SCOTTISH STATUTORY INSTRUMENTS

2018 No. 191

SHERIFF COURT

Act of Sederunt (Simple Procedure Amendment) (Miscellaneous) 2018

Made - - - -	*12th June 2018*
Laid before the Scottish Parliament	*14th June 2018*
Coming into force - -	*30th July 2018*

In accordance with section 4 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013(**a**), the Court of Session has approved draft rules submitted to it by the Scottish Civil Justice Council with such modifications as it thinks appropriate.

The Court of Session therefore makes this Act of Sederunt under the powers conferred by section 104(1) of the Courts Reform (Scotland) Act 2014(**b**) and all other powers enabling it to do so.

Citation and commencement, etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Simple Procedure Amendment) (Miscellaneous) 2018.

(2) It comes into force on 30th July 2018.

(3) A certified copy is to be inserted in the Books of Sederunt.

Amendment of the Act of Sederunt (Simple Procedure) 2016

2.—(1) The Act of Sederunt (Simple Procedure) 2016(**c**) is amended in accordance with this paragraph.

(2) In schedule 1 (the simple procedure rules)—

(a) in rule 2.4(1), for "or the Response Form" substitute ", Response Form or Time to Pay Application";

(b) for rule 3.12(1), for "send a Response Form to the court and to the claimant" substitute "respond to the claim (see rule 4.2)";

(c) for rule 4.2, substitute—

(**a**) 2013 asp 3. Section 4 was amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 31(3) and the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2), schedule 1, paragraph 1(4).
(**b**) 2014 asp 18.
(**c**) S.S.I. 2016/200, last amended by S.S.I. 2017/154.

"**4.2 How do you respond to a claim?**

(1) The respondent must respond to the claim by the last date for a response.

(2) The respondent may respond to a claim in one of two ways:

(a) by completing a Response Form and sending it to the court and the claimant, or

(b) if the respondent wants to admit the claim and ask for time to pay, by completing a Time to Pay Application and sending it to the court.";

(d) in rule 4.3(3)(**a**), in the flow-chart—

(i) omit "Select option C2 on the Response Form.";

(ii) omit "also";

(iii) omit "with the completed Response Form";

(iv) for "C3" substitute "C2";

(e) in rule 5.3(1)(a), for "with the completed Response Form" substitute "by the last date for a response";

(f) in rule 6.5(1)(**b**)—

(i) in sub-paragraph (c), for "or Response Form" substitute ", Response Form or Time to Pay Application";

(ii) in sub-paragraph (d), after "that party" insert "or that party's representative";

(g) in rule 6.7(1)(**c**)—

(i) in sub-paragraph (b), for "or Response Form" substitute ", Response Form or Time to Pay Application";

(ii) in sub-paragraph (c), after "that party" insert "or that party's representative";

(h) in rule 7.1(1), for "is received" substitute "or Time to Pay Application is received by the last date for a response";

(i) in rule 7.2(1), for "From" substitute "Form";

(j) in rule 7.4—

(i) in the cross-heading, after "**no Response Form**" insert "**or Time to Pay Application**";

(ii) in paragraph (1), after "no Response Form" insert "or Time to Pay Application";

(k) for rule 13.5(1)(**d**), substitute—

"(1) A party may apply to have a decision of the sheriff recalled in 5 situations:

(a) where the sheriff dismissed a claim because the claimant did not send the court an Application for a Decision within 2 weeks from the last date for a response,

(b) where the sheriff made a decision because the respondent did not send the court a Response Form or Time to Pay Application by the last date for a response,

(c) where the sheriff dismissed a claim because the claimant did not attend a discussion or hearing,

(d) where the sheriff has made a decision because the respondent did not attend a discussion or hearing, and

(e) where the sheriff dismissed a claim because neither party attended a discussion or hearing.";

(**a**) Rule 4.3(3) was substituted by S.S.I. 2017/154.
(**b**) Rule 6.5(1) was amended by S.S.I. 2016/315.
(**c**) Rule 6.7(1) was amended by S.S.I. 2016/315.
(**d**) Rule 13.5(1) was amended by S.S.I. 2016/315.

