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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 188**

**Act of Sederunt (Sheriff Court Rules)  
(Miscellaneous Amendments) 2012**

**Ordinary Cause Rules: summary decree**

- 3.—(1) The Ordinary Cause Rules are amended in accordance with the following subparagraphs.  
(2) For rule 17.2 (applications for summary decree) and rule 17.3 (application of summary decree to counterclaims, etc.) substitute—

**“Applications for summary decree**

- 17.2.**—(1) Subject to paragraphs (2) to (4), a party to an action may, at any time after defences have been lodged, apply by motion for summary decree in accordance with rule 15.1(1)(b) (lodging of motions).
- (2) An application may only be made on the grounds that—
- (a) an opposing party’s case (or any part of it) has no real prospect of success; and
  - (b) there exists no other compelling reason why summary decree should not be granted at that stage.
- (3) The party enrolling the motion may request the sheriff—
- (a) to grant decree in terms of all or any of the craves of the initial writ or counterclaim;
  - (b) to dismiss a cause or to absolve any party from any crave directed against him or her;
  - (c) to pronounce an interlocutor sustaining or repelling any plea-in-law; or
  - (d) to dispose of the whole or part of the subject-matter of the cause.
- (4) The sheriff may—
- (a) grant the motion in whole or in part, if satisfied that the conditions in subparagraph (2) are met,
  - (b) ordain any party, or a partner, director, officer or office-bearer of any party—
    - (i) to produce any relevant document or article; or
    - (ii) to lodge an affidavit in support of any assertion of fact made in the pleadings or at the hearing of the motion.
- (5) Notwithstanding the refusal of all or part of a motion for summary decree, a subsequent motion may be made where there has been a change in circumstances.”.
- (3) Rule 40.11 (applications for summary decree in a commercial action) is omitted.