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STATUTORY INSTRUMENTS

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**1992 No. 249 (S.20)**

**SHERIFF COURT, SCOTLAND**

**Act of Sederunt (Amendment of Ordinary Cause,  
Summary Cause and Small Claim Rules) 1992**

*Made* - - - - *6th February 1992*

*Coming into force* - - *4th May 1992*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 32 of the Sheriff Courts (Scotland) Act 1971<sup>(1)</sup> and of all other powers enabling them in that behalf, having approved, with modifications, draft rules submitted to them by the Sherrif Court Rules Council under section 34 of that Act, do hereby enact and declare:

**Citation, commencement and interpretation**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Amendment of Ordinary Cause, Summary Cause and Small Claim Rules) 1992 and shall come into force on 4th May 1992.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

(3) In this Act of Sederunt—

“Ordinary Cause Rules” means the First Schedule to the Sheriff Courts (Scotland) Act 1907<sup>(2)</sup> and a rule referred to by number in paragraph 2 of this Act of Sederunt means the rule so numbered in the Ordinary Cause Rules;

“Summary Cause Rules” means the Schedule to the Act of Sederunt (Summary Cause Rules, Sheriff Court) 1976<sup>(3)</sup> and a rule referred to by number in paragraph 3 of this Act of Sederunt means the rule so numbered in the Summary Cause Rules; and

“Small Claim Rules” means the Schedule to the Act of Sederunt (Small Claim Rules) 1988<sup>(4)</sup> and a rule referred to by number in paragraph 4 of this Act of Sederunt means the rule so numbered in the Small Claim Rules.

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(1) 1971 c. 58.

(2) 1907 c. 51; the First Schedule was substituted by S.I. 1983/747; relevant amending instruments are S.I. 1984/255, 1986/1230 and 1988/1978.

(3) S.I. 1976/476.

(4) S.I. 1988/1976.

## Amendment of Ordinary Cause Rules

2.—(1) The Ordinary Cause Rules shall be amended in accordance with the following subparagraphs.

(2) After rule 9(2A) (citation where time to pay direction)(5), insert the following paragraph—

“(2B) In a summary application in which a time to pay direction under the Debtors (Scotland) Act 1987 may be applied for by the respondent, citation shall be given as nearly as may be in accordance with Form C3 set out in the Appendix to this Schedule and in any other summary application shall be given as nearly as may be in accordance with Form C4 set out in the Appendix to this Schedule.”.

(3) In rule 10(3) (service within Scotland by officer of court), for the word “If”, substitute the words “Except where rule 111 applies and has been complied with, if”

(4) In rule 15 (postal citation), substitute for paragraph (2) the following paragraph—

“(2) Notwithstanding the terms of section 4(2) of the Citation Amendment (Scotland) Act 1882(6), where service is by post the period of notice shall run from the beginning of the day next following the date of posting.”.

(5) In rule 33 (notice of intention to defend), after the word “Schedule”, insert the words “and shall at the same time intimate the lodging of that notice to the pursuer”.

(6) After rule 50 (third party notice), insert the following rule—

### “PARTY MINUTER PROCEDURE

#### 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.”.

(7) After rule 59 (decree by default)(6), insert the following rule—

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(5) Rule 9 (2A) was inserted by S.I. 1988/1978.

(6) 45 & 46 Vict. c.77; rule 59 was amended by S.I. 1984/255 and 1986/1230.

(6) 45 & 46 Vict. c.77; rule 59 was amended by S.I. 1984/255 and 1986/1230.

**“Summary decree**

**59A.**—(1) This rule applies to any cause other than—

- (a) a consistorial action;
- (b) an action of multiplepounding; or
- (c) an action under the Presumption of Death (Scotland) Act 1977(7).

(2) A pursurer may, at any time after the defender has lodged defences, apply by written motion to the court—

- (a) to grant decree in terms of all or any of the craves of the initial writ;
- (b) to pronounce an interlocutor sustaining or repelling a plea-in-law; or
- (c) to dispose of the whole or part of the subject matter of the action,

on the ground that there is no defence to the action or a part of it disclosed in the defences.

