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STATUTORY INSTRUMENTS

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**1988 No. 1978**

**Act of Sederunt (Amendment of Sheriff Court  
Ordinary Cause, and Summary Cause, Rules) 1988**

**AMENDMENT OF ORDINARY CAUSE RULES**

**10.** After rule 21A (decree in causes in which the Hague Convention applies)(1), insert the following rules:—

**“Applications for time to pay directions in undefended causes**

**21B.**—(1) This rule applies to ordinary causes in which a time to pay direction may be applied for under the 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.

**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.”.

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**Status:** This is the original version (as it was originally made).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

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