

ACT OF SEDERUNT (SHERIFF COURT ORDINARY CAUSE RULES) 1993
No.1956 (S.223)

SCHEDULE 1

Initiation and progress of causes

CHAPTER 11 THE PROCESS

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Form and lodging of parts of process

11.1. All parts of process shall be written, typed or printed on A4 size paper of durable quality and shall be lodged, unbacked and unfolded, with the sheriff clerk.

Custody of process

11.2. (1) The initial writ, and all other parts of process lodged in a cause, shall be placed by the sheriff clerk in the process folder.

(2) The initial writ, interlocutor sheets, borrowing receipts and the process folder shall remain in the custody of the sheriff clerk.

(3) The sheriff clerk may on cause shown, authorise the initial writ to be borrowed by the pursuer, his solicitor or the solicitor's authorised clerk.

Borrowing and returning of process

11.3. (1) Subject to paragraph (3), a process, or any part of a process which may be borrowed, may be borrowed only by a solicitor or by his authorised clerk.

(2) All remedies competent to enforce the return of a borrowed process may proceed on the warrant of the court from the custody of which the process was obtained.

(3) A party litigant-

(a) may borrow a process only-

- (i) with leave of the sheriff; and
 - (ii) subject to such conditions as the sheriff may impose; or
- (b) may inspect a process and obtain copies, where practicable, from the sheriff clerk.

(4) The sheriff may, on the motion of any party, ordain any other party who has borrowed a part of process to return it within such time as the sheriff thinks fit.

Failure to return parts of process

11.4. (1) Where a solicitor or party litigant has borrowed any part of process and fails to return it for any diet or hearing at which it is required, the sheriff may impose on such solicitor or party litigant a fine not exceeding £50, which shall be payable to the sheriff clerk; but an order imposing a fine may, on cause shown, be recalled by the sheriff.

(2) An order made under this rule shall not be subject to appeal.

Replacement of lost documents

11.5. Where any part of process is lost or destroyed, a copy of it, authenticated in such manner as the sheriff thinks fit, may be substituted for and shall, for the purposes of the cause to which the process relates, be treated as having the same force and effect as the original.

Intimation of parts of process and adjustments

11.6. (1) After a notice of intention to defend has been lodged, any party lodging a part of process or making an adjustment to his pleadings shall, at the same time, intimate such lodging or adjustment to every other party who has entered the process by delivering to every other party a copy of each part of process or adjustment, including, where practicable, copies of any documentary production.

(2) Unless otherwise provided in these Rules, the party required to give intimation under paragraph (1) shall deliver to every other party who has entered the process a copy of the part of process or adjustment or other document, as the case may be, by-

(a) any of the methods of service provided for in Chapter 5 (citation, service and intimation); or

(b) where intimation is to a party represented by a solicitor-

- (i) personal delivery,
- (ii) facsimile transmission,
- (iii) first class ordinary post,
- (iv) delivery to a document exchange,

to that solicitor.

- (3) Subject to paragraph (4), where intimation is given under-
- (a) paragraph (2)(b)(i) or (ii), it shall be deemed to have been given-
- (i) on the day of transmission or delivery where it is given before 5.00 pm on any day; or
 - (ii) on the day after transmission or delivery where it is given after 5.00 pm on any day; or
- (b) paragraph (2)(b)(iii) or (iv), it shall be deemed to have been given on the day after posting or delivery.

(4) Where intimation is given or, but for this paragraph, would be deemed to be given on a Saturday, Sunday or public or court holiday, it shall be deemed to have been given on the next day on which the sheriff clerk's office is open for civil court business.

Retention and disposal of parts of process by sheriff clerk

11.7. (1) Where any cause has been finally determined and the period for marking an appeal has expired without an appeal having been marked, the sheriff clerk shall-

- (a) retain-
- (i) the initial writ;
 - (ii) any closed record;
 - (iii) the interlocutor sheets;
 - (iv) any joint minute;
 - (v) any offer and acceptance of tender;
 - (vi) any report from a person of skill;
 - (vii) any affidavit; and
 - (viii) any extended shorthand notes of the proof; and
- (b) dispose of all other parts of process (except productions) in such a manner as seems appropriate.

(2) Where an appeal has been marked on the final determination of the cause, the sheriff clerk shall exercise his duties mentioned in paragraph (1) after the final disposal of the appeal and any subsequent procedure.

Uplifting of productions from process

- 11.8. (1) Each party who has lodged productions in a cause shall-
- (a) within 14 days after the final determination of the cause, where no subsequent appeal has been marked, or
 - (b) within 14 days after the disposal of any appeal marked on the final determination of the cause,

uplift the productions from process.

(2) Where any production has not been uplifted as required by paragraph (1), the sheriff clerk shall intimate to-

(a) the solicitor who lodged the production, or

(b) where no solicitor is acting, the party himself or such other party as seems appropriate,

that if he fails to uplift the production within 28 days after the date of such intimation, it will be disposed of in such a manner as the sheriff directs.