(3) A motion under this rule shall be intimated to all other parties to the cause on a period of notice of 14 days.

(4) After hearing a motion under this rule, the sheriff may, if he is satisfied that there is no defence to the action or to any part of it to which the motion relates—

- (a) grant summary decree against the defender in terms of the motion in whole or in part; or
- (b) order any party or a partner, director, officer or office bearer of any party—
  - (i) to produce any document or article; or
  - (ii) to lodge an affidavit or affidavits in support of any averment of fact made in the pleadings or at the hearing of the motion.

(5) Notwithstanding the grant or refusal of a motion under this rule a further motion under this rule may be made by the pursuer on cause shown by reason of a change of circumstances.

(6) Where—

- (a) a defender has lodged a counter-claim; or
- (b) a defender or third party has made a claim against another defender or against a third party, who has lodged defences or answers,

he may apply by motion in accordance with this rule for summary decree on that counterclaim or claim or part of it, on the ground that the other party has no defence to it; and the terms of paragraphs (1) to (5) of this rule shall apply to a motion by a defender or third party as they apply to a motion by a pursuer.”.

(8) Renumber rule 59A (late appearance by defender in actions of divorce and of separation)(8) as rule 59B.

(9) In rule 98(1) (objection to auditor’s report), between the word “expenses” and the word “is” where they occur on the first line insert the words “awarded in any cause”.

(10) In rule 138 (citation in simplified divorce procedure), for paragraph (5) substitute the following paragraph—

“(5) Notwithstanding the terms of section 4(2) of the Citation Amendment (Scotland) Act 1882, where service is by post the period of notice shall run from the beginning of the day next following the date of posting.”.

(11) In the Appendix—

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(7) 1977 c. 77.

(8) Rule 59A was substituted by S.I. 1986/1230.

- (a) in Form B2, omit the words “, under certification of being held as confessed”;
- (b) after Form C2(9), insert Forms C3 and C4 set out in Schedule 1 to this Act of Sederunt; and
- (c) in Form E(10), below the word “Advertisement” insert the words “Notice to [C.D.]”.

### **Amendment of Summary Cause Rules**

**3.—**(1) The Summary Cause Rules shall be amended in accordance with the following sub-paragraphs.

- (2) In rule 1 (form of summons), for the words “A to I” substitute the words “Aa to I”.
- (3) For rule 2(1) (statement of claim)(11), substitute the following paragraph—
  - “(1) There shall be annexed to the summons a statement of claim which shall give the defender fair notice of the claim and shall, in particular, include—
    - (a) details of the basis of the claim including any relevant dates;
    - (b) where the claim arises from the supply of goods or services, a description of the goods or services and the date or dates on or between which they were supplied and, where relevant, ordered;
    - (c) reference to any agreement which the pursuer has reason to believe may exist giving jurisdiction over the subject matter of the claim to another court; and
    - (d) reference to 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.”.
- (4) In rule 6 (citation and service within Scotland by officer of court)(12)—
  - (a) in paragraph (1), after the words “officer of court”, insert the words “on any person”;
  - (b) in sub-paragraph (1)(a), omit the words “on the defender”;
  - (c) in sub-paragraph (1)(b), for the word “defender's” wherever it occurs, substitute the word “person's”; and
  - (d) in paragraph (2)—
    - (i) for the word “defender's” wherever it occurs substitute the word “person's”;
    - (ii) for the word “defender”, substitute the word “person”; and
    - (iii) for the words “If service is effected” substitute the words “Subject to the requirements of rule 111 of the rules contained in Schedule 1 to the Act of 1907, if”
- (5) For rule 10(2) (postal citation)(13), substitute the following paragraph—
  - “(2) Notwithstanding the terms of section 4(2) of the Citation Amendment (Scotland) Act 1882(14), where service is by post the period of notice shall run from the beginning of the day next following the date of posting.”
- (6) After rule 18(8) (first calling)(15), insert the following new paragraphs—
  - “(9) Where the sheriff is satisfied that the facts of the cause are sufficiently admitted, he may decide the cause on the merits at the first calling and, if appropriate, may make an award of expenses.