(l) for rule 13.6, substitute—

"**13.6 How can a party apply to have a decision of the sheriff recalled?**

(1) A party may apply to have a decision of the sheriff recalled by completing an Application to Recall and sending it to the court.

(2) If the sheriff made a decision following an Application for a Decision and the respondent wants to dispute the claim or part of the claim, the respondent must include a completed Response Form with the Application to Recall.

(3) The sheriff clerk will check whether the Application to Recall is the first Application to Recall in the case by the party making the application.

(4) If it is the first Application to Recall by that party, the sheriff must send the parties an order arranging a discussion in court at which the sheriff will consider whether to recall the decision.

(5) The party making the application must send a copy of the Application to Recall and any Response Form to the other party at least 5 days before the date of the discussion in court.";

(m) for rule 15.2(3), substitute—

"(3) A party who is sent an order arranging a discussion in court at which the sheriff will consider an Application to Recall must not enforce a decision until the sheriff has decided whether to recall the decision.";

(n) after rule 15.3(7)(**a**), insert—

"(8) Where the Charge is formally served, the sheriff officer is not required to send a Confirmation of Formal Service to the court.";

(o) in rule 21.1(1), in the meaning corresponding to the word or expression "last date for a response", for "send a Response Form to the court and to the claimant" substitute "respond to the claim by sending a Response Form to the court and to the claimant, or respond to the claim by sending a Time to Pay Application to the court".

(3) In schedule 2 (forms)—

(a) in Form 2A (lay representation form), in the introduction, for "or the Response Form" substitute ", Response Form or Time to Pay Application";

(b) in Form 3A (claim form)(**b**), in section A5—

(i) for "responding party" substitute "respondent";

(ii) for "Email" substitute "Online";

(c) in Form 3D (timetable), in section C, for "send a Response Form to the court and to the claimant" substitute "do one of two things: (a) send a Response Form to the court and to the claimant, or (b) if the respondent wants to admit the claim and ask for time to pay, send a Time to Pay Application to the court";

(d) for Form 4A (response form)(**c**) substitute Form 4A set out in schedule 1 of this Act of Sederunt;

(e) for Form 5A (time to pay application)(**d**) substitute Form 5A set out in schedule 2 of this Act of Sederunt;

(f) in Form 5B (time to pay notice)(**e**)—

(i) in the introduction—

(**a**) Rule 15.3(7) was inserted by S.S.I. 2017/154.
(**b**) Form 3A was amended by S.S.I. 2016/315.
(**c**) Form 4A was substituted by S.S.I. 2017/154.
(**d**) Form 5A was amended by S.S.I. 2016/315 and S.S.I. 2017/154.
(**e**) Form 5B was amended by S.S.I. 2016/315.

(aa) for "after the Time to Pay Application is sent" substitute "of it being sent to you";

(bb) for "dismiss your claim" substitute "decide whether to grant the application without hearing from you";

(ii) in section A, for "Date of notice" substitute "Date notice sent";

(g) in Form 6A (notice of claim)(**a**), in section B—

(i) for ", if you want to dispute the claim, you must send a completed Response Form to the court and to the claimant" substitute "you must do one of two things: (a) send a Response Form to the court and the claimant, or (b) if you want to admit the claim and ask for time to pay, send a Time to Pay Application to the court";

(ii) after "how to complete the Response Form" insert "or Time to Pay Application,";

(h) in Form 7A (application for a decision)(**b**)—

(i) in the introduction—

(aa) for "responding party" substitute "respondent";

(bb) after "a Response Form" insert "or Time to Pay Application";

(ii) in section C, after "Response Form" insert "or Time to Pay Application";

(i) for Form 13B (application to recall) substitute Form 13B set out in schedule 3 of this Act of Sederunt.

