

2012 No. 144

SHERIFF COURT

**Act of Sederunt (Summary Cause
Rules Amendment) (Personal
Injuries Actions) 2012**

Made - - - - -

16th May 2012

Laid before the Scottish Parliament

18th May 2012

Coming into force - -

1st September 2012



2012 No. 144

SHERIFF COURT

Act of Sederunt (Summary Cause Rules Amendment) (Personal Injuries Actions) 2012

Made - - - - *16th May 2012*

Laid before the Scottish Parliament *18th May 2012*

Coming into force - - *1st September 2012*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(a), and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the said Act of 1971, do hereby enact and declare:

Citation, commencement and interpretation

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Summary Cause Rules Amendment) (Personal Injuries Actions) 2012 and comes into force on 1st September 2012.

(2) A certified copy of this Act of Sederunt is to be inserted in the Books of Sederunt.

(3) In this Act of Sederunt, the “Summary Cause Rules” means the Summary Cause Rules in Schedule 1 to the Act of Sederunt (Summary Cause Rules) 2002(b).

Amendment of Summary Cause Rules: personal injuries actions

2.—(1) The Summary Cause Rules are amended in accordance with subparagraphs (2) to (5).

(2) In rule 14.1 (additional defender), after paragraph (5) insert—

“(6) Paragraph (5)(b) does not apply to a personal injuries action raised under Chapter 34.

(7) Where an application is granted under paragraph (4) in a personal injuries action raised under Chapter 34, the sheriff may make such further order as the sheriff thinks fit.”.

(a) 1971 c.58. Section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12; the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4); the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2); the Adults with Incapacity (Scotland) Act 2000 (asp 4) (the “2000 asp”), schedule 5, paragraph 13; the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43; the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2); the Consumer Credit Act 2006 (c.14), section 16(4); the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (the “2007 asp”) section 33; and the Legal Services (Scotland) Act 2010 (asp 16), section 127(a). Section 32 is amended prospectively by the 2007 asp, schedule 5, paragraph 10; and the Children’s Hearings (Scotland) Act 2011 (asp 1), section 185. Section 32 was extended by the Debtors (Scotland) Act 1987 (c.18), section 97; the Child Support Act 1991 (c.48), sections 39(2) and 49; and section 2(4) of the 2000 asp.

(b) S.S.I. 2002/132, amended by S.S.I. 2002/516; 2003/26 and 601; 2004/197; 2005/648; 2006/509; 2007/6, 339, 440 and 463; 2008/121, 223 and 365; 2009/107, 164, 294 and 402; 2010/279, 340 and 416; and 2011/193 and 289.

(3) Substitute the following for Chapter 34 (Action of Damages for Personal Injury)—

“CHAPTER 34

ACTIONS OF DAMAGES FOR, OR ARISING FROM, PERSONAL INJURIES

Application and interpretation

Application and interpretation of this Chapter

34.1.—(1) This Chapter applies to a personal injuries action.

(2) In this Chapter—

“personal injuries action” means an action of damages for, or arising from, personal injuries or death of a person from personal injuries;

“personal injuries procedure” means the procedure that applies to a personal injuries action as established by rules 34.7 to 34.11;

“1982 Act” means the Administration of Justice Act 1982(a).

(3) In the definition of “personal injuries action”, “personal injuries” includes any disease or impairment, whether physical or mental.

Raising a personal injuries action

Form of summons

34.2.—(1) In a personal injuries action the form of claim to be inserted in box 4 of Form 1 (summary cause summons) shall be in Form 2 (form of claim in a summons for payment of money).

(2) The pursuer must, instead of stating the details of claim in box 7 of Form 1, attach to Form 1 a statement of claim in Form 10 (form of statement of claim in a personal injuries action), which must give the defender fair notice of the claim and include—

(a) a concise statement of the grounds of the claim in numbered paragraphs relating only to those facts necessary to establish the claim;

(b) the names of every medical practitioner from whom, and every hospital or other institution in which, the pursuer or, in an action in respect of the death of a person, the deceased, received treatment for the personal injuries.

(3) A summons may include—

(a) an application for warrants for intimation so far as permitted under these Rules; and

(b) a specification of documents containing such of the calls in Form 10b (form of order of court for recovery of documents etc.) as the pursuer considers appropriate.

Defender’s copy summons

34.3.—(1) A copy summons shall be served on the defender—

(a) in Form 1e where an application for a time to pay direction under the Debtors (Scotland) Act 1987(b) may be applied for; or

(b) in Form 1f in every other case,

(a) 1982 c.53.

(b) 1987 c.18.

in each case, including a copy statement of claim in Form 10.

(2) A form of response in Form 10a shall accompany the defender's copy summons when it is served on the defender.

Response to summons

34.4.—(1) If a defender intends to—

- (a) challenge the jurisdiction of the court or the competency of the action;
- (b) defend the action (whether as regards the amount claimed or otherwise); or
- (c) state a counterclaim,

the defender must complete and lodge with the sheriff clerk on or before the return day the form of response contained in the defender's copy summons and Form 10a stating, in a manner which gives the pursuer fair notice, the grounds of fact and law on which the defender intends to resist the claim.

(2) A counterclaim may include—

- (a) an application for warrants for intimation so far as permitted under these Rules; and
- (b) a specification of documents containing such of the calls in Form 10b as the defender considers appropriate.

(3) The sheriff clerk must, upon receipt, intimate to the pursuer a copy of any response lodged under paragraph (1).

(4) Within 7 days of receipt of intimation under paragraph (3), the pursuer shall return to the sheriff clerk the summons and the relevant certificate of execution of service.