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(9) Form C2 was inserted by S.I. [1988/1978](#).

(10) Form E was amended by S.I. [1986/1230](#).

(11) Rule 2(1) was renumbered by S.I. [1986/1946](#).

(12) Rule 6 was substituted by S.I. [1980/455](#).

(13) Rule 10 was amended by S.I. [1980/455](#).

(14) 45 & 46 Vict. c.77.

(15) Rule 18 was amended by S.I. [1986/1946](#), [1988/1978](#) and [1991/821](#).

(10) Where, at the first calling or at any subsequent stage of the proceedings, an issue in dispute is the quality or condition of an object the sheriff may inspect the object in the presence of the parties or their representatives in court or, if it is not practicable to bring the object to court, at the place where the object is located.

(11) The sheriff may, if he considers it appropriate at the first calling or at any later stage of the proceedings, inspect any place material to a disputed issue in the cause, in the presence of the parties or their representatives.”.

(7) After rule 21(3) (counter claim)(16), insert the following new paragraphs—

“(4) 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.

(5) An application under paragraph (4) shall be made by appending to 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 by adding the words “Grants warrant as craved” and by adding his signature and the date below those words.

(6) Any such warrant shall have the like effect as it would have in any summary cause summons.”.

(8) After rule 21 (counter claim)(16), insert the following new rule—

**“Party minuter**

**21A.**—(1) Any person who has not been called as a defender may apply by incidental application to the sheriff for leave to enter a cause as a party minuter, and to state a defence.

(2) An application under this rule shall specify—

- (a) the applicant’s title and interest to enter the cause; and
- (b) the grounds of the defence which he purposes to state.

(3) On the lodging of an application under this rule, the sheriff shall appoint a date for hearing the application; and the applicant shall forthwith serve a copy of the application 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 cause, grant the application and may make such an order as to expenses as he thinks fit.

(5) Where an application is granted the party minuter shall be treated as a defender and the cause shall proceed against him as if the hearing were a first calling.”.

(9) In rule 31 (failure to answer citation) for “£10”, substitute “£250”.

(10) In rule 37 (diligence for recovery of documents), for the words “proof has been allowed”, substitute the words “summons has been served”.

(11) For rule 48 (recall and restriction of arrestment), substitute the following rule—

**“48.**—(1) A party may have an arrestment on the dependence of a cause loosed on paying into court, or finding caution to the satisfaction of the sheriff clerk in respect of, the sum claimed together with the sum of £50 in respect of expenses.

(2) On payment into court or the finding of caution to his satisfaction in accordance with paragraph (1), the sheriff clerk shall issue to the party a certificate which shall operate

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(16) Rule 21 was substituted by S.I. 1980/455.

(16) Rule 21 was substituted by S.I. 1980/455.

as a warrant for the release of any sum or property arrested and shall send a copy of the certificate to the party who instructed the arrestment.

(3) A party may at any time apply to the sheriff, duly intimated to the party who instructed the arrestment to recall or restrict an arrestment on the dependence of a cause, with or without consignation or caution.

(4) Where an application under paragraph (3) is granted, the sheriff clerk shall, when any condition imposed by the sheriff has been complied with, issue to the applicant a certificate which shall operate as a warrant for the release of any sum or property arrested to the extent ordered by the sheriff.”.

(12) In rule 50 (actions for payment of money)(17), for paragraphs (3) to (5), substitute the following paragraphs—

“(3) A summary cause for payment of money shall proceed on a summons in form Aa.

(4) A service copy summons—

(a) in form Ab in an action to which paragraph (1) applies; or

(b) in form Ac in an action to which paragraph (2) applies,

shall be served on the defender.”.

(13) In rule 51 (notice of intention to appear)(18)

(a) before the words “Where a defender” insert “(1)”;

(b) in paragraph (1), for the words from “he shall lodge” to “intention to appear” substitute the words “he shall intimate his intention to appear by completing the appropriate part of the response form attached to the service copy summons and shall lodge it with the sheriff clerk on or before the return day.”.