(4) In schedule 3 (standard orders)(**c**)—

(a) in standard order SO1, for "conference" in both places where it occurs substitute "discussion";

(b) after standard order SO12 insert standard order SO13 set out in schedule 4 of this Act of Sederunt.

Saving

3. The amendments made by the following paragraphs of this Act of Sederunt do not apply in a simple procedure case to a decision made before 30th July 2018—

(a) paragraph 2(2)(k), (l) and (m);

(b) paragraph 2(3)(i);

(c) paragraph 2(4)(b).

CJM SUTHERLAND
Lord President
I.P.D.

Edinburgh
12th June 2018

(**a**) Form 6A was substituted by S.S.I. 2017/154.
(**b**) Form 7A was amended by S.S.I. 2016/315.
(**c**) Schedule 3 was substituted by S.S.I. 2016/315.

SCHEDULE 1 Paragraph 2(3)(d)

FORM 4A

The Simple Procedure Response Form

The Simple Procedure is a speedy, inexpensive and informal court procedure for settling or determining disputes with a value of **£5,000 or less**.

A claim has been raised against you under the Simple Procedure. You have been provided with a copy of the Claim Form which sets out the claim made against you.

The Simple Procedure Rules should be read alongside this form. They can be found on the Scottish Courts and Tribunals Service website. Please **read the whole Response Form** before beginning to complete it. There are guidance notes for each part of the form.

If you want to admit the claim against you and **apply for time to pay**, you do not need to complete this Response Form. Instead, you should **complete a Time to Pay Application** and send it to the court by the last date for a response. Only an individual (not a company or another type of organisation) may ask for time to pay.

Please note that if you **do nothing**, the court will almost certainly, if appropriate, award the claim to the claimant and order you to make a payment, including interest and expenses.

Case reference number

A. ABOUT YOU

ⓘ Set out information about you, so that the court knows who you are and how to contact you.

A1. Are you an individual, a company or an organisation?

☐ An individual (including a sole trader) (please fill out A2)

☐ A company or organisation (please fill out A3)

A2. What is your full name?

Name

Middle name

Surname

Trading name or representative capacity (if any)

A3. What is the name of the company or organisation?

Name	
Company type	
Company registration number (if limited company or LLP)	
Trading name (if any)	

A4. What are your contact details?

Address	
City	
Postcode	
Email address	

A5. How would you prefer the court and the claimant to contact you?

☐ By post

☐ Online

B. ABOUT YOUR REPRESENTATION

ⓘ Set out information about how you will be represented.

B1. How will you be represented during this case?

☐ I will represent myself

☐ I will be represented by a solicitor

☐ I will be represented by a non-solicitor (e.g. a family member, friend, or someone from an advice or advocacy organisation)

B2. Who is your representative?

ⓘ If a family member or friend, give their full name. If someone from an advice or advocacy organisation, also give the name of that organisation.

Name	
Surname	
Organisation / firm name	

B3. What are the contact details of your representative?

ⓘ If your representative works for a solicitors' firm or an advice or advocacy organisation, give the address of that firm or organisation.

Address	
City	
Postcode	
Email address	

B4. Would you like us to contact you through your representative?

ⓘ If you select 'yes', then the court will send orders and information in this case to your representative.

☐ Yes

☐ No

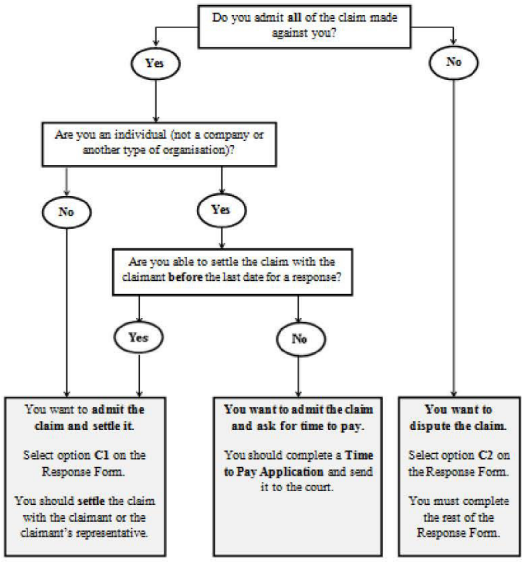
B5. How would your representative prefer the court to contact them?

