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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 6**

**Act of Sederunt (Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules) Amendment (Miscellaneous) 2007**

**Amendment of Summary Application Rules**

**3.—**(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999<sup>(1)</sup> shall be amended in accordance with the following sub-paragraphs.

- (2) In rule 1.2(1) (interpretation), after “requires—” there shall be inserted the following:—  
““enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;”.
- (3) In rule 2.7 (warrants, forms and certificates of citation)—
  - (a) in paragraph (5), after “1987” there shall be inserted “or a time order under the Consumer Credit Act 1974”; and
  - (b) in paragraph (7), after “1987” there shall be inserted “or a time order under the Consumer Credit Act 1974”.
- (4) In rule 2.22 (applications for time to pay directions)—
  - (a) in the cross-heading, after “directions” there shall be inserted “or time orders”;
  - (b) in paragraph (1)—
    - (i) after “which” the existing words shall be numbered sub-paragraph (a); and
    - (ii) at the end there shall be inserted the following:—  
“; or  
(b) a time order may be applied for under the Consumer Credit Act 1987”;  
and
  - (c) in paragraph (2), after “direction” there shall be inserted “or time order”.
- (5) After rule 2.31 (power of sheriff to make orders) there shall be inserted the following:—

**“Live links**

**2.32.—**(1) On cause shown, a party may apply by motion for authority for the whole or part of—

- (a) the evidence of a witness or the party to be given; or
- (b) a submission to be made,

through a live link.

- (2) In paragraph (1)—

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<sup>(1)</sup> S.I.1999/929, amended by S.S.I. 2000/18 and 387, 2001/142, 2002/7, 129, 130, 146 and 583, 2003/26, 27, 98, 261, 319, 346 and 556, 2004/197, 222, 334 and 455, 2005/61, 473, 504 and 648 and 2006/410, 437 and 509.

“witness” means a person who has been or may be cited to appear before the court as a witness;

“submission” means any oral submission which would otherwise be made to the court by the party or his representative in person including an oral submission in support of a motion; and

“live link” means a live television link or such other arrangement as may be specified in the motion by which the witness, party or representative, as the case may be, is able to be seen and heard in the proceedings or heard in the proceedings and is able to see and hear or hear the proceedings while at a place which is outside the courtroom.

### **Representation**

**2.33.**—(1) A party may be represented by any person authorised under any enactment to conduct proceedings in the sheriff court in accordance with the terms of that enactment.

(2) The person referred to in paragraph (1) may do everything for the preparation and conduct of an action as may have been done by an individual conducting his own action.

### **Expenses**

**2.34.**—(1) A party who—

- (a) is or has been represented by a person authorised under any enactment to conduct proceedings in the sheriff court; and
- (b) would have been found entitled to expenses if he had been represented by a solicitor or an advocate,

May be awarded expenses or outlays to which a party litigant may be found entitled under the Litigants in Person (Costs and Expenses) Act 1975(2) or any enactment under that Act.”.

(6) In Schedule 1—

(a) in Form 4—

- (i) in the heading after “direction” there shall be inserted “or time order”; and
- (ii) in paragraph (b), after “direction” there shall be inserted “or time order”;

(b) in Form 5—

- (i) in the heading, after “direction” there shall be inserted “or time order”;
- (ii) after “**SERVICE**” there shall be inserted the following:—
  - “(1) Time to pay directions”; and
- (iii) after “frozen).” there shall be inserted the following:—

#### *“Time orders*

(2) The Consumer Credit Act 1974 allows you to apply to the court for a “time order” during a court action. A time order is similar to a time to pay direction but can only be applied for in certain circumstances, e.g. in relation to certain types of credit agreement. Payment under a time order can only be made by instalments so you cannot apply to pay by deferred lump sum.”;

- (iv) after “**HOW TO APPLY FOR A TIME TO PAY DIRECTION**” there shall be inserted “**OR TIME ORDER**”;

- (v) in the section headed “*What happens if my offer to pay is accepted?*”, the words “for time to pay” shall be omitted;
- (vi) in the section headed “*What happens if my offer to pay is rejected?*” the words “for time to pay” where they twice appear shall be omitted;
- (vii) in Section A, after “**PAY**” there shall be inserted “**OR A TIME ORDER**”;
- (viii) In Box 1, in the heading, after “1987” there shall be inserted “**OR A TIME ORDER UNDER THE CONSUMER CREDIT ACT 1974**”;
- (c) in Form 6—
  - (i) in the heading, after “direction” there shall be inserted “or time order”;
  - (ii) in the section beginning “**Form 5**”, after “direction” there shall be inserted “or time order”;
  - (iii) in the section beginning “**IF YOU ADMIT THE CLAIM AND WISH TO APPLY**”, after “**DIRECTION**” there shall be inserted “**OR TIME ORDER**”;
- (d) in Form 7, after “*direction*” there shall be inserted “*or a time order*”.