Inspection and recovery of documents

34.5.—(1) This rule applies where the summons or counterclaim in a personal injuries action contains a specification of documents by virtue of rule 34.2(3)(b) or rule 34.4(2)(b).

(2) On the summons being authenticated or counterclaim received, an order granting commission and diligence for the production and recovery of the documents mentioned in the specification shall be deemed to have been granted and the sheriff clerk shall certify Form 10b to that effect by attaching thereto a docquet in Form 10c (form of docquet etc.).

(3) An order which is deemed to have been granted under paragraph (2) shall be treated for all purposes as an interlocutor granting commission and diligence signed by the sheriff.

(4) The pursuer or defender in the case of a counterclaim may serve an order under paragraph (2) and the provisions of Chapter 18 (recovery of evidence and attendance of witnesses) shall thereafter apply, subject to any necessary modifications, as if the order were an order obtained on an incidental application made under rule 18.1 (diligence for recovery of documents).

(5) Nothing in this rule shall affect the right of a party to apply under rule 18.1 for a commission and diligence for recovery of documents or under rule 18.3 for an order under section 1 of the Administration of Justice (Scotland) Act 1972 in respect of any document or other property whether or not mentioned in the specification annexed to the summons.

Personal injuries action: application of other rules

Application of other rules

34.6.—(1) The following rules do not apply to a personal injuries action—

- rule 4.1(2) (form of claim in a summons);
- rule 4.2 (statement of claim);
- rule 4.3 (defender's copy summons);

- rule 8.1 (response to summons);
- rule 8.2 (procedure in defended action);
- rule 8.3 (purpose of hearing);
- rule 8.5 (inspection and recovery of documents);
- rule 8.6 (exchange of lists of witnesses);
- rule 8.13(1) (noting of evidence, etc.).

(2) In the application of Chapter 11 (third party procedure)—

- (a) rule 11.1(2) (application for third party notice) shall not apply;
- (b) in the application of rule 11.2(1) (procedure) a copy of Form 10 and any timetable already issued in terms of rule 34.7(1)(c) shall also be served on the third party; and
- (c) where a third party lodges a form of response under rule 11.2(3), any timetable already issued under rule 34.7(1)(c) shall apply to the third party.

(3) In respect of adjustments to the parties' respective statements made in accordance with the timetable issued under rule 34.7(1)(c), the requirement under rule 13.1 (alteration of summons etc.) to make an incidental application in respect of such adjustments shall not apply.

(4) In relation to an action proceeding in accordance with personal injuries procedure references elsewhere in these Rules to the statement of claim in the summons shall be construed as references to the statement required under rule 34.2(2) and the numbered paragraphs of that statement.

Personal injuries procedure

Allocation of diets and timetables

34.7.—(1) The sheriff clerk shall, on the lodging of the form of response in pursuance of rule 34.4(1) or, where there is more than one defender, the first lodging of a form of response—

- (a) discharge the hearing assigned to take place on the calling date specified in the summons;
- (b) allocate a diet for 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 the form of response; and
- (c) issue a timetable stating—
 - (i) the date of the diet mentioned in subparagraph (b); and
 - (ii) the dates no later than which the procedural steps mentioned in paragraph (2) are to take place.

(2) Those procedural steps are—

- (a) application for a third party notice under rule 11.1;
- (b) the pursuer serving a commission for recovery of documents under rule 34.5;
- (c) the parties adjusting their respective statements;
- (d) the pursuer lodging with the sheriff clerk a statement of valuation of claim;
- (e) the pursuer lodging with the sheriff clerk a certified adjusted statement of claim;
- (f) the defender (and any third party to the action) lodging with the sheriff clerk a certified adjusted response to statement of claim;
- (g) the defender (and any third party to the action) lodging with the sheriff clerk a statement of valuation of claim;

- (h) the parties lodging with the sheriff clerk a list of witnesses together with any productions upon which they wish to rely; and
- (i) the pursuer lodging with the sheriff clerk the minute of the pre-proof conference.

(3) The dates mentioned in paragraph (1)(c)(ii) are to be calculated by reference to periods specified in Appendix 1A, which, with the exception of the period specified in rule 34.10(2), the sheriff principal may vary for his or her sheriffdom or for any court within his or her sheriffdom.

(4) A timetable issued under paragraph (1)(c) shall be in Form 10d and shall be treated for all purposes as an interlocutor signed by the sheriff; and so far as the timetable is inconsistent with any provision in these Rules which relates to a matter to which the timetable relates, the timetable shall prevail.

(5) Where a party fails to comply with any requirement of a timetable other than that referred to in paragraph (10) or rule 34.10(3), the sheriff clerk may fix a date and time for the parties to be heard by the sheriff.

(6) The relevant parties must lodge with the sheriff clerk the following documents by the date specified in the timetable and intimate that fact to the other parties at the same time—

- (a) in the case of the pursuer, a certified adjusted statement of claim; and
- (b) in the case of the defender (and any third party to the action), a certified adjusted response to statement of claim.

(7) The pursuer shall, on lodging the certified adjusted statement of claim required by paragraph (6)(a), apply by incidental application to the sheriff, craving the court—

- (a) to allow parties a preliminary proof on specified matters;
- (b) to allow a proof; or
- (c) to make some other specified order.

(8) The application lodged under paragraph (7) shall specify the anticipated length of the preliminary proof, or proof, as the case may be.

(9) In the event that any party proposes to crave the court to make any order other than an order allowing a proof under paragraph (7)(b), that party shall, on making or opposing (as the case may be) the pursuer's application, specify the order to be sought and give full notice of the grounds of their application or their grounds of opposition to such application.