(c) after paragraph (1), insert the following paragraphs—

“(2) A defender who intends to defend a summary cause and has lodged a notice in accordance with paragraph (1) may, at any time prior to the date of the first calling, lodge a written note of the defence which he proposes to state at the first calling.

(3) Where a defender lodges a written note of defence he shall at the same time send a copy to the pursuer.”.

(14) In rule 52 (applications in writing for time to pay direction, etc)(19), omit the words “form Q” to “rule 51” and substitute the words “the response form attached to the service copy summons and lodging it with the sheriff clerk on or before the return day.”.

(15) In rule 81 (appeal to sheriff principal)(20)—

(a) in paragraph (1), after the words “note of appeal” where they first occur, insert the words “specifying the ground upon which the appeal is to proceed and”;

(b) in paragraph (3)(c), after the words “his own accord,”, insert the words “and shall, where he proposes to reject any proposed adjustments,”; and

(c) after paragraph (5) insert the following paragraph—

“(5A) Where the sheriff is temporarily absent from duty for any reason, the sheriff principal may extend any period specified in paragraphs (2) or (5) for such period or periods as he considers reasonable.”.

(17) In rule 88 (expenses) omit paragraph (1) and substitute the following paragraph—

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(17) Rule 50 was substituted by S.I. 1988/1978.

(18) Rule 51 was substituted by S.I. 1988/1978.

(19) Rule 52 was substituted by S.I. 1980/1978.

(20) Rule 81 was substituted by S.I. 1980/455.

“(1) Subject to paragraphs (2), (2A) and (2B) of this rule, the sheriff clerk shall, with the approval of the sheriff, assess the amount of expenses including the fees and outlays of witnesses awarded in any cause, in accordance with the statutory table of fees of solicitors appropriate to the summary cause.”.

(18) For forms A and Aa substitute new forms Aa, Ab and Ac set out in Schedule 2 to this Act of Sederunt.

(19) In form N(21)—

(a) for “£10” substitute “£250”; and

(b) after the words “officer of court” insert the words “(full name, address and telephone number)”.

(20) Omit forms Q and R.(22)

### **Amendment of Small Claim Rules**

4.—(1) The Small Claim Rules shall be amended in accordance with the following sub-paragraphs.

(2) In rule 3(4) (statement of claim), for sub-paragraph (b), substitute the following sub-paragraph—

“(b) where the small claim arises from the supply of goods or services, a description of the goods or services and the date or dates on or between which they were supplied and, where relevant, ordered;”

(3) In rule 4 (period of notice where service by post), for paragraph (4) substitute the following paragraph—

“(4) Notwithstanding the terms of section 4(2) of the Citation Amendment (Scotland) Act 1882,(23) where service is by post the period of notice shall run from the beginning of the day next following the date of posting.”.

(4) In rule 29 (appeals)—

(a) in paragraph (5), after the words “of his own accord” insert the words “and shall where he proposes to reject any proposed adjustment”; and

(b) after paragraph (6) insert the following new paragraph—

“(6A) Where the sheriff is temporarily absent from duty for any reason, the sheriff principal may extend any period specified in paragraphs (3) or (6) for such period or periods as he considers reasonable.”.

(5) In Appendix 3, after the line commencing “rule 18A”, insert the following words—

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“rule 21A

(party minuter)”.

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### **Amendment of Execution of Diligence (Scotland) Act 1926**

5. In section 2(2)(g) of the Execution of Diligence (Scotland) Act 1926,(24) for the words “one hundred and twenty six” substitute “111”.

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(21) Form N was amended by S.I. 1980/455.

(22) Forms Q and R were substituted by S.I. 1988/1978.

(23) 1882 c. 77.

(24) 1926 c. 16.

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## Revocation

6. The Act of Sederunt (Sheriff Court Appeals) 1949(25) is revoked.

Edinburgh,  
6th February 1992

*J.A.D. Hope*  
Lord President, IPD



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SCHEDULE 1

paragraph 2(11)(b)

**FORM C3 Citation where time to pay direction may be applied for in Summary Application**

Rule 9(2B)

[A.B.], Applicant against [C.D.], Respondent          Court Ref No.

