

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2010 No. 279**

**Act of Sederunt (Sheriff Court Rules)  
(Miscellaneous Amendments) 2010**

**Ordinary cause personal injuries procedure**

**4.—(1)** Part AI of Chapter 36 (special procedure for actions for, or arising from, personal injuries)<sup>(1)</sup> of the Ordinary Cause Rules is amended in accordance with the following subparagraphs.

(2) In Rule 36.E1(14)(c) (application of other rules), for the reference to “rule 36.G1(1)(b)(iii)” substitute “rule 36.G1(1A)(c)”.

(3) In Rule 36.G1 (allocation of diets and timetables)—

(a) for paragraph (1), substitute—

“(1) The sheriff clerk shall, on the lodging of defences in the action or, where there is more than one defender, the first lodging of defences—

(a) allocate a diet of proof of the action, which shall be no earlier than 4 months (unless the sheriff on cause shown directs an earlier diet to be fixed) and no later than 9 months from the date of the first lodging of defences; and

(b) issue a timetable stating—

(i) the date of the diet mentioned in subparagraph (a); and

(ii) the dates no later than which the procedural steps mentioned in paragraph (1A) are to take place.

(1A) Those procedural steps are—

(a) application for a third party notice under rule 20.1;

(b) the pursuer executing a commission for recovery of documents under rule 36.D1;

(c) the parties adjusting their pleadings;

(d) the pursuer lodging a statement of valuation of claim in process;

(e) the pursuer lodging a record;

(f) the defender (and any third party to the action) lodging a statement of valuation of claim in process;

(g) the parties each lodging in process a list of witnesses together with any productions upon which they wish to rely; and

(h) the pursuer lodging in process the minute of the pre-proof conference.

(1B) The dates mentioned in paragraph (1)(b)(ii) are to be calculated by reference to periods specified in Appendix 3, which, with the exception of the period specified in rule 36.K1(2), the sheriff principal may vary for his sheriffdom or for any court within his sheriffdom.”;

(b) after paragraph (8), insert—

---

(1) Part AI of Chapter 36 was inserted by [S.S.I. 2009/285](#).

“(8A) A party who seeks to rely on the evidence of a person not on his or her list lodged in accordance with paragraph (1A)(g) must, if any other party objects to such evidence being admitted, seek leave of the sheriff to admit that evidence whether it is to be given orally or not; and such leave may be granted on such conditions, if any, as the sheriff thinks fit.

(8B) The list of witnesses intimated in accordance with paragraph (1A)(g) must include the name, occupation (where known) and address of each intended witness and indicate whether the witness is considered to be a vulnerable witness within the meaning of section 11(1) of the Act of 2004(2) and whether any child witness notice or vulnerable witness application has been lodged in respect of that witness.”;

(c) in paragraph (9), for “paragraph (1)(b)(vii)” substitute “paragraph (1A)(g)”.

(4) In rule 36.H1(1) (applications for sist or for variation of timetable), omit “or following the amendment of pleadings carried out under Chapter 18”.

(5) For rule 36.K1(4) (pre-proof conferences), substitute—

“(4) If a party is not present during the pre-proof conference, the representative of such party shall have access to the party or another person who has authority to commit the party in settlement of the action.”

(6) In Appendix 1 (forms)—

(a) in Forms PI1 (form of initial writ in a personal injuries action), PI3 (form of docket for deemed grant of recovery of documents in a personal injuries action), PI6 (form of statement of valuation of claim) and PI7 (minute of pre-proof conference), below the title of each form insert—

“Court ref. no ( )”;

(b) in Form PI1, in paragraph 1 of the section entitled “STATEMENT OF CLAIM” after “address” insert “, *National Insurance Number (where applicable)*”;

(c) in Form PI6, at the end insert—

Total		£x ( <i>insert total valuation of claim</i> )
-------	--	---

List of Supporting Documents:—
--------------------------------

”

(d) in Form PI7, at the end for the words “Signed by agent for each party” substitute “Signed by each party/his or her solicitor”.

(7) For Appendix 3 (schedule of timetable under personal injuries procedure), substitute Appendix 3 set out in the Schedule to this Act of Sederunt.

(8) Subject to subparagraph (9), Part AI of Chapter 36 as it applied immediately before the date on which this paragraph comes into force continues to apply for the purpose of a personal injuries action raised but not determined prior to that date.

(9) Subparagraph (3)(b) also applies in respect of proceedings where a list of witnesses has not already been lodged by the date on which this paragraph comes into force.