(10) Where a party fails to lodge the documents required under paragraph (6) by the date specified in the timetable issued under paragraph (1)(c), the sheriff clerk must fix a date and time for the parties to be heard by the sheriff.

(11) A party who seeks to rely on the evidence of a person not on his or her list lodged in accordance with paragraph (2)(h) 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.

(12) The list of witnesses intimated in accordance with paragraph (2)(h) 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 2004 Act^(a) and whether any child witness notice or vulnerable witness application has been lodged in respect of that witness.

(13) A production which is not lodged in accordance with paragraph (2)(h) shall not be used or put in evidence at proof unless—

- (a) by consent of the parties; or
- (b) with the leave of the sheriff on cause shown and on such conditions, if any, as to expenses or otherwise as the sheriff thinks fit.

(a) The Vulnerable Witnesses (Scotland) Act 2004 (asp 3).

(14) In a cause which is one of a number of causes arising out of the same cause of action, the sheriff may—

- (a) on the application of a party to that cause; and
- (b) after hearing parties to all those causes,

appoint that cause or any part of those causes to be the leading cause and to sist the other causes pending the determination of the leading cause.

(15) In this rule, “pursuer” includes additional pursuer or applicant as the case may be.

Applications for sist or for variation of timetable

34.8.—(1) The action may be sisted or the timetable varied by the sheriff on the incidental application of any party to the action.

(2) An application under paragraph (1)—

- (a) shall be placed before the sheriff; and
- (b) shall be granted only on special cause shown.

(3) Any sist of an action in terms of this rule shall be for a specific period.

(4) Where the timetable issued under rule 34.7(1)(c) is varied under this rule, the sheriff clerk shall issue a revised timetable in Form 10d.

(5) A revised timetable issued under paragraph (4) shall have effect as if it were a timetable issued under rule 34.7(1)(c) and any reference in this Chapter to any action being taken in accordance with the timetable shall be construed as a reference to its being taken in accordance with the timetable as varied under this rule.

Statements of valuation of claim

34.9.—(1) Each party to the action shall make a statement of valuation of claim in Form 10e.

(2) A statement of valuation of claim (which shall include a list of supporting documents) shall be lodged with the sheriff clerk.

(3) Each party shall, on lodging a statement of valuation of claim—

- (a) intimate the list of documents included in the statement of valuation of claim to every other party; and
- (b) lodge each of those documents with the sheriff clerk.

(4) Nothing in paragraph (3) shall affect—

- (a) the law relating to, or the right of a party to object to, the recovery of a document on the ground of privilege or confidentiality; or
- (b) the right of a party to apply under rule 18.1 for a commission and diligence for recovery of documents or under rule 18.3 for an order under section 1 of the Administration of Justice (Scotland) Act 1972(a).

(5) Without prejudice to rule 34.11(2), where a party has failed to lodge a statement of valuation of claim in accordance with a timetable issued under rule 34.7(1)(c), the sheriff may, at any hearing under paragraph (5) of that rule—

- (a) where the party in default is the pursuer, dismiss the action; or
- (b) where the party in default is the defender, grant decree against the defender for an amount not exceeding the pursuer’s valuation.

(a) 1972 c.59. Section 1 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), sections 19, 23 and 59 and Schedule 2, paragraph 15; the Civil Jurisdiction and Judgments Act 1982 (c.27), section 28; the Drug Trafficking Offences Act 1986 (c.32), section 21(4); the Criminal Justice (Scotland) Act 1987 (c.41), section 28(4); and the Criminal Justice Act 1988 (c.33), sections 91(4) and 123 and Schedule 8, paragraph 16.

Pre-proof conferences

34.10.—(1) For the purposes of this rule, a pre-proof conference is a conference of the parties, which shall be held not later than four weeks before the date assigned for the proof—

- (a) to discuss settlement of the action; and
- (b) to agree, so far as is possible, the matters which are not in dispute between them.

(2) Subject to any variation of the timetable in terms of rule 34.8, a joint minute of a pre-proof conference, made in Form 10f, shall be lodged with the sheriff clerk by the pursuer not later than three weeks before the date assigned for proof.

(3) Where a joint minute in Form 10f has not been lodged in accordance with paragraph (2) and by the date specified in the timetable the sheriff clerk must fix a date and time for the parties to be heard by the sheriff.

(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.

Incidental hearings

34.11.—(1) Where the sheriff clerk fixes a date and time for a hearing under rules 34.7(5) or (10) or rule 34.10(3), the sheriff clerk must—

- (a) fix a date not less than seven days after the date of the notice referred to in subparagraph (b);
- (b) give notice to the parties to the action—
 - (i) of the date and time of the hearing; and
 - (ii) requiring the party in default to lodge with the sheriff clerk a written explanation as to why the timetable has not been complied with and to intimate a copy to all other parties not less than two clear working days before the date of the hearing.

(2) At the hearing, the sheriff—

- (a) must consider any explanation provided by the party in default;
- (b) may award expenses against that party; and
- (c) may make any other appropriate order, including decree of dismissal.

Personal injuries action: additional provisions

Intimation to connected persons in certain actions of damages

34.12.—(1) This rule applies to an action of damages in which, following the death of any person from personal injuries, damages are claimed—

- (a) in respect of the injuries from which the deceased died; or
- (b) in respect of the death of the deceased.

(2) In this rule “connected person” means a person, not being a party to the action, who has title to sue the defender in respect of the personal injuries from which the deceased died or in respect of his or her death.