*(Place and date)* [C.D.], respondent. You are hereby served with this copy writ and warrant, together with Form B6 and required to reply conform to the warrant. Form B6 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 application or in security of the debt referred to in the copy writ).

(Signed)  
[P.Q.], Sheriff Officer,

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

**FORM C4 Citation for summary application**

Rule 9(2B)

[A.B.], Applicant against [C.D.], Respondent          Court Ref No.

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

(Signed)  
[P.Q.], Sheriff Officer,

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

SCHEDULE 2

Paragraph 3

FORM Aa

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## Summary Cause Summons

### Claim for Payment of Money

<b>OFFICIAL USE ONLY</b>
SUMMONS No.
RETURN DAY
CALLING DATE

**1** Sheriff Court (name, address and tel no.)


**2** Name and address of person making the claim (PURSUER)


**3** Name and address of person from whom money is claimed (DEFENDER)


**4 CLAIM**  
 The Pursuer claims from the Defender the sum of £ \_\_\_\_\_ with interest on that sum at the rate of \_\_\_\_\_ % annually from the date of service and expenses.

<b>5 RETURN DAY</b>	<b>19</b>
<b>CALLING DATE</b>	<b>19</b> at <b>am.</b>

\* Sheriff Clerk to delete as appropriate

The pursuer is authorised to serve a service copy summons in \* Form Ab/Form Ac on the defender not less than 21 days before the Return Day shown in the box above. The summons is warrant for arrestment on the dependence.

Sheriff Clerk Depute \_\_\_\_\_ Date \_\_\_\_\_

**6** Name, full address and tel no. of pursuer's solicitor (if any)


**NOTE:**  
 The pursuer should complete boxes 1,2,3,4 and 6 on this page and the statement of claim on page 2. The Sheriff Clerk will complete box 5.

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<p><b>STATE CLAIM HERE OR ATTACH A STATEMENT OF CLAIM (to be completed by the pursuer)</b></p> <ol style="list-style-type: none"><li>1. The defender has refused or delayed to pay the sum claimed.</li><li>2. The details of the claim are *</li></ol> <p><i>* if necessary attach a separate sheet.</i></p>
<p><b>FOR OFFICIAL USE ONLY</b></p> <p><b>DEFENCE OR STATEMENT OF DEFENCE</b></p>

FORM Ab

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**Summary Cause Summons  
Defender's Copy  
Claim for Payment of Money  
where Time to Pay Direction  
may be applied for**

<b>OFFICIAL USE ONLY</b>  SUMMONS No.
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**Sheriff Court  
(name, address  
and tel no.)**

<b>1</b>	

**Name and address  
of person making  
the claim  
(PURSUER)**

<b>2</b>	

**Name and address  
of person from whom  
money is claimed  
(DEFENDER)**

<b>3</b>	

<b>4 CLAIM</b>
1. The pursuer claims from you the sum of £ _____ (you will find details of the claim on page 2). <b>and</b>
2. The pursuer claims interest on that sum at the rate of _____ % annually from the date on which this summons was served on you. <b>and</b>
3. The pursuer also claims from you the Court expenses.

<b>5 RETURN DAY</b>	<b>19</b>	<b>.</b>
<b>CALLING DATE</b>	<b>19</b>	<b>at</b> <b>am.</b>
<b>CITATION OF DEFENDER</b>		
Place	Date	
, defender, you are served with this summons. The pursuer has been authorised by the Court to serve it on you.		
SOLICITOR/SHERIFF OFFICER		

Name, full address and tel no. of pursuer's solicitor (if any)

