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STATUTORY INSTRUMENTS

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**1995 No. 1877 (S.124)**

**SHERIFF COURT, SCOTLAND**

**Act of Sederunt (Consumer Credit  
Act 1974) 1985 (Amendment) 1995**

*Made* - - - - - *14th July 1995*  
*Coming into force* - - - - - *7th August 1995*

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(1) and of all other powers enabling 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 (Consumer Credit Act 1974) 1985 (Amendment) 1995 and shall come into force on 7th August 1995.

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

2. The Act of Sederunt (Consumer Credit Act 1974) 1985(2) shall be amended as follows:—

(a) in sub-paragraph 2(1), after the words “the Consumer Credit Act 1974”, insert the following:—

“and “Sheriff Court Summary Application Rules” means the Sheriff Court Summary Application Rules 1993(3).”;

(b) after paragraph 5, insert the following paragraphs:—

**“Application for a time order**

**5A.** Where there are no proceedings in respect of the regulated agreement before the court, an application for a time order under section 129 or an ancillary order under sections 132, 133, 135, 136 or 139 of the 1974 Act shall be by summary application and made as nearly as may be in accordance with Form 1 of the Schedule to this Act of Sederunt and rule 4(1) and Form 1 of the Sheriff Court Summary Application rules shall not apply to such an application.

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(1) 1971 c. 58; section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), Schedule 2, paragraph 12 and by the Civil Evidence (Scotland) Act 1988 (c. 32), section 2(4).  
(2) S.I.1985/705.  
(3) S.I. 1993/3240.

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**Application for variation or revocation of a time order**

**5B.** An application for variation or revocation of a time order under section 130(6) of the 1974 Act shall be by minute or incidental application, as appropriate, in the proceedings in which the time order was granted.”

- (c) in paragraph 7(c), after the word “form”, insert “2”;
- (d) in the Schedule, after the word “SCHEDULE”, insert the form set out in the Schedule to this Act of Sederunt; and
- (e) in the Schedule above the title “Notice to Third Party”, insert the words “Form 2”.

Edinburgh,  
14th July 1995

*Hope of Craighead*  
Lord President, IPD

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## SCHEDULE

Paragraph 2(d)

FORM 1 The Consumer Credit Act 1974, Section 129

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Paragraph 5A

Sheriff Court .....

**APPLICATION FOR TIME ORDER**

(1) insert your name and address (1) .....19..... (court reference no.)

APPLICANT

(2) insert full name and address of the person against whom the order is sought (2) .....

RESPONDENT

\* delete as appropriate

(3) insert the section number of the Consumer Credit Act 1974 under which any ancillary order is craved

**Part I Order Sought**

The applicant asks the court to make  
<sup>1</sup>(a) a time order under section 129 of the Consumer Credit Act 1974;  
<sup>\*</sup>(b) an order in terms of section (3) of the Consumer Credit Act 1974

**\* Part II Proposals for Payment**

My proposal for payment of the arrears and future instalments is £ ..... per week/month.

No time to pay direction or time to pay order has been made in relation to this debt.

\* delete whichever box not appropriate

**\* Part III Proposals to Remedy Breach of Agreement**

I have breached the terms of the agreement, as follows-

.....  
.....  
.....

My proposals for remedying the breach(es) are as follows-

.....  
.....  
.....

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\* delete box if not appropriate

(4) insert here the reasons why you have sought any ancillary order in addition to a time order

**\* Part IV Ancillary orders sought**

The ancillary order(s) sought in addition to the time order are sought for the following reasons (4) .....

.....  
.....  
.....

(5) Attach a copy of the agreement to the application form if you have retained it or delete

insert details of the agreement where known refer to your copy of the agreement if you have retained it

**Part V Details of Regulated Agreement**

i. Date of agreement ..... and reference number ..... (5)

\* A copy of the agreement is attached.

ii. Names and addresses of other parties to the agreement

.....  
.....

iii. Name and address of person (if any) who acted as surety

.....  
.....

iv. Reason why respondent is now creditor (applies where agreement transferred to another company)

.....  
.....

v. Place where agreement signed (eg the shop where agreement signed, include name and address)

.....

vi. Details of payment arrangements

- a. The agreement is to pay by instalments of £..... per week/month\*
- b. The unpaid balance is £...../I do not know the unpaid balance†
- c. I am £..... in arrears/I do not know the amount of arrears\*\*

vii. The respondent served on me a-  
default notice/section 76(1) notice/section 98(1) notice\*

A copy of the notice is/is not\* attached to this application.

\* delete as appropriate

Signed \_\_\_\_\_ APPLICANT/SOLICITOR FOR APPLICANT

Date \_\_\_\_\_

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**TO HELP THE COURT PLEASE PROVIDE DETAILS OF YOUR FINANCIAL POSITION IN THE BOXES BELOW**

(If necessary attach a separate sheet)

| <b>INCOME</b>   |       |
|---|-------|
| My income is:<br><i>(give average weekly figures, after deductions)</i> |       |
| Pay<br><i>(include overtime, bonuses etc)</i>                           | £     |
| Pensions  | £     |
| State Benefits  | £     |
| Other income  | £     |
| <hr/>   | <hr/> |
| Total   | £     |
| <hr/>   | <hr/> |

| <b>EXPENDITURE</b>   |       |
|--|-------|
| My expenditure is:<br><i>(give average weekly figures)</i> |       |
| Rent/Mortgage  | £     |
| Council Tax  | £     |
| Heating/Light  | £     |
| Food   | £     |
| Payments for credit cards<br>hire purchase etc             | £     |
| Other payments (specify)                                   |       |
| <hr/>  | <hr/> |
| Total  | £     |
| <hr/>  | <hr/> |

| <b>DEPENDANTS</b>   |
|---|
| List the names and ages of members of the household who are financially dependent on you. |
| <br><br><br><br><br><br><br><br><br><br>  |

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## EXPLANATORY NOTE

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

This Act of Sederunt amends the Act of Sederunt (Consumer Credit Act 1974) 1985 by providing a form of application for certain orders under the Consumer Credit Act 1974.