(3) The pursuer shall state in the summons, as the case may be—

- (a) that there are no connected persons;
- (b) that there are connected persons, being the persons specified in the application for warrant for intimation; or
- (c) that there are connected persons in respect of whom intimation should be dispensed with on the ground that—

- (i) the names or whereabouts of such persons are not known to, and cannot reasonably be ascertained by, the pursuer; or
 - (ii) such persons are unlikely to be awarded more than £200 each.
- (4) Where the pursuer makes a statement in accordance with paragraph (3)(b), the summons shall include an application for warrant for intimation to any such persons.
- (5) A notice of intimation in Form 10g shall be attached to the copy of the summons, where intimation is given on a warrant under paragraph (4).
- (6) Where the pursuer makes a statement in accordance with paragraph (3)(c), the summons shall include an application for an order to dispense with intimation.
- (7) In determining an application under paragraph (6), the sheriff shall have regard to—
- (a) the desirability of avoiding a multiplicity of actions; and
 - (b) the expense, inconvenience or difficulty likely to be involved in taking steps to ascertain the name or whereabouts of the connected person.
- (8) Where the sheriff is not satisfied that intimation to a connected person should be dispensed with, the sheriff may—
- (a) order intimation to a connected person whose name and whereabouts are known;
 - (b) order the pursuer to take such further steps as the sheriff may specify in the interlocutor to ascertain the name or whereabouts of any connected person; and
 - (c) order advertisement in such manner, place and at such times as the sheriff may specify in the interlocutor.
- (9) Where the name or whereabouts of a person, in respect of whom the sheriff has dispensed with intimation on a ground specified in paragraph (3)(c), subsequently becomes known to the pursuer, the pursuer shall apply to the sheriff by incidental application for a warrant for intimation to such a person; and such intimation shall be made in accordance with paragraph (5).
- (10) A connected person may apply by incidental application to be sisted as an additional pursuer to the action.
- (11) An application under paragraph (10) shall also seek leave of the sheriff to adopt the existing grounds of action and to amend the summons and statement of claim.
- (12) Where an application under paragraph (10) is granted, any timetable already issued under rule 34.7(1)(c)—
- (a) shall apply to such connected person; and
 - (b) must be intimated to such person by the sheriff clerk.
- (13) Where a connected person to whom intimation is made—
- (a) does not apply to be sisted as an additional pursuer to the action;
 - (b) subsequently raises a separate action against the same defender in respect of the same personal injuries or death; and
 - (c) would, apart from this rule, be awarded the expenses or part of the expenses of that action,
- such person shall not be awarded those expenses except on cause shown.

Provisional damages for personal injuries

34.13.—(1) In this rule—

“further damages” means the damages referred to in section 12(4)(b) of the 1982 Act(a); and

(a) 1982 c.53.

“provisional damages” means the damages referred to in section 12(4)(a) of the 1982 Act.

(2) An application for an order under section 12(2)(a) of the 1982 Act (application for provisional damages) shall be made by including in the summons a claim for provisional damages in Form 10h, and where such application is made, a concise statement as to the matters referred to in paragraphs (a) and (b) of section 12(1) of that Act must be included in the statement of claim.

(3) An application for further damages by a pursuer in respect of whom an order has been made under section 12(2)(b) of the 1982 Act (application for further damages) shall be made by lodging an incidental application with the sheriff clerk in Form 10i, which shall include—

- (a) a claim for further damages;
- (b) a concise statement of the facts supporting that claim;
- (c) an application for warrant to serve the incidental application on—
 - (i) every other party; and
 - (ii) where such other parties are insured or otherwise indemnified, their insurer or indemnifier, if known to the pursuer; and
- (d) a request for the sheriff to fix a hearing on the application.

(4) A notice of intimation in Form 10j shall be attached to every copy of the incidental application served on a warrant granted under paragraph (3)(c).

(5) At the hearing fixed under paragraph (3)(d), the sheriff may determine the application or order such further procedure as the sheriff thinks fit.

Mesothelioma actions: special provisions

34.14.—(1) This rule applies where liability to a relative of the pursuer may arise under section 5 of the Damages (Scotland) Act 2011(a) (discharge of liability to pay damages: exception for mesothelioma).

(2) On settlement of the pursuer’s claim, the pursuer may apply by incidental application for all or any of the following—

- (a) a sist for a specified period;
- (b) discharge of any diet;
- (c) where the action is one to which the personal injuries procedure applies, variation of the timetable issued under rule 34.7(1)(c).

(3) Paragraphs (4) to (7) apply where an application under paragraph (2) has been granted.

(4) As soon as reasonably practicable after the death of the pursuer, any agent who immediately prior to the death was instructed in a cause by the deceased pursuer shall notify the court of the death.

(5) The notification under paragraph (4) shall be by letter to the sheriff clerk and shall be accompanied by a certified copy of the death certificate relative to the deceased pursuer.

(6) A relative of the deceased may apply by incidental application for the recall of the sist and for an order for further procedure.

(7) On expiration of the period of any sist pronounced on an application under paragraph (2), the sheriff clerk may fix a date and time for the parties to be heard by the sheriff.”.

(4) In Appendix 1 (forms)—

(a) 2011 asp 7.