<b>6</b>	

<b>NOTE:</b> The pursuer should complete boxes 1,2,3,4 and 6 on this page, the statement of claim on page 2, and Section A on page 4 before service on the defender. The person serving the summons will complete box 5.
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<p><b>STATEMENT OF CLAIM</b></p> <p>1. The defender has refused or delayed to pay the sum claimed.</p> <p>2. The details of the claim are *</p>
<p>* if necessary attach a separate sheet</p>
<p><b>WHAT CAN I DO ABOUT THIS SUMMONS ?</b></p> <p>Decide whether you admit owing the money or not and what you want to do about it. Then look at the section on this page which covers your decision and follow the instructions in that section. You will find the RETURN DAY and the CALLING DATE on page 1. A leaflet "Guide to Summary Cause Procedure in the Sheriff Court" can be obtained from the sheriff clerk. If you wish further advice contact any Citizens Advice Bureau, Consumer Advice Centre or Trading Standards or Consumer Protection Department or a solicitor.</p>
<p><b>DO NOTHING</b></p> <p>If you do nothing about this summons the court may order you to pay the pursuer the sum claimed including interest and expenses.</p>
<p><b>ADMIT THE CLAIM--and pay in full</b></p> <p>If you want 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 return day.</p>
<p><b>ADMIT THE CLAIM--and make written application to pay by instalments or by deferred lump sum</b></p> <p>Complete and sign box 1 opposite on page 3 and section B on page 4, and return pages 3 and 4 to the court to arrive on or before the return day. If the pursuer does not accept your offer, the Court will decide how the amount claimed is to be paid.</p>
<p><b>ADMIT THE CLAIM--and attend court to make application to pay by instalments or deferred lump sum</b></p> <p>Complete and sign box 2 on page 3. Return pages 3 and 4 to the court to arrive on or before the return day. You must attend or be represented at court on the calling date. Your representative may be a solicitor or someone else having your authority. It may help you or your representative to bring pages 1 and 2 to the court. If you fail to return pages 3 and 4 as directed or if having returned them, you fail to attend or be represented, the court may decide the claim in your absence.</p>
<p><b>DENY THE CLAIM--and attend court to dispute the sum claimed or state a defence or challenge the jurisdiction of the court</b></p> <p>Complete and sign box 3 on page 3. Return pages 3 and 4 to the court to arrive on or before the return day. You must attend or be represented at court on the calling date. Your representative may be a solicitor or someone else having your authority. It may help you or your representative to bring pages 1 and 2 to the court. If you fail to return pages 3 and 4 as directed or if having returned them, you fail to attend or be represented, the court may decide the claim in your absence.</p>
<p><b>WRITTEN NOTE OF PROPOSED DEFENCE--</b> You may also send to the court a written note of the defence you propose to state at the calling date. You can send this note at any time before the date of the calling date. However, you must still attend or be represented at court on the calling date. If you decide to send a note, you must send a copy of it to the pursuer.</p>

**KEEP PAGES 1 AND 2--YOU MAY NEED THEM AT A LATER STAGE**

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### YOUR RESPONSE TO THE SUMMONS

#### CLAIM ADMITTED--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 you are ordered to pay to the pursuer either in instalments or by 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 case or debt (for example your bank account may have been frozen).

If the court makes a "time to pay direction" a copy of the court order (called an extract decree) will be served on you by the pursuer telling you when payment should start or when it is you have to pay the lump sum.

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

#### Box 1 ADMIT THE CLAIM--and make written application to pay by instalments or deferred lump sum

I do not intend to defend the case but admit the claim and wish to make a **WRITTEN APPLICATION** about payment.

I have completed the application form in section B on page 4.

Signature .....

#### Box 2 ADMIT THE CLAIM--INTENTION TO APPEAR

I admit the claim and **INTEND TO APPEAR OR BE REPRESENTED IN COURT.**

Signature .....

#### Box 3 DENY THE CLAIM--INTENTION TO APPEAR

I do not admit the claim.

**I INTEND TO APPEAR OR BE REPRESENTED IN COURT TO STATE MY DEFENCE.**

- \* I intend to challenge the jurisdiction of the court.
- \* I attach a note of my proposed defence which has been copied to the pursuer.

Signature .....

\* delete as necessary

#### PLEASE REMEMBER

Send pages 3 and 4 to the court to arrive on or before the return day if you have signed any of the responses above. If you have admitted the claim do not send any payment to the court.

