



MANAGEMENT OF SUMMARY CAUSE PROCEEDINGS

HOUSING (SCOTLAND) ACT 2001

1. INTRODUCTION

- 1.1 This guidance has been produced by the Sheriffs Principal to achieve a consistency of approach across the sheriff courts and to ensure the efficient disposal of summary cause proceedings at the instance of Local Authorities or Registered Social Landlords.
- 1.2 This guidance applies to all summary cause actions in which recovery of possession of heritable property is sought in terms of the Housing (Scotland) Act 2001 (“the Act”), including (a) those which are currently sisted; and (b) those in respect of which hearings have already been assigned (“heritable summary cause actions”). This guidance supersedes all previous guidance relating to heritable summary cause actions issued in any Sheriffdom.
- 1.3 This guidance will be effective from 13 July 2022.

2. SUMMARY CAUSE ACTIONS FOR EVICTION AND/OR PAYMENT OF RENT

- 2.1 Parties to a heritable summary cause action are expected to engage in meaningful discussions with a view to resolution prior to any hearing being assigned. Where matters cannot be resolved, parties are expected to progress such actions expeditiously.
- 2.2 Heritable summary cause actions will either be continued in terms of Rule 8.2(3) of the Act of Sederunt (Summary Cause Rules) 2002 or adjourned in terms of Section 16(1) of the 2001 Act on **one occasion only** for a period of up to 12 weeks. No further continuations or adjournments will be granted unless in exceptional circumstances, a

brief description of which must be recorded in writing by the sheriff in a note to be retained with the process.

- 2.3 Heritable summary cause actions will not be sisted, unless the sheriff is satisfied that there are exceptional circumstances for doing so, such circumstances being recorded in writing by the sheriff in a note to be retained with the process.

3. ADMINISTRATIVE DISPOSALS

- 3.1 In order to secure the efficient disposal of heritable summary cause actions and to avoid unnecessary attendances at court, the pursuer must complete Form A attached to this guidance at Appendix 1.

- 3.2 Form A should be intimated to the clerk of court at least 2 working days prior to the calling of the heritable summary cause action. Where there is an agreed position, or where warrant for re-service is sought, the heritable summary cause action shall be disposed of administratively without any requirement for either the defender(s) or the pursuer to attend or be represented. The terms of the disposal will be intimated to the pursuer either verbally (if a representative is in court dealing with other cases which are calling) or by interlocutor. The pursuer will be responsible for advising the defender(s) of the outcome of all cases which are disposed of administratively.

- 3.3 Paragraphs 3.1 and 3.2 will not apply to unopposed motions for a continuation, adjournment or sist of a heritable summary cause action. All such motions will require to be determined by a sheriff in terms of paragraphs 2.2 or 2.3 above.

4. MODE OF HEARINGS

- 4.1 Subject to paragraph 3.2 above and 4.2 below, all hearings of a procedural nature will be conducted in-person, unless otherwise directed by the court.

- 4.2 The court will facilitate participation in hearings on the calling date in heritable summary cause actions by electronic means. Should a party wish to participate by electronic means they shall give notice to that effect to the sheriff clerk no later than 5 working days prior to the hearing. The pursuer will be responsible for informing those

receiving service of a summons of the ability to attend hearings on the calling date by electronic means together with the terms of this paragraph 4.2.

4.3 All hearings which involve the leading of evidence will be conducted in person unless otherwise directed by the court.

The Sheriffs Principal

1 July 2022