- (a) in Form 1 (summary cause summons), on page 1, Box 6, after “form *1a/1b/1c” insert “/1d/1e/1f”;
 - (b) in Form 1a (defender’s copy summons – time to pay direction/time order) on page 6, Section B, Box 3, omit “OR *I return form 10b (personal injury cases only).”;
 - (c) in Form 1b (defender’s copy summons – other monetary claim) on page 4, Section B, omit “OR *I return Form 10b (personal injury cases only).”;
 - (d) after Form 1d (defender’s copy summons – multiplepoiniding) insert Forms 1e and 1f set out in Schedule 1 to this Act of Sederunt;
 - (e) substitute the forms set out in Schedule 2 to this Act of Sederunt for the existing Forms 10, 10a, 10b, 10c, 10d, 10e, 10f and 10g.
- (5) After Appendix 1 insert Appendix 1A set out in Schedule 3 to this Act of Sederunt.

Transitional and saving provision

3.—(1) Paragraph 2 of this Act of Sederunt shall not apply to an action raised before 1st September 2012.

(2) In relation to any action raised in respect of any death occurring before 7th July 2011, rule 34.14 of the Summary Cause Rules shall be construed in accordance with article 4 of the Damages (Scotland) Act 2011 (Commencement, Transitional Provisions and Savings) Order 2011(a).

A.C. HAMILTON
Lord President
I.P.D.

Edinburgh
16th May 2012

(a) S.S.I. 2011/268.

SCHEDULE 1

Paragraph 2(4)(d)

Form 1e

OFFICIAL USE ONLY
SUMMONS No.

Rule 34.3(1)(a)

Summary Cause Summons - Personal Injuries Action

DEFENDER'S COPY: Claim for payment of money in a personal injuries action (where time to pay direction may be applied for)

Sheriff Court
(name, address, e-mail
and telephone no.) **1**

Name and address of
person raising the action
(**pursuer**) **2**

Name and address of
person against whom
action raised (**defender,**
arrestee, etc.) **3**

Name(s) and address(es)
of any interested party
(e.g. connected person) **3a**

Claim (form of decree or
other order sought) **4**

Name, full address,
telephone no., and e-mail
address of pursuer's
solicitor or representative
(if any) acting in the case **5**

6

| | |
|---------------------|------------------|
| RETURN DAY | 20 |
| CALLING DATE | 20 at am. |

NOTE: You will find details of the claim in the attached Form 10 (statement of claim in a personal injuries action).

**7. STATEMENT OF CLAIM
(Pursuer to attach copy Form 10 (statement of claim in a personal injuries action))**

The details of the claim are as stated in the attached copy Form 10.

8. SERVICE ON DEFENDER

| | |
|----------------|-------------------|
| (Place) | (Date) |
| To: | (Defender) |

You are hereby served with a copy of the above summons.

Solicitor / sheriff officer
delete as appropriate

NOTE: The pursuer should complete boxes 1 to 6 on page 1, attach a copy of the Form 10, (statement of claim) and complete section A on page 6 before service on the defender. The pursuer should also enclose a form of response in Form 10a. The person serving the Summons will complete box 8, above.

WHAT MUST I DO ABOUT THIS SUMMONS?

The RETURN DAY (on page 1 of this summons) is the deadline by which you need to reply to the court. You must send the correct forms back (see below for details) by this date if you want the court to hear your case. If you do not do this, in most cases there will not be a hearing about your case and the court will make a decision in your absence.

The CALLING DAY (on page 1 of this summons) is the date when the court will deal with your case should you not respond to this summons, or the date of the court hearing should you admit the claim and the court is required to consider your application to pay the sum claimed by instalments or by deferred lump sum.

You should decide whether you wish to dispute the claim and/or whether you owe any money or not, and how you wish to proceed. Then, look at the 4 options listed below. Find the one that covers your decision and follow the instructions given there.

You may have a policy of insurance that could indemnify you against this claim. This could be motor, home contents, buildings, travel or some other form of liability insurance that may offer cover to meet legal costs to defend this claim or to meet any claim against you that is admitted or proved. If you believe you have any such insurance cover, you should **immediately** contact your insurer and take steps to forward to them details of this claim.

IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE you should consult a solicitor. You may also obtain advice from a Citizens Advice Bureau or other advice agency. Alternatively, if you are not sure what you need to do, contact the sheriff clerk's office before the return day. Written guidance is available from the Scottish Court Service website (www.scotcourts.gov.uk).

OPTIONS

1. ADMIT LIABILITY FOR THE CLAIM and settle it with the pursuer now.

If you wish to avoid the possibility of a court order passing against you, you should settle the claim (including any question of expenses) with the pursuer or their representative **in good time before the return day**. Please do not send any payment direct to the court. Any payment should be made to the pursuer or their representative.

2. ADMIT LIABILITY FOR THE CLAIM and make written application to pay by instalments or by deferred lump sum.

Complete Box 1 of section B on page 6 of this form and return pages 6, 7 and 8 to the court **to arrive on or before the return day**. You should then contact the court to find out whether or not the pursuer has accepted your offer. If the pursuer has not accepted it, the case will then call in court on the calling date, when the court will decide how the amount claimed is to be paid.

NOTE: If you fail to return pages 6, 7 and 8 as directed, or if, having returned them, you fail to attend or are not represented at the calling date if the case is to call, the court may decide the claim in your absence.

3. ADMIT LIABILITY FOR THE CLAIM and attend at court to make application to pay by instalments or deferred lump sum.

Complete Box 2 of section B on page 6 of this form. Return page 6 to the court so that it arrives **on or before the return day**.

PAGE 3

You must attend personally, or be represented, at court on the calling date. Your representative may be a solicitor, or someone else having your authority. It may be helpful if you or your representative bring pages 1 and 2 of this Form and Form 10 to the court.

NOTE: If you fail to return page 6 as directed, or if, having returned it, you fail to attend or are not represented at the calling date, the court may decide the claim in your absence.