☐ By post

☐ Online

C. YOUR RESPONSE TO THE CLAIM

ⓘ You should decide now how you intend to respond to this claim. There are three options. The flow-chart sets out the options on how you might respond. You should follow the instructions for the option you choose.



☐ C1. I want to **admit the claim** and settle it before the last date for a response.

ⓘ You should select this option if you accept that the claim against you is correct and you are able to settle it with the claimant now.

ⓘ You do not need to complete Parts D and E.

ⓘ You should send this Response Form to the court and to the claimant. You should settle the claim with the claimant or the claimant's representative by the last date for a response.

☐ C2. I want to **dispute the claim.**

ⓘ You should select this option if you do not accept that the claim against you is correct, and you want to:

- argue that the court does not have jurisdiction,
- dispute the entire claim, or
- dispute the amount that is being claimed.

ⓘ You should complete this Response Form and send it to the court and to the claimant by the last date for a response. You will be sent written orders by the court telling you how to proceed.

D. ABOUT YOUR RESPONSE

D1. What is the background to this claim?

ⓘ In this part, you should set out the essential factual background to the claim. The claimant has set out their understanding in section D1 of the Claim Form. In particular, you should set out anything in section D1 of the Claim Form which you disagree with.

ⓘ For example, you should include:

- key dates,
- if there was an agreement, what was agreed,
- when you became aware of the problem or dispute,
- whether any payments have been made so far and, if so, what payments,
- whether any services have been provided so far and, if so, what services.

ⓘ If this is insufficient space to describe the essential factual background, you may use another sheet of paper, which must be headed 'D1' and must be attached to the Response Form.

D2. Why should the claim not be successful?

ⓘ You should set out briefly the reasons why the claim made against you should not be successful, and why the court should not make the orders which the claimant has asked for in the Claim Form.

ⓘ For example, reasons might include:

- that you did not breach a contract with the claimant (e.g. work was completed satisfactorily),
- that you did not cause the claimant damage or financial loss,
- that you have the right to keep something belonging to the claimant (e.g. because a repair has not been paid for).

ⓘ If this is insufficient space to set out these reasons, you may use another sheet of paper, which must be headed 'D2' and must be attached to the Response Form.

D3. Are there any additional respondents you think should be responding to this claim?

ⓘ You should complete this section if you think that:

- you have a right of contribution, relief or indemnity against someone who is already a respondent,
- someone else should be made a respondent in this claim, as they are solely, jointly, or jointly and severally liable with you for the claim made against you,
- someone else should be made a respondent in this claim as they are liable to you for the claim made against you.

ⓘ If you complete this section then the court may order you to formally serve the Claim Form and the Response Form on any additional respondents.

☐ Yes (please complete D4)

☐ No

D4. Which additional respondents do you think should be responding to this claim?

ⓘ Set out below the full names and addresses of any additional respondents you think should be responding to the claim made against you.

ⓘ Set out the reasons why each person should be an additional respondent to the claim made against you.

1. [Name]
[Address]
[Reasons why this person should be an additional respondent]

2. [Name]
[Address]
[Reasons why this person should be an additional respondent]
[…]

D5. What steps have you taken, if any, to try to settle the dispute with the claimant?

ⓘ It is an important principle of simple procedure that parties should be encouraged to settle their disputes by negotiation, where possible.

ⓘ The court will use this information to assess whether more negotiation would help you and the claimant settle your dispute.

E. WITNESSES, DOCUMENTS AND EVIDENCE

E1. Set out in a numbered list any witnesses you might bring to a hearing to support your response, their name and address, and what their relationship to the claim or response is.

