

1988 No. 1999 (S.191)

**SHERIFF COURT, SCOTLAND**

**The Small Claims (Scotland) Order 1988**

Made - - - - 15th November 1988

Coming into force 30th November 1988

The Lord Advocate, in exercise of the powers conferred on him by sections 35(2) and 36B(1) and (2) of the Sheriff Courts (Scotland) Act 1971(a), and of all other powers enabling him in that behalf, hereby makes the following Order, a draft of which has been laid before and approved by resolution of each House of Parliament:

**Citation and commencement**

1. This Order may be cited as the Small Claims (Scotland) Order 1988 and shall come into force on 30th November 1988.

**Proceedings to be small claims**

2. The form of summary cause process, to be known as a "small claim", shall be used for the purposes of summary cause proceedings of one or other of the following descriptions, namely—

- (a) actions for payment of money not exceeding £750 in amount (exclusive of interest and expenses), other than actions in respect of aliment and interim aliment and actions of defamation;
- (b) actions *ad factum praestandum* and actions for the recovery of possession of moveable property where in any such action *ad factum praestandum* or for recovery there is included, as an alternative to the claim, a claim for payment of a sum not exceeding £750 (exclusive of interest and expenses).

3. For the purpose of article 2, actions *ad factum praestandum* include actions for delivery and actions for implement but do not include actions for count, reckoning and payment.

**Limit on award of expenses in small claims**

4.—(1) The provisions of this article are without prejudice to the provisions of section 36B(3) of the Sheriff Courts (Scotland) Act 1971.

(2) No award of expenses shall be made in a small claim as specified in article 2 of this Order in which the value of the claim does not exceed £200.

(3) In the case of any small claim other than a small claim to which paragraph (2) applies, the sheriff may award expenses not exceeding £75.

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(a) 1971 c.58; section 35(2) was substituted, and section 36B was added, by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), section 18.

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes provision in connection with the establishing of a small claims procedure. Small claims are—

- (a) actions for payment of money not exceeding £750, except claims for aliment and actions of defamation, and
- (b) actions *ad factum praestandum* and for recovery of possession of moveable property, provided there is also an alternative claim for payment of a sum of money not exceeding £750.

Actions *ad factum praestandum* include actions for delivery and actions for implement but do not include actions for count, reckoning and payment.

No expenses are awardable where the value of the small claim does not exceed £200, and in other small claims the maximum sum awardable as expenses is £75, except where section 36B(3) of the Sheriff Courts (Scotland) Act 1971 applies.

45p net

ISBN 0 11 087999 6