4. DISPUTE THE CLAIM for any of the following reasons:

- Challenge the jurisdiction of the court or the competency of the action;
- Defend the action;
- Dispute the sum claimed; or
- State a counterclaim.

You must complete Box 3 of Section B on page 6 and the attached form of response in Form 10a, stating in a manner which gives the pursuer fair notice, the grounds of fact and law on which you intend to resist the claim, or counterclaim, and return these to the court so that they arrive **on or before the return day**. Thereafter, the case **will not** call in court on the calling date and you do not require to attend or be represented at court on that date. The sheriff clerk will send to you or your representative a timetable confirming the anticipated date for the hearing of evidence and the dates by which various procedural matters must be undertaken. Your representative may be a solicitor or someone else having your authority.

NOTE: If you fail to return page 6 and the completed Form 10a as directed, the case may call on the calling date, and the court may decide the claim in your absence.

PLEASE NOTE

If you do nothing about this summons, the court will almost certainly, where appropriate, grant decree against you and order you to pay the pursuer the sum claimed, including any interest and expenses found due.

YOU ARE ADVISED TO KEEP PAGES 1 AND 2 AND FORM 10, AS THEY MAY BE USEFUL AT A LATER STAGE OF THE CASE.

Notes:

(1) Time to pay directions

The Debtors (Scotland) Act 1987 gives you the right to apply to the court for a “time to pay direction”. This is 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 a time to pay direction it may also recall or restrict any arrestment made on your property by the pursuer in connection with the action or debt (for example, your bank account may have been frozen).

No court fee is payable when making an application for a time to pay direction.

If a time to pay direction is made, a copy of the court order (called an extract decree) will be sent to you by the pursuer telling you when payment should start or when it is you have to pay the lump sum.

If a time to pay direction is not made, and an order for immediate payment is made against you, an order to pay (called a charge) may be served on you if you do not pay.

(2) Determination of application

Under the 1987 Act, the court is required to make a time to pay direction 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 decree is granted
- 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.

SECTION A
This section must be completed before service

| | |
|--|--------------|
| | Summons No |
| | Return Day |
| | Calling Date |

SHERIFF COURT (Including address)

| | |
|--|--|
| | |
| | |
| | |
| | |
| | |

PURSUER'S FULL NAME AND ADDRESS

DEFENDER'S FULL NAME AND ADDRESS

SECTION B DEFENDER'S RESPONSE TO THE SUMMONS

**** Delete those boxes which do not apply**

****Box 1**

ADMIT LIABILITY FOR THE CLAIM and make written application to pay by instalments or by deferred lump sum.

I do not intend to defend the case but admit liability for the claim.

I wish to make a written application about payment.

I have completed the application form on pages 7 and 8.

****Box 2**

ADMIT LIABILITY FOR THE CLAIM and attend at court to make application to pay by instalments or deferred lump sum.

I admit liability for the claim.

I intend to appear or be represented at court on the calling date

****Box 3**

DISPUTE THE CLAIM (or the amount due)

- *I intend to challenge the jurisdiction of the court.
- *I intend to challenge the competency of the action.
- *I intend to defend the action/state a counterclaim.
- *I wish to dispute the amount due only.

*I apply for warrant to serve a third party notice (see page 10).

**delete as necessary*

I attach completed Form 10a stating my proposed defence/counterclaim.

PLEASE REMEMBER: You must send your response to the court to **arrive on or before the return day** if you have completed a response in Section B. If you have admitted the claim, please do not send any payment direct to the court. **Any payments you wish to make should be made to the pursuer or their solicitor.**

APPLICATION IN WRITING FOR A TIME TO PAY DIRECTION UNDER THE DEBTORS
(SCOTLAND) ACT 1987

I WISH TO APPLY FOR A TIME TO PAY DIRECTION

I admit the claim and make application to pay as follows:

(1) By instalments of £ _____ per *week / fortnight / month

OR

(2) In one payment within _____ *weeks / months from the date of the court order.

The debt is for (*specify the nature of the debt*) and has arisen (*here set out the reasons the debt has arisen*):

Please also state why you say a time to pay direction should be made. In doing so, please consider the Notes (1) and (2) on page 5.

To help the court please provide details of your financial position in the boxes below.

I am employed / self-employed / unemployed

***Please also indicate whether payment/receipts are weekly, fortnightly or monthly**

| My outgoings are: | *Weekly / fortnightly / monthly |
|-----------------------------|--|
| Rent/mortgage | £ |
| Council tax | £ |
| Gas/electricity etc | £ |
| Food | £ |
| Loans and credit agreements | £ |
| Phone | £ |
| Other | £ |
| Total | £ |

| My net income is | *Weekly / fortnightly / monthly |
|-------------------------|--|
| Wages/pensions | £ |
| State benefits | £ |
| Tax credits | £ |
| Other | £ |
| | |
| | |
| Total | £ |

People who rely on your income (e.g. spouse/civil partner/partner/children) – how many

Please list details of all capital held, e.g. value of house; amount in savings account, shares or other investments:

I am of the opinion that the payment offer is reasonable for the following reason(s):

Here set out any information you consider relevant to the court's determination of the application. In doing so, please consider Note (2) on page 5.

***APPLICATION FOR RECALL OR RESTRICTION OF AN ARRESTMENT**

I seek the recall or restriction of the arrestment of which the details are as follows:

**Delete if inapplicable*

Date:

APPLICATION FOR SERVICE OF A THIRD PARTY NOTICE

NOTE:

You can apply to have another party added to the action if:

(A) You think that, as regards the matter which the action is about, that other party has a duty to:

1. Indemnify you; or
2. Make a contribution in respect of the matter; or
3. Relieve you from any responsibility as regards it.

or

(B) You think that other party is:

1. Solely liable to the pursuer; or
2. Liable to the pursuer along with you; or
3. Has a liability to you as a result of the pursuer's claim against you.

