

## 2002 No. 130

## SHERIFF COURT

## Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (No. 2) (Local Government (Scotland) Act 1973) 2002

*Made**1st March 2002**Coming into force**8th March 2002*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(a) and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the Sheriff Courts (Scotland) Act 1971, do hereby enact and declare:

**Citation and commencement**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (No. 2) (Local Government (Scotland) Act 1973) 2002 and shall come into force on 8th March 2002.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

**Amendment of the principal Rules**

2.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(b) shall be amended in accordance with the following paragraphs.

(2) In Chapter 2 (summary application rules), in rule 2.7 (warrants, forms and certificate of citation)—

- (a) in paragraph (4)(a)(c), after “subject to paragraphs (5) and (7A)(a),” insert “and rule 3.18.3(1) (appeals under section 103J of the Local Government (Scotland) Act 1973) (d),”; and
- (b) in paragraph 4(b)(e)—
  - (i) for “rule” substitute “rules”; and
  - (ii) after “(service where address of person is not known)” insert “and 3.18.3(2) (appeals under section 103J of the Local Government (Scotland) Act 1973)”.

(3) In Chapter 3, after Part XVII (Anti-terrorism, Crime and Security Act 2001)(f), insert—

(a) 1971 c.58; section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12, the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4), the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2) and the Adults with Incapacity (Scotland) Act 2000 (asp 4), Schedule 5, paragraph 13 and was extended by sections 39(2) and 49 of the Child Support Act 1991 (c.48).

(b) S.I. 1999/929, as amended by S.S.I. 2000/148 and 387, 2001/142, and 2002/7 and .

(c) Paragraph (4)(a) was amended by paragraph 3(2)(a) of S.S.I. 2002/7.

(d) 1973 c.65. Section 103J was inserted by the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7), section 33(3).

(e) Paragraph (4)(b) was amended by paragraph 3(2)(b) of S.S.I. 2002/7.

(f) Inserted by S.S.I. 2002/129 .

“PART XVIII

LOCAL GOVERNMENT (SCOTLAND) ACT 1973

**Application**

**3.18.1**—This Part applies to appeals to the sheriff principal under section 103J of the Local Government (Scotland) Act 1973 (appeals from the Accounts Commission for Scotland).

**Appeals**

**3.18.2**—(1) An appeal under this Part shall be made by summary application.

(2) A summary application made under paragraph (1) shall include grounds of appeal stating—

- (a) the finding or sanction or suspension being appealed;
- (b) reasons why the appeal should be allowed; and
- (c) the date of sending of the finding or imposition of the sanction or suspension concerned,

and shall be accompanied by a copy of such finding, sanction or suspension.

**Warrant and form of citation**

**3.18.3**—(1) A warrant for citation in an appeal under this Part shall be in Form 2A and shall state—

- (a) the date by which answers should be lodged; and
- (b) the date and time when the appeal will call.

(2) Citation in respect of a warrant granted under paragraph (1) shall be in Form 3A.

(3) Where a party on whom service has been made lodges answers under paragraph (1)(a) that party shall, at the same time, send a copy to the applicant.”.

(4) In Schedule 1 (forms)—

- (a) after Form 2 insert Form 2A; and
- (b) after Form 3 insert Form 3A,

as set out in the Schedule to this Act of Sederunt.

*W DOUGLAS CULLEN*  
Lord President  
I.P.D.

Edinburgh,  
1st March 2002

SCHEDULE

FORM 2A

Form of warrant of citation

*(Insert place and date)*. Grants warrant to cite *(insert name and address of parties specified by sheriff principal)* by serving upon them a copy of the writ and warrant on a period of notice of 21 days and ordains them if they wish to oppose the application—

- (a) to lodge answers within the period of notice; and
- (b) to be represented within the Sheriff Court House *(insert place and address of sheriff court)* [in Room No. , or otherwise, as the case may be], on the day of at o'clock noon [or otherwise, as the case may be].

Signed  
Sheriff [or sheriff clerk]

FORM 3A

Form of citation for summary application

CITATION FOR SUMMARY APPLICATION

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

[A.B.], *(insert designation and address)*, Applicant

against

[C.D.], *(insert designation and address)*, Respondent

Court ref. no.

*(Insert place and date)*. You [C.D.] are hereby served with this copy writ and warrant, and are required to answer it.

If you wish to oppose the application, you–

- (a) must lodge answers with the sheriff clerk at *(insert place and address of sheriff court)* sheriff court, *(insert address)* not later than *(insert date)*, and at the same time, send a copy of the answers to the Applicant; and
- (b) should be represented within the Sheriff Court House *(insert place and address of sheriff court)* [in Room No. , or otherwise, as the case may be] on the day of at o'clock noon [*or otherwise as the case maybe*].

**PLEASE NOTE THAT IF YOU DO NOTHING IN ANSWER TO THIS DOCUMENT** the court may regard you as admitting the appeal and the Applicant may obtain decree against you in your absence.

Signed

[P.Q.], Sheriff Officer,  
or [X.Y.] *(add designation and business address)*  
Solicitor for the Applicant

## EXPLANATORY NOTE

*(This note is not part of the Act of Sederunt)*

This Act of Sederunt amends the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999 (“the principal Rules”).

Paragraph 2(2) amends rule 2.7(4) of the principal Rules to make a further exception to the requirement for warrants of citation to be in Form 2, to take account of the new Form 2A inserted by paragraph 2(4) of this Act of Sederunt and which is to be used in accordance with new rule 3.18.3(1) of the principal Rules.

Paragraph 2(3) inserts into Chapter 3 of the principal Rules a new Part XVIII containing specific provision in relation to appeals against findings and imposition of sanctions or suspensions by the Accounts Commission under the Local Government (Scotland) Act 1973 (“the 1973 Act”) (as amended by section 33 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)–

- (a) rule 3.18.1 provides for the application of the new Part XVIII of the principal Rules;
- (b) rule 3.18.2 provides for appeals to the sheriff principal under section 103J of the 1973 Act to be made by summary application, and further provides for such summary applications to include certain statements in the grounds of appeal and to be accompanied by certain documents; and
- (c) rule 3.18.3 prescribes the form of warrant for citation, and form of citation in respect of such warrants, for any appeals under Part XVIII of the principal Rules.

Paragraph 2(4) inserts into the principal Rules the following forms, set out in the Schedule to this Act of Sederunt–

- (a) Form 2A, the form of warrant of citation to be used for appeals to the sheriff principal under section 103J of the 1973 Act; and
- (b) Form 3A, the form of citation for summary applications to be used in respect of any such warrants granted.





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