ⓘ You should list any witnesses you think you might bring to a hearing. You do not need to list yourself or the claimant.

ⓘ You should provide the full name and address of any witnesses.

ⓘ Your claim may require no witnesses other than you and the claimant. You do not need to bring a witness if the evidence which they might give can be shown in some other way (e.g. by photographs).

ⓘ You should describe the relationship of each witness to the claim or response. For example, you might indicate that a witness:

- was the person with whom you made an agreement,
- was present when the alleged damage took place,
- inspected some work which you consider to have been completed satisfactorily.

ⓘ If the court orders a hearing, Part 11 of the Simple Procedure Rules tells you what you need to do to arrange the attendance of your witnesses.

1. [Name]
   [Address]
   [Relationship to the claim or response]

2. [Name]
   [Address]
   [Relationship to the claim or response]

3. [Name]
   [Address]
   [Relationship to the claim or response]

[...]

E2. Set out in a numbered list any documents you might bring to court to support your response.

ⓘ You should list any documents you think you might bring to a hearing. This includes photographs and other printed material which may be kept in a file.

ⓘ When preparing these documents for a hearing, it is useful if they are indexed with numbers.

ⓘ If the court orders a hearing, Part 10 of the Simple Procedure Rules tells you what you need to do to lodge documents before that hearing.

1.
2.
3.
4.
5.

[...]

E3. Set out any other pieces of evidence you intend to bring to a hearing to support your response.

ⓘ You should list any other evidence you think you might bring to a hearing.

ⓘ This includes objects, but not printed material. For example, if the claim was about damage caused to an item of clothing, you might list the item of clothing. You do not need to bring a piece of evidence if the important point can be shown in some other way (e.g. by photographs).

ⓘ If the court orders a hearing, Part 10 of the Simple Procedure Rules tells you what you need to do to lodge other evidence before that hearing.

1.
2.
3.
4.
5.
[...]

PLEASE CHECK THIS FORM BEFORE SENDING IT.

SCHEDULE 2

Paragraph 2(3)(e)

FORM 5A

The Simple Procedure Time to Pay Application

Sheriff Court	
Claimant	
Respondent	
Case reference number	

This is a Time to Pay Application. It is used to ask the sheriff to make an order for time to pay.

If you would like debt advice or financial guidance, you may wish to contact the Citizens Advice Bureau or another advisory or assistance organisation.

If you complete a Time to Pay Application it means that you are admitting the claim made against you by the claimant for the payment of a sum of money.

Only an individual (not a company or another type of organisation) may ask for time to pay. If you are a company or another type of organisation and accept that the claim against you is correct, you should try to settle the claim with the claimant.

The respondent may ask for time to pay by completing this application and either:

(a) sending it to court, or

(b) bringing it to court at any discussion, case management discussion or hearing.

Before completing this form, you should read Part 5 of the Simple Procedure Rules, which is about asking for time to pay.

There are two situations in which the court can make an order for time to pay: under the Debtors (Scotland) Act 1987 and under the Consumer Credit Act 1974.

Time to pay under the Debtors (Scotland) Act 1987

The Debtors (Scotland) Act 1987 gives you the right to apply to the court for an order which allows you to pay any sum which the court orders you to pay either in instalments or by deferred lump sum. A "deferred lump sum" means that you will be ordered by the court to pay the whole amount at one time within a period which the court will specify.

If the court makes an order, it may also recall or restrict any arrestment made on your property by the claimant in connection with the claim or debt (for example, your bank account may have been frozen).

If an order is made, a copy of the Decision Form will be sent to you telling you when payment should start or when it is you have to pay the lump sum.

If an order is not made, and an order for immediate payment is made against you, a Charge may be served on you if you do not pay.

