

## ACT OF SEDERUNT (SUMMARY CAUSE RULES) 2002 NO. 132

### CHAPTER 11 THIRD PARTY PROCEDURE

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#### **Application for third party notice**

- 11.1.** (1) Where in an action a defender claims that-
- (a) he has in respect of the subject matter of the action a right of contribution, relief or indemnity against any person who is not a party to the action; or
  - (b) a person whom the pursuer is not bound to call as a defender should be made a party to the action along with the defender in respect that such person is-
    - (i) solely liable, or jointly or jointly and severally liable with the defender to the pursuer in respect of the subject matter of the action; or
    - (ii) liable to the defender in respect of the claim arising from or in connection with the liability, if any, of the defender to the pursuer,
- he may apply by incidental application for an order for service of a third party notice upon that other person.
- (2) An application for service of a third party notice shall be made at the time when the defender lodges a form of response, unless the sheriff on cause shown shall permit a later application.
- (3) Where-
- (a) a pursuer against whom a counterclaim is made; or
  - (b) a third party convened in the action,
- seeks, in relation to the claim against him, to make against a person who is not a party, a claim mentioned in paragraph (1) as a claim which could be made by a defender against a third party, he shall apply by incidental application for an order for service of a third party notice; and rules 11.2 and 11.3 shall, with the necessary modifications, apply to such a claim as they apply in relation to a counterclaim by a defender.

#### **Procedure**

- 11.2.** (1) If an application in terms of rule 11.1 is granted, the sheriff shall-
- (a) fix a date on which he will regulate further procedure; and
  - (b) grant warrant to serve on the third party-
    - (i) a copy of the summons;
    - (ii) a copy of the grounds upon which it is claimed that the third party is liable; and
    - (iii) a notice in Form 22 and a copy of Form 23.

(2) A copy of the third party notice, and any certificate of execution of service, shall be lodged by the defender before the hearing fixed under paragraph (1)(a).

(3) A third party seeking to answer the claim against him shall complete and lodge the form of response no later than seven days before the hearing fixed under paragraph (1)(a).

(4) The sheriff clerk must upon receipt intimate to the other parties a copy of any response lodged under paragraph (3).

### **Warrants for diligence on third party notice**

**11.3.** (1) A defender who applies for an order for service of a third party notice may apply for—

(a) a warrant for arrestment to found jurisdiction;

(b) a warrant for interim diligence,

which would have been permitted had the warrant been sought in an initial writ in a separate action.

(1A) On an application under paragraph (1) (a) being made-

(a) the sheriff may grant the application if he thinks it appropriate;  
and

(b) the sheriff shall not grant the application unless averments to justify the warrant sought have been made.

(2) A certified copy of the interlocutor granting warrant for diligence shall be sufficient authority for execution of the diligence.