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<p><b>SECTION A</b> This section must be completed before service</p>	<p>SHERIFF COURT (including address)</p> <table border="1" style="width: 100%; height: 60px;"> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> </table>					<p>SUMMONS No. _____</p> <p>RETURN DAY _____</p> <p>CALLING DATE _____</p>				
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PURSUER'S FULL NAME AND ADDRESS		DEFENDER'S FULL NAME AND ADDRESS								

  

**SECTION B**

**APPLICATION IN WRITING FOR A TIME TO PAY DIRECTION UNDER THE DEBTORS (SCOTLAND) ACT 1987**  
(payment by instalments or deferred lump sum)

CLAIM ADMITTED-----I admit the claim and make application

(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

Signature .....      Date .....

To help the Court please provide details of your financial position in the boxes below.  
If necessary attach a separate sheet

<p>My outgoings are:      weekly <input type="checkbox"/>      fortnightly <input type="checkbox"/>      monthly <input type="checkbox"/></p> <p>Rent/Mortgage £ _____</p> <p>Heating      £ _____</p> <p>Food      £ _____</p> <p>HP      £ _____</p> <p>Other      £ _____</p> <p><b>Total      £ _____</b></p>	<p>My income is:      weekly <input type="checkbox"/>      fortnightly <input type="checkbox"/>      monthly <input type="checkbox"/></p> <p>Wages/Pensions £ _____</p> <p>Social Security      £ _____</p> <p>Other      £ _____</p> <p>_____</p> <p><b>Total      £ _____</b></p>
---	---

Dependent Children-how many       Dependent Relatives-how many

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

  

**APPLICATION FOR RECALL OR RESTRICTION OF AN ARRESTMENT**

I seek the recall or restriction of the arrestment of which the details are as follows:-

Signature .....      Date .....

FORM Ac

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# Summary Cause Summons Defender's Copy

**OFFICIAL USE ONLY**  
SUMMONS No.

## Claim for payment of Money

**1** Sheriff Court (name, address and tel no.)


**2** Name and address of person making the claim (PURSUER)


**3** Name and address of person from whom money is claimed (DEFENDER)


**4 CLAIM**

- The pursuer claims from you the sum of £ \_\_\_\_\_ (you will find details of the claim on page 2).  
and
- The pursuer claims interest on that sum at the rate of \_\_\_\_\_ % annually from the date on which this summons was served on you.  
and
- The pursuer also claims from you the court expenses.

**5 RETURN DAY** \_\_\_\_\_ **19** .  
**CALLING DATE** \_\_\_\_\_ **19** at **am.**

**CITATION OF DEFENDER**

Place \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_, defender,

you are served with this summons. The pursuer has been authorised by the court to serve it on you.

SOLICITOR/SHERIFF OFFICER

*Name, full address and tel no. of pursuer's solicitor (if any)*

**6**


**NOTE:**

The pursuer should complete boxes 1,2,3,4 and 6 on this page, the statement of claim on page 2, and Section A on page 3 before service on the defender. The person serving the summons will complete box 5.



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### STATEMENT OF CLAIM

1. The defender has refused or delayed to pay the sum claimed.
2. The details of the claim are \*

\* if necessary attach a separate sheet

### WHAT CAN I DO ABOUT THIS SUMMONS?

Decide whether you admit owing the money or not and what you want to do about it. Then look at the section on this page which covers your decision and follow the instructions in that section. you will find the RETURN DAY and the CALLING DATE on page 1. A leaflet "Guide to Summary Cause Procedure in the Sheriff Court" can be obtained from the sheriff clerk. If you wish further advice contact any Citizens Advice Bureau, Consumer Advice Centre, Trading Standards or Consumer Protection Department or a solicitor.

#### DO NOTHING

If you do nothing about this summons the court may order you to pay the pursuer the sum claimed including interest and expenses.

#### ADMIT THE CLAIM--and pay in full

If you want 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 return day.