You may apply for warrant to found jurisdiction if you wish to do so.

FORM OF APPLICATION

(TO BE RETURNED TO THE COURT ALONG WITH YOUR RESPONSE)

I request the court to grant warrant for service of a third party notice on the following party:

Name:

Address:

The reason I wish a third party notice to be served on the party mentioned above is as follows:
(Give details below of the reasons why you wish the party to be made a defender in the action.)

*I apply for warrant to found jurisdiction

**delete as appropriate*

Date:

Rule 34.3(1)(b)

Summary Cause Summons - Personal Injuries Action

DEFENDER’S COPY: Claim for payment of money in a personal injuries action (where time to pay direction may be applied for)

| | | |
|---|---|--|
| Sheriff Court (name, address, e-mail and telephone no.) | 1 | |
|---|---|--|

| | | |
|--|---|--|
| Name and address of person raising the action (pursuer) | 2 | |
|--|---|--|

| | | |
|---|---|--|
| Name and address of person against whom action raised (defender, arrestee, etc.) | 3 | |
|---|---|--|

| | | |
|---|----|--|
| Name(s) and address(es) of any interested party (e.g. connected person) | 3a | |
|---|----|--|

| | | |
|---|---|--|
| Claim (form of decree or other order sought) | 4 | |
|---|---|--|

| | | |
|--|---|--|
| Name, full address, telephone no., and e-mail address of pursuer’s solicitor or representative (if any) acting in the case | 5 | |
|--|---|--|

| | | | | | |
|---|---------------------|-----------|-----------|------------|--|
| 6 | RETURN DAY | 20 | | | |
| | CALLING DATE | 20 | at | am. | |

NOTE: You will find details of the claim in the attached Form 10 (statement of claim in a personal injuries action).

| | | | | | |
|----------------|--|----------------|---------------|------------|-------------------|
| 7. | <p>STATEMENT OF CLAIM (Pursuer to attach copy Form 10 (statement of claim in a personal injuries action))</p> <p>The details of the claim are as stated in the attached copy Form 10.</p> | | | | |
| 8. | <p>SERVICE ON DEFENDER</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">(Place)</td> <td style="width: 50%;">(Date)</td> </tr> <tr> <td>To:</td> <td>(Defender)</td> </tr> </table> <p>You are hereby served with a copy of the above summons.</p> <p style="text-align: right;">Solicitor / sheriff officer <i>delete as appropriate</i></p> | (Place) | (Date) | To: | (Defender) |
| (Place) | (Date) | | | | |
| To: | (Defender) | | | | |

NOTE: The pursuer should complete boxes 1 to 6 on page 1, attach a copy of the Form 10, (statement of claim) and complete section A on page 6 before service on the defender. The pursuer should also enclose a form of response in Form 10a. The person serving the Summons will complete box 8, above.

WHAT MUST I DO ABOUT THIS SUMMONS?

The RETURN DAY (on page 1 of this summons) is the deadline by which you need to reply to the court. You must send the correct forms back (see below for details) by this date if you want the court to hear your case. If you do not do this, in most cases there will not be a hearing about your case and the court will make a decision in your absence.

The CALLING DAY (on page 1 of this summons) is the date when the court will deal with your case should you not respond to this summons.

You should decide whether you wish to dispute the claim and/or whether you owe any money or not, and how you wish to proceed. Then, look at the 2 options listed on the next page. Find the one that covers your decision and follow the instructions given there.

You may have a policy of insurance that could indemnify you against this claim. This could be motor, buildings, travel or some other form of liability insurance that may offer cover to meet legal costs to defend this claim or to meet any claim against you that is admitted or proved. If you believe you have any such insurance cover, you should **immediately** contact your insurer and take steps to forward to them details of this claim.

IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE you should consult a solicitor. You may also obtain advice from a Citizens Advice Bureau or other advice agency. Alternatively, if you are not sure what you need to do, contact the sheriff clerk's office before the return day. Written guidance is available from the Scottish Court Service website (www.scotcourts.gov.uk).

OPTIONS

1. ADMIT LIABILITY FOR THE CLAIM and settle it with the pursuer now.

If you wish to avoid the possibility of a court order passing against you, you should settle the claim (including any question of expenses) with the pursuer or their representative **in good time before the return day**. Please do not send any payment direct to the court. Any payment should be made to the pursuer or their representative.

2. DISPUTE THE CLAIM for any of the following reasons:

- Challenge the jurisdiction of the court or the competency of the action;
- Defend the action;
- Dispute the sum claimed; or
- State a counterclaim.

You must complete Section B on page 5 and the attached form of response in Form 10a, stating in a manner which gives the pursuer fair notice, the grounds of fact and law on which you intend to resist the claim, or counterclaim, and return these to the court so that they arrive **on or before the return day**. Thereafter, the case **will not** call in court on the calling date and you do not require to attend or be represented at court on that date. The sheriff clerk will send to you or your representative a timetable confirming the anticipated date for the hearing of evidence and the dates by which various procedural matters must be undertaken. Your representative may be a solicitor or someone else having your authority.

NOTE: If you fail to return page 5 and the completed Form 10a as directed, the case may call on the calling date, and the court may decide the claim in your absence.

PLEASE NOTE

If you do nothing about this summons, the court will almost certainly, where appropriate, grant decree against you and order you to pay the pursuer the sum claimed, including any interest and expenses found due.

