeal had been made against an interlocutor containing such an award unless an order under rule 31.5 (appeals in connection with custody, access or aliment) has been made excusing obedience to or implement of that interlocutor.

Form of extract decree

- 30.6. (1) The extract of a decree mentioned in Appendix 2 shall be in the appropriate form for that decree in Appendix 2.
- (2) In the case of a decree not mentioned in Appendix 2, the extract of the decree shall be modelled on a form in that Appendix with such variation as circumstances may require.

Form of warrant for execution

- [^{F2}30].7. An extract of a decree on which execution may proceed shall include a warrant for execution in the following terms:— “This extract is warrant for all lawful execution hereon.”.

Textual Amendments

F2 Rule 3.7 renumbered as rule 30.7 (1.11.1996) by S.I. 1996/2445, para. 3(42)

Date of decree in extract

- 30.8. (1) Where the sheriff principal has adhered to the decision of the sheriff following an appeal, the date to be inserted in the extract decree as the date of decree shall be the date of the decision of the sheriff principal.
- (2) Where a decree has more than one date it shall not be necessary to specify in an extract what was done on each date.

Service of charge where address of defender not known

- 30.9. (1) Where the address of a defender is not known to the pursuer, a charge shall be deemed to have been served on the defender if it is—
- (a) served on the sheriff clerk of the sheriff court district where the defender’s last known address is located; and
 - (b) displayed by the sheriff clerk on the walls of 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 and it shall remain displayed for the period of the charge.
- (3) The period specified in the charge shall run from the first date on which it was displayed on the walls of court.
- (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 sheriff officer by whom service was executed.

Status: Point in time view as at 01/04/2008.

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)

Expenses

- [^{F3}30.10. A party who–
- (a) is or has been represented by a person authorised under any enactment to conduct proceedings in the sheriff court; and
 - (b) would have been found entitled to expenses if he had been represented by a solicitor or an advocate,
- may be awarded any expenses or outlays to which a party litigant may be found entitled under the Litigants in Person (Costs and Expenses) Act 1975 ^{F4} or any enactment under that Act.]

Textual Amendments

- F3** Sch. 1 rule 30.10 inserted (29.1.2007) by Act of Sederunt (Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules) Amendment (Miscellaneous) 2007 (S.S.I. 2007/6), **para. 2(11)**
- F4** 1975 c. 47.

Status:

Point in time view as at 01/04/2008.

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.