**DENY THE CLAIM--and attend court to dispute the sum claimed or state a defence or challenge the jurisdiction of the court**  
Complete and sign section B on page 3. Return page 3 to the court to arrive **on or before the return day**. You must attend or be represented at court on the calling date. Your representative may be a solicitor or someone else having your authority. It may help you or your representative to bring pages 1 and 2 to the court. If you fail to return pages 3 and 4 as directed or if having returned them, you fail to attend or be represented, the court may decide the claim in your absence.

**WRITTEN NOTE OF PROPOSED DEFENCE--** You may also send to the court a written note of the defence you propose to state at the calling date. You can send this note at any time **before the date of the calling date**. However, you must still attend or be represented at court on the calling date. If you decide to send a note, you must send a copy of it to the pursuer.

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<b>YOUR RESPONSE TO THE SUMMONS</b>
<b>SECTION B</b> <b>DENY THE CLAIM--INTENTION TO APPEAR</b>  I do not admit the claim. <b>I INTEND TO APPEAR OR BE REPRESENTED IN COURT TO STATE MY DEFENCE.</b>  * I intend to challenge the jurisdiction of the court. * I attach a note of my proposed defence which has been copied to the pursuer.  Signature ..... * delete as necessary
<b>PLEASE REMEMBER</b>  Send this page to the court to arrive on or before the return day if you have signed Section B above.  If you have admitted the claim do not send any payment to the court.

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## EXPLANATORY NOTE

*(This note is not part of the Act of Sederunt)*

This Act of Sederunt—

- (1) amends the Ordinary Cause Rules by—
  - (a) specifying the commencement of the period of notice on service (paragraphs 2(4) and 2(10));
  - (b) requiring intimation of notices of intention to defend to the pursuer (paragraph 2(5));
  - (c) making provision for a person to enter proceedings as a party minuter (paragraph 2(6));
  - (d) making provision for applications for summary decree (paragraph 2(7));
  - (e) making minor and consequential amendments (paragraph 2(2), (3), (8), (9) and (11)).
- (2) amends the Summary Cause Rules by—
  - (a) amending the form of the statement of claim (paragraph 3(2) and (18));
  - (b) making provision for citation or service on persons other than defenders (paragraph 3(4));
  - (c) specifying the commencement of the period of notice on service (paragraph 3(5));
  - (d) extending the power of the sheriff as to disposal of or enquiry into the merits at first calling (paragraph 3(6));
  - (e) providing for applications for warrants for diligence on the dependence in relation to counter claims (paragraph 3(7));
  - (f) making provision for a person to enter proceedings as a party minuter (paragraph 3(8));
  - (g) increasing the penalty for failure to answer a citation (paragraph 3(9));
  - (h) bringing forward the time at which diligence for recovery of documents may be commenced (paragraph 3(10));
  - (i) clarifying the provision for the recall and restriction of arrestments (paragraph 3(11));
  - (j) constituting new forms of summary cause summonses and service copies (paragraph 3(12) and schedule 2);
  - (k) making new provision for response to a summons and intimation of written notes of defence (paragraph 3(13));
  - (l) making new provision for appeals by requiring grounds of appeal and permitting the sheriff principal to extend certain time limits in relation to appeals when the sheriff is absent (paragraph 3(15));
  - (m) making minor and consequential amendments (paragraph 3(14) and (16));
  - (n) omitting accounts between solicitor and client from taxation procedure under the summary cause rules (paragraph 3(17)).
- (3) amends the Small Claim Rules by—
  - (a) amending the form of statement of claim (paragraph 4(2));
  - (b) specifying the commencement of the period of notice on service (paragraph 4(3));
  - (c) making new provision for appeals by providing for and permitting the sheriff principal to extend certain time limits in relation to appeals when the sheriff is absent (paragraph 4(4));

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- (d) by making provision for a person to enter proceedings as a party minuter (paragraph 4(5)).
- (4) revokes the Act of Sederunt (Sheriff Court Appeals) 1949 (S.I. 1949/2062) (paragraph 6); and
- (5) amends section 2(2)(g) of the Execution of Diligence (Scotland) Act 1926 (c. 16) to correct a reference to an Ordinary Cause Rule (paragraph 5).