

## CHAPTER 53

### ACTIONS OF REDUCTION

#### Conclusions for suspension etc.

**53.1.** In an action where real or personal diligence may proceed on a document sought to be reduced in the action, the pursuer may include in the summons, in relation to that diligence, such conclusions for suspension, interdict, and liberation as circumstances may require.

#### Intimation to clerk of inferior court or tribunal

**53.2.**-(1) In an action in which reduction of a decree, order, decision or warrant of whatever nature of an inferior court or tribunal is concluded for, intimation of the action shall be made to the clerk of that court or tribunal.

(2) In an action to which paragraph (1) applies, the pursuer shall insert a warrant for intimation in the summons in the following terms:- "Warrant to the (*designation of the clerk of the relevant court or tribunal*) being the court [*or tribunal*] in which the decree [*or as the case may be*] was granted [*or made*] which is sought to be reduced in this action."

(3) A notice of intimation in Form 53.2 shall be attached to the copy of the summons where intimation is given on a warrant under paragraph (2).

(4) An interlocutor granting reduction in an action to which paragraph (1) applies shall include a direction to the clerk of court to send a copy of the interlocutor to the clerk of the inferior court or tribunal to whom intimation of the action was made.

(5) Where such an interlocutor is reclaimed against or appealed to the Supreme Court, the reclaimer or appellant, as the case may be, shall give written intimation of that fact to the clerk of the inferior court or tribunal forthwith after the reclaiming motion has been marked or the notice of appeal to the Supreme Court has been filed, as the case may be.

(6) The interlocutor disposing of such a reclaiming motion or giving effect to the judgment of the Supreme Court shall include a direction to the clerk of court to send a copy of that interlocutor to the clerk of the inferior court or tribunal to whom intimation of the action was made.

#### Objection by defenders to production

**53.3.**-(1) Where a defender objects to satisfying a conclusion for production of a document sought to be reduced in an action, he shall state in his defences-

- (a) his grounds of objection; and
- (b) any defence on the merits of the action.

(2) Where a defender objects to satisfying such a conclusion, he shall not be required to satisfy production at the time of lodging his defences.

(3) Where the court repels or reserves an objection to satisfying a conclusion for production, it shall, in the interlocutor repelling or reserving such objection, ordain the defender to satisfy production within such period as it thinks fit.

(4) Where-

- (a) the defender obtempers an order made under paragraph (3), he shall, on lodging in process any such document as is in his possession or within his control, apply by motion to hold production either satisfied or satisfied in respect of the document lodged, as the case may be; or

- (b) the defender fails to obtemper an order made under paragraph (3), the pursuer may apply by motion for decree by default.

#### **Production by defenders where no objection**

**53.4.**-(1) Where a defender does not state an objection against satisfying a conclusion for production of a document sought to be reduced, he shall-

- (a) on lodging his defences, lodge in process any such document as is in his possession or within his control; and
- (b) apply by motion to hold production either satisfied or satisfied in respect of the document lodged.

(2) Where a defender-

- (a) does not state an objection against satisfying a conclusion for production, and
- (b) fails to comply with paragraph (1)(a),

the pursuer may apply by motion for decree by default.

#### **Pursuers to satisfy production**

**53.5.**-(1) Where a document, in respect of which reduction is concluded for, is in the possession or the control of the pursuer, he shall lodge it in process on lodging the summons for calling.

(2) The court may, at any stage of an action, ordain the pursuer to satisfy a conclusion for production of a document sought to be reduced.

(3) The pursuer shall, on lodging a document under paragraph (1) or (2), apply by motion to hold production satisfied.

(4) Where a pursuer fails to obtemper an order made under paragraph (2), the defender may apply by motion for dismissal of the action.

#### **Joint minutes for reduction**

**53.6.** In an action in which a conclusion for production has not been satisfied and parties enter into a joint minute in terms of which decree of reduction is to be pronounced-

- (a) the document to be reduced shall be lodged in process with the joint minute; and
- (b) the terms of the joint minute shall be such as to enable the court, when interponing authority to it, to hold production satisfied.

#### **Production satisfied by copies**

**53.7.** The court may, with the consent of the parties, hold production satisfied by a copy of the document sought to be reduced.

#### **Challenge of deeds or writings *ope exceptionis***

**53.8.** Where, in an action, a deed or other writing is founded on by a party, any objection to it may be stated by way of exception, unless the court considers that the objection would be more conveniently disposed of in a separate action of reduction.