

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

CHAPTER 4 COMMENCEMENT OF CLAIM

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Form of summons

- 4.1. (1) A small claim shall be commenced by summons, which shall be in Form 1.
- (2) The claim in a small claim summons may be in one of Forms 2 to 4.

Statement of claim

- 4.2. The pursuer must insert a statement of his claim in the summons to give the defender fair notice of the claim; and the statement must include-
- (a) details of the basis of the claim including relevant dates; and
 - (b) if the claim arises from the supply of goods or services, a description of the goods or services and the date or dates on or between which they were supplied and, where relevant, ordered.

Actions relating to regulated agreements

- 4.2A. In an action which relates to a regulated agreement within the meaning given by section 189(1) of the Consumer Credit Act 1974 the statement of claim shall include an averment that such an agreement exists and details of the agreement.

Defender's copy summons

- 4.3. A copy summons shall be served on the defender-
- (a) in Form 1a where-
 - (i) the small claim is for, or includes a claim for, payment of money; and
 - (ii) an application for a time to pay direction under the Debtors (Scotland) Act 1987 or time order under the Consumer Credit Act 1974 may be applied for;
- or
- (b) in Form 1b in every other case.

Authentication and effect of summons

- 4.4. (1) A summons shall be authenticated by the sheriff clerk in some appropriate manner except where-
- (a) he refuses to do so for any reason;

- (b) the defender's address is unknown; or
 - (c) a party seeks to alter the normal period of notice specified in rule 4.5(2); or
 - (d) a warrant for arrestment on the dependence, or to found jurisdiction, is sought.
- (2) If any of paragraphs (1)(a) to (d) applies, the summons shall be authenticated by the sheriff, if he thinks it appropriate.
- (3) The authenticated summons shall be warrant for-
- (a) service on the defender; and
 - (b) where the appropriate warrant has been sought in the summons-
 - (i) arrestment on the dependence; or
 - (ii) arrestment to found jurisdiction,
- as the case may be.
- (4) Where a warrant for arrestment to found jurisdiction, is sought, averments to justify that warrant must be included in the statement of claim.

Period of notice

- 4.5.** (1) A claim shall proceed after the appropriate period of notice of the summons has been given to the defender prior to the return day.
- (2) The appropriate period of notice shall be-
- (a) 21 days where the defender is resident or has a place of business within Europe; or
 - (b) 42 days where the defender is resident or has a place of business outwith Europe.
- (3) The sheriff may, on cause shown, shorten or extend the period of notice on such conditions as to the form of service as he may direct, but in any case where the period of notice is reduced at least two days' notice must be given.
- (4) If a period of notice expires on a Saturday, Sunday, public or court holiday, the period of notice shall be deemed to expire on the next day on which the sheriff clerk's office is open for civil court business.
- (5) Notwithstanding the terms of section 4(2) of the Citation Amendment (Scotland) Act 1882, where service is by post the period of notice shall run from the beginning of the day next following the date of posting.
- (6) The sheriff clerk shall insert in the summons-
- (a) the return day, which is the last day on which the defender may return a form of response to the sheriff clerk; and
 - (b) the hearing date, which is the date set for the hearing of the claim.

Intimation

- 4.6.** Any provision in these Rules requiring papers to be sent to or any intimation to be made to any party or applicant shall be construed as if the reference to the party or applicant included a reference to the solicitor representing that party or applicant.