

**1977 No. 1180 (S.92)**
**SHERIFF COURT, SCOTLAND**
**Act of Sederunt (Sheriff Court Procedure, Consumer Credit) 1977**

*Made* - - - - - 14th July 1977  
*Coming into Operation* 8th August 1977

The Lords of Council and Session, considering that it is necessary to regulate proceedings in the Sheriff Court under section 75 of the Consumer Credit Act 1974(a) under and by virtue of the powers conferred on them by section 32 of the Sheriff Courts (Scotland) Act 1971(b) and of all other powers competent to them in that behalf, do hereby enact and declare:—

*Citation, commencement and interpretation*

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Sheriff Court Procedure, Consumer Credit) 1977 and shall come into operation on 8th August 1977.

(2) The Interpretation Act 1889(c) shall apply for the interpretation of this Act of Sederunt as it applies for the interpretation of an Act of Parliament.

*Procedure in Ordinary Causes*

2. In addition to the rules for regulating the procedure in an ordinary cause contained in the Sheriff Courts (Scotland) Act 1907(d) as amended, the rules contained in Schedule 1 to this Act of Sederunt shall apply in relation to proceedings under section 75 of the Consumer Credit Act 1974.

*Procedure in Summary Causes*

3. In addition to the rules for regulating the procedure in a summary cause contained in the Act of Sederunt (Summary Cause Rules, Sheriff Court) 1976(e) the rules contained in Schedule 2 to this Act of Sederunt shall apply in relation to proceedings under section 75 of the Consumer Credit Act 1974.

And the Lords appoint this Act of Sederunt to be entered in the Books of Sederunt.

G. C. Emslie,  
 I.P.D.

Edinburgh.  
 14th July 1977.

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(a) 1974 c. 39. (b) 1971 c. 58. (c) 1889 c. 63. (d) 1907 c. 51.  
 (e) S.I. 1976/476 (1976 I, p. 1390).

## SCHEDULE 1

*Third party procedure in an ordinary cause.*

Where, in an action under Section 75 of the Consumer Credit Act 1974 a defender has a claim against a third party who is not already a party to the action or whom the pursuer is not bound to call as a defender in respect that that party is jointly and severally liable with the defender to the pursuer in respect of the subject matter of the action, the defender may set out in his defences or in a separate statement of facts the grounds on which he maintains that the third party should be made a party to the action. The defences or statement of facts shall also contain appropriate pleas-in-law directed against such third party. Thereafter the defender may enrol a motion for the purpose of obtaining an order of court for the service of a third party notice upon such third party. If the motion be granted, the third party shall be constituted a party to the action and it shall be competent to such third party to lodge answers on or before a date appointed by the court for the regulation of further procedure. Averments directed against a third party should ordinarily be made prior to the closing of the record, but may, in the discretion of the court and subject to such conditions as the court may attach, be made at a later stage, provided that no such averments shall be made later than the commencement of the hearing of the cause on its merits. A third party notice shall be as nearly as may be in the form shown in the form 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 shall apply to the procedure under such third party notice:

- (a) The third party notice shall be served on the third party in any manner 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. A copy of the third party notice shall be lodged in process with a certificate of execution thereon.
- (b) 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.
- (c) On the date appointed by the court for the regulation of further procedure or at any time thereafter the court may grant such decree, interlocutor or order as it thinks fit.
- (d) 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.

## APPENDIX TO SCHEDULE 1

Third Party Notice in the Cause between

A. B. Pursuer  
and  
C. D. Defender  
and  
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 the defender £ \_\_\_\_\_ in respect of \_\_\_\_\_ as more fully appears in the copy initial writ and condescence (or copy record in the action) enclosed herewith.

The defender admits (or denies) liability to the pursuer but claims that (if he is liable to the pursuer) you are liable to relieve him wholly (or partially) of his liability in respect of (set forth contract or other right of contribution, relief, or indemnity) 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.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

(Signed)

(Solicitor for the Defender).

## SCHEDULE 2

*Third party procedure in a summary cause.*

Where in an action under Section 75 of the Consumer Credit Act 1974 a defender has a claim against a third party who is not already a party to the action or whom the pursuer is not bound to call as a defender in respect that that party is jointly and severally liable with the defender to the pursuer in respect of the subject matter of the action, the defender may apply under Rule 93 of the Act of Sederunt (Summary Cause Rules, Sheriff Court) 1976 to the court for an order constituting that third party as a party to the action.

If the application be granted the following provisions shall apply:—

- (a) The court shall fix a date on which it shall regulate further procedure and shall grant warrant to serve on the third party on such notice as the court may specify:
  - a copy of the order,
  - a copy of the summons,
  - a note of the defences and the grounds on which it is alleged the third party is liable,
  - a notice in a form as near as may be to the form of the notice shown in the Appendix to this Schedule.
- (b) On the date fixed by the court to regulate further procedure or at any time thereafter, the court may grant such decree, interlocutor or order as it thinks fit.
- (c) Such 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.

## APPENDIX TO SCHEDULE 2

Third Party Notice in the case of

A. B. Pursuer  
against  
C. D. Defender  
and  
E. F. Third Party

To E. F.

This Notice is served upon you by C. D. by virtue of an order granted by Sheriff  
in the case in which A. B. is the pursuer and C. D. the defender. In  
the case the pursuer claims against the defender for in  
respect of as more fully appears in the copy summons.

The defender admits (or denies) liability to the pursuer but (and) claims that (if he  
is liable to the pursuer) you are liable to relieve him wholly (or partially) of his  
liability for the reasons set out in the statement enclosed herewith.

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 or to pay any sum of instalments,  
you are required to appear at the Sheriff Court at (address)  
on (day and date) at (time)

If you do not appear decree may be granted against you in your absence.

Dated this day of 19

(Signed)

(Solicitor for Defender)

NOTES:

- (1) You may attend court in person or be represented by an advocate or solicitor.
- (2) If you are ordered to pay a sum of money by instalments any failure to pay such instalments at the proper time may result in your forfeiting the right to pay by instalments and the whole amount outstanding will then become due.
- (3) If decree is granted against you this amongst other things may lead to the arrestment of your wages and/or the seizure of your possessions.

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EXPLANATORY NOTE

*(This Note is not part of the Act of Sederunt.)*

This Act of Sederunt makes rules to enable third party procedure to operate in actions brought against a creditor under Section 75 of the Consumer Credit Act 1974 in the Sheriff Court.

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