Under the Debtors (Scotland) Act 1987, the court is required to make an order if satisfied that it is reasonable in the circumstances to do so, and having regard in particular to the following matters:

- the nature of and reasons for the debt in relation to which the order is requested,
- any action taken by the creditor to assist the debtor in paying the debt,
- the debtor's financial position,
- the reasonableness of any proposal by the debtor to pay that debt,
- the reasonableness of any refusal or objection by the creditor to any proposal or offer by the debtor to pay the debt.

Time to pay under the Consumer Credit Act 1974

The Consumer Credit Act 1974 allows you to apply to the court for an order asking the court to give you more time to pay a loan agreement. This order can only be applied for where the claim is about a credit agreement regulated by the Consumer Credit Act 1974. The court has power to make an order in respect of a regulated agreement to reschedule payment of the sum owed. This means that an order can change:

- the amount you have to pay each month,
- how long the loan will last,
- in some cases, the interest rate payable.

An order can also stop the creditor taking away any item bought by you on hire purchase or conditional sale under the regulated agreement, so long as you continue to pay the instalments agreed.

A. ABOUT YOU

A1. What is your full name?

Name	
Middle name	
Surname	
Trading name or representative capacity (if any)	
Date of application	

A2. What are your contact details?

Address

City

Postcode

Email address

A3. How would you prefer the court and the claimant to contact you?

☐ By post

☐ Online

B. ABOUT YOUR REPRESENTATION

ⓘ Set out information about how you will be represented.

B1. How will you be represented during this case?

☐ I will represent myself

☐ I will be represented by a solicitor

☐ I will be represented by a non-solicitor (e.g. a family member, friend, or someone from an advice or advocacy organisation)

B2. Who is your representative?

ⓘ If a family member or friend, give their full name. If someone from an advice or advocacy organisation, also give the name of that organisation.

Name

Surname

Organisation / firm name

B3. What are the contact details of your representative?

ⓘ If your representative works for a solicitors' firm or an advice or advocacy organisation, give the address of that firm or organisation.

Address

City

Postcode

Email address

B4. Would you like us to contact you through your representative?

ⓘ If you select 'yes', then the court will send orders in this case to your representative.

☐ Yes

☐ No

B5. How would your representative prefer the court to contact them?

☐ By post

☐ Online

C. ABOUT YOUR APPLICATION

ⓘ Set out how you think that you are able to pay the claimant the sum of money owed.

C1. I **admit the claim** for a sum of money and would like to apply to pay the sum as follows:

☐ By instalments of: £_.___ per week / fortnight / month

☐ In one lump sum within: _____ weeks/ months from today.

C2. How did you get into this debt?

ⓘ Set out the reasons for you getting into this debt.

C3. Why should the court give you time to pay?

ⓘ Set out the reasons why the court should give you time to pay.

C4. Why is the payment offer you have made reasonable?

ⓘ Set out any information which explains why the offer you have made is a reasonable one (i.e. why you can afford that offer but not a higher one).

C5. Are you applying to have an arrestment recalled or restricted?

ⓘ When making an order the court may recall or restrict an arrestment (i.e. unfreeze your bank account if it has been frozen).

☐ Yes (explain below)

☐ No

ⓘ Set out the details of the arrestment, including the date on which it occurred.

C6. If this claim relates to a consumer credit agreement, are you applying for additional orders?

ⓘ When making an order for time to pay in relation to a consumer credit agreement the court has power to reschedule payment of the sum of money owed. This means that the court can change:

- the amount you have to pay each month,
- how long the loan will last,
- in some cases, the interest rate payable.

☐ Yes (explain below)

☐ No

ⓘ Set out the details of the orders sought, including why those orders are sought.

ⓘ If you have a copy of the agreement, please send a copy of it with this application.

D. ABOUT YOUR FINANCES

ⓘ To help the court decide whether to make an order and what that order should be, please provide some details of your financial situation.

D1. What is your employment situation?

☐ Employed

☐ Self-employed

☐ Unemployed

D2. What are your outgoings?

ⓘ Set out any regular payments you have to make and whether these are made weekly, fortnightly or monthly.

