

ACT OF SEDERUNT (SMALL CLAIM RULES) 2002 NO. 133

APPENDIX 2

Rule 1.1(5)

GLOSSARY

Absolve: To find in favour of and exonerate the defender.

Absolvitor: An order of the court granted in favour of and exonerating the defender which means that the pursuer is not allowed to bring the same matter to court again.

Appellant: A person making an appeal against the sheriff's decision. This might be the pursuer or the defender.

Arrestee: A person subject to an arrestment.

Arrestment on the dependence: A court order to freeze the goods or bank account of the defender until the court has heard the case.

Arrestment to found jurisdiction: A court order used against a person who has goods or other assets in Scotland to give the court jurisdiction to hear a claim. This is achieved by preventing anything being done with the goods or assets until the case has been disposed of.

Authorised lay representative: A person other than a lawyer who represents a party to a small claim.

Cause: Another word for case or claim, used for cases under the summary cause procedure.

Caution (pronounced kay-shun): A security, usually a sum of money, given to ensure that some obligation will be carried out.

Certificate of execution of service: The document recording that an application to, or order or decree of, the court for service of documents has been effected.

Charge: An order to obey a decree of a court. A common type is one served on the defender by a sheriff officer on behalf of the pursuer who has won a case demanding payment of a sum of money.

Commission and diligence: Authorisation by the court for someone to take the evidence of a witness who cannot attend court or to obtain the production of documentary evidence. It is combined with a diligence authorising the person appointed to require the attendance of the witness and the disclosure of documents.

Consignation: The deposit in court, or with a third party, of money or an article in dispute.

Continuation: An order made by the sheriff postponing the completion of a hearing until a later date or dates.

Counterclaim: A claim made by a defender in response to the pursuer's claim and which is not a defence to that claim. It is a separate but related claim against the pursuer which is dealt with at the same time as the pursuer's claim.

Damages: Money compensation payable for a breach of contract or some other legal duty.

Decree: An order of the court containing the decision of the claim in favour of one of the parties and granting the remedy sought or disposing of the claim.

Defender: Person against whom a claim is made.

Deliverance: A decision or order of a court.

Depending: A case is said to be depending when it is going through a court procedure. Technically, this begins with citation of the defender and ends with any final appeal.

Diet: Date for a court hearing.

Diligence: The collective term for the procedures used to enforce a decree of a court. These include arrestment of wages, goods or a bank account.

Dismissal: An order bringing to an end the proceedings in a claim. It is usually possible for a new claim to be brought if not time barred.

Domicile: The place where a person is normally resident or where, in the case of a company, it has its place of business or registered office.

Execution of service: See Certificate of execution of service.

Execution of a charge: The intimation of the requirement to obey a decree or order of a court.

Execution of an arrestment: The carrying out of an order of arrestment.

Expenses: The costs of a court case.

Extra-judicial settlement: An agreement between the parties to a case to settle it themselves rather than to await a decision by the sheriff.

Extract decree: The document containing the order of the court made at the end of the claim. For example, it can be used to enforce payment of a sum awarded.

Haver: A person who holds documents which are required as evidence in a case.

Huissier: An official in France and some other European countries who serves court documents.

Incidental application: An application that can be made during the course of a small claim for certain orders. Examples are applications for the recovery of documents or to amend the statement of claim.

Interlocutor: The official record of the order or judgment of a court.

Intimation: Giving notice to another party of some step in the small claim.

Jurisdiction: The authority of a court to hear particular cases.

Messenger at arms: Officers of court who serve documents issued by the Court of Session.

Minute: A document produced in the course of a case in which a party makes an application or sets out his position on some matter.

Minute for recall: A form lodged with the court by one party asking the court to recall a decree.

Options Hearing: A preliminary stage in an ordinary cause action.

Ordinary cause: Another legal procedure for higher value claims available in the sheriff court.

Party litigant: A person who conducts his own case.

Productions: Documents or articles which are used in evidence.

Pursuer: The person making a claim.

Recall of an arrestment: A court order withdrawing an arrestment.

Restriction of an arrestment: An order releasing part of the money or property arrested.

Recall of a decree: An order revoking a decree which has been granted.

Recovery of documents: The process of obtaining documentary evidence which is not in the possession of the person seeking it (e.g. hospital records necessary to establish the extent of injuries received in a road accident).

Remit between procedures: A decision of the sheriff to transfer the claim to another court procedure e.g. summary cause or ordinary cause procedure.

Respondent: When a decision of the sheriff is appealed against, the person making the appeal is called the appellant. The other side in the appeal is called the respondent.

Return day: The date by which the defender must send a written reply to the court and, where appropriate, the pursuer must return the summons to court.

Schedule of arrestment: The list of items which may be arrested.

Serve/Service: Sending a copy of the summons or other court document to the defender or another party.

Sheriff clerk: The court official responsible for the administration of the sheriff court.

Sheriff officer: A person who serves court documents and enforces court orders.

Sist of action: The temporary suspension of a court case by court order.

Sist as a party: To add another person as a litigant in a case.

Stated case: An appeal procedure where the sheriff sets out his findings and the reasons for his decision and states the issues on which the decision of the sheriff principal is requested.

Statement of claim: The part of the summons in which pursuers set out details of their claims against defenders.

Summary cause: Another legal procedure available in the Sheriff Court. It is used for certain types of claim usually having a higher value than small claims though less than those dealt with as ordinary causes.

Summons: The form which must be filled in to begin a small claim.

Time to pay direction: A court order for which a defender who is an individual may apply permitting a sum owed to be paid by instalments or by a single payment at a later date.

Time order: A court order which assists debtors who have defaulted on an agreement regulated by the Consumer Credit Act 1974 (c.39) and which may be applied for during a court action.

Warrant for diligence: Authority to carry out one of the diligence procedures.

Writ: A legally significant writing.