Rent or mortgage £— each week / fortnight / month

Council tax	£—	each	week / fortnight / month
Utilities (gas, electricity, etc.)	£—	each	week / fortnight / month
Food	£—	each	week / fortnight / month
Loans and credit agreements	£—	each	week / fortnight / month
Phone	£—	each	week / fortnight / month
Other	£—	each	week / fortnight / month
Total	£—	each	week / fortnight / month

D3. What income do you receive?

ⓘ Set out any regular income and whether it is weekly, fortnightly or monthly.

Wages or pension	£—	each	week / fortnight / month
Benefits	£—	each	week / fortnight / month
Tax credits	£—	each	week / fortnight / month
Other	£—	each	week / fortnight / month
Total	£—	each	week / fortnight / month

D4. Does anyone rely on your income?

ⓘ Set out how many people (if any) rely on your income and who they are (e.g. spouse / civil partner / children).

D5. Do you have any capital?

ⓘ Set out any capital which you hold. For example, money in savings accounts, shares, investments or houses owned.

SCHEDULE 3 Paragraph 2(3)(i)

FORM 13B

The Simple Procedure Application to Recall

This is an Application to Recall.

Before completing this form, you should read rules 13.5 to 13.7 of the Simple Procedure Rules, which are about recalling a decision.

You can use this Application to ask the sheriff to recall a decision made because of your failure to attend court or take a step in simple procedure.

If the sheriff made a decision because you did not respond to the claim by the last date for a response, and you would now like to dispute the claim, or part of the claim, you must also include a completed Response Form with this Application.

A. ABOUT THE CASE

Sheriff Court	
Claimant	
Respondent	
Case reference number	

B. ABOUT YOU

B1. What is your full name?

Name	
Middle name	
Surname	
Trading name or representative capacity (if any)	

B2. Which party in this case are you?

☐ Claimant

☐ Respondent

C. THE APPLICATION

C1. Why should the decision be recalled?

ⓘ The party making the application must set out why the court should recall the decision and the reason for their failure to take a step or attend court.

C2. When was this application sent to the court?

ⓘ Set out the date on which the application was sent to the court (i.e. the date on which the application was submitted online or posted).

SCHEDULE 4

Paragraph 2(4)(b)

SO13

The Simple Procedure Order of the Sheriff

Application to Recall received: ordering a discussion in court

This is an order of the sheriff in a case you are a party in. You should **read it** and **follow it**.

You should also read Part 8 of the Simple Procedure Rules, which is about orders of the sheriff.

Sheriff Court:	
Date of order:	
Claimant:	
Respondent:	
Case reference number:	

The court has received an Application to Recall.

The sheriff has **given the following orders**:–

Discussion in court

The sheriff wants to hear from both parties before deciding whether to recall the decision.

Both parties are **ordered** to attend a discussion at [sheriff court] on [date] at [time]. Both parties should arrive in good time at the sheriff court building.

The party making the application **must send the other party** a copy of the Application to Recall [and the Response Form] at least 5 days before the date of the discussion.

The parties **must bring with them** the Decision Form in this case. If the sheriff decides to recall the decision, the Decision Form must be given to the sheriff clerk.

The decision **must not be enforced** until the sheriff has decided the application.

At this discussion, the sheriff will expect parties to be prepared to discuss whether the decision should be recalled and what should happen next in the case if the decision is recalled. Both parties should be aware that the sheriff may decide the application even where they are not fully prepared to discuss it or in the absence of a party.

The case may be decided or dismissed in the absence of a party if that party fails to attend.

Signed by: Sheriff of [sheriffdom] at [sheriff court]

EXPLANATORY NOTE

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

This Act of Sederunt amends the Act of Sederunt (Simple Procedure) 2016 to provide for a Time to Pay Application as a form of response, to set out a new procedure to recall a decision and to make other minor amendments.

Paragraph 3 is a saving provision, the effect of which is that the amendments to recall procedure do not apply to a decision made in a simple procedure case before 30th July 2018.

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