YOU ARE ADVISED TO KEEP PAGES 1 AND 2 AND FORM 10, AS THEY MAY BE USEFUL AT A LATER STAGE OF THE CASE.

SECTION A
This section must
be completed
before service

| |
|--|
| |
| |
| |
| |

| |
|--------------|
| Summons No |
| Return Day |
| Calling Date |

SHERIFF COURT (Including address)

| |
|--|
| |
| |
| |
| |
| |

| |
|--|
| |
| |
| |
| |
| |

PURSUER'S FULL NAME
AND ADDRESS

DEFENDER'S FULL NAME AND
ADDRESS

SECTION B **DEFENDER'S RESPONSE TO THE SUMMONS**
**** Delete those boxes which do not apply**

| |
|--|
| <p>DISPUTE THE CLAIM (or the amount due) *I intend to challenge the jurisdiction of the court. *I intend to challenge the competency of the action. *I intend to defend the action/state a counterclaim. *I wish to dispute the amount due only.</p> <p>*I apply for warrant to serve a third party notice (see page 6). <i>*delete as necessary</i></p> <p>_____</p> <p>I attach completed Form 10a stating my proposed defence/counterclaim.</p> |
|--|

PLEASE REMEMBER: You must send your response to the court to **arrive on or before the return day** if you have completed a response in Section B. If you have admitted the claim, please do not send any payment direct to the court. **Any payments you wish to make should be made to the pursuer or their solicitor.**

APPLICATION FOR SERVICE OF A THIRD PARTY NOTICE

NOTE:

You can apply to have another party added to the action if:

(A) You think that, as regards the matter which the action is about, that other party has a duty to:

1. Indemnify you; or
2. Make a contribution in respect of the matter; or
3. Relieve you from any responsibility as regards it.

or

(B) You think that other party is:

1. Solely liable to the pursuer; or
2. Liable to the pursuer along with you; or
3. Has a liability to you as a result of the pursuer's claim against you.

You may apply for warrant to found jurisdiction if you wish to do so.

FORM OF APPLICATION

(TO BE RETURNED TO THE COURT ALONG WITH YOUR RESPONSE)

I request the court to grant warrant for service of a third party notice on the following party:

Name:

Address:

The reason I wish a third party notice to be served on the party mentioned above is as follows:
(Give details below of the reasons why you wish the party to be made a defender in the action.)

*I apply for warrant to found jurisdiction

**delete as appropriate*

Date:

PAGE 7

SCHEDULE 2

Paragraph 2(4)(e)

Court ref. no:

Form 10

Rule 34.2(2)

Form of statement of claim in a personal injuries action

1. The pursuer is (*state designation, address, occupation, date of birth and National Insurance number (where applicable) of the pursuer*). (*In an action arising out of the death of a relative state designation of the deceased and relation to the pursuer*).
2. The defender is (*state designation, address and occupation of the defender*).
3. The court has jurisdiction to hear this claim against the defender because (*state briefly ground of jurisdiction*).
4. (*State briefly the facts necessary to establish the claim*).
5. (*State briefly the personal injuries suffered and the heads of claim. Give names and addresses of medical practitioners and hospitals or other institutions in which the person injured received treatment*).
6. (*State whether claim based on fault at common law or breach of statutory duty; if breach of statutory duty, state provision of enactment*).

Form 10a

Rules 34.3(2) and 34.4(1)

Form of response (action for damages: personal injuries)

Court ref. no:

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

in the cause

[A.B.], *(insert name and address)*, Pursuer

against

[C.D.], *(insert name and address)*, Defender

RESPONSE TO STATEMENT OF CLAIM

| <i>Question</i> | <i>Response</i> |
|---|-----------------|
| 1. Is it intended to dispute the description and designation of the pursuer? If so, why? | |
| 2. Is the description and designation of the defender disputed? If so, why? | |
| 3. Is there any dispute that the court has jurisdiction to hear the claim? If so, why? | |
| 4. (a) State which facts in paragraph 4 of the statement of claim are admitted. | |
| (b) State any facts regarding the circumstances of the claim upon which the defender intends to rely. | |
| 5. (a) State whether the nature and extent of the pursuer's injuries is disputed and whether medical reports can be agreed. | |

- (b) If the defender has a medical report upon which he or she intends to rely to contradict the pursuer's report in any way, state the details.
 - (c) State whether the claims for other losses are disputed in whole or in part.
- 6.
- (a) Does the defender accept that the common law duty or duties in the statement of claim were incumbent upon them in the circumstances? If not, state why.
 - (b) Does the defender accept that the statutory duty or duties alleged in the statement of claim were incumbent upon them in the circumstances? If not, state why.
 - (c) State any other provisions or propositions upon which the defender proposes to rely in relation to the question of their liability for the accident including, if appropriate, details of any allegation of contributory negligence.
 - (d) Does the defender allege that the accident was caused by any other wrongdoer? If so, give details.
 - (e) Does the defender allege that they are entitled to be indemnified or relieved from any liability they might have to the pursuer? If so, give details.
7. Does the defender intend to pursue a counterclaim against the pursuer? If so, give details.

(Insert date)

(signature, designation and address)

Form 10b

Rules 34.2(3)(b) and 34.4(2)(b)

Form of order of court for recovery of documents in personal injuries action

Court ref. no:

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

SPECIFICATION OF DOCUMENTS

in the cause

[A.B.], *(insert name and address)*, Pursuer

against

[C.D.], *(insert name and address)*, Defender

To: *(insert name and address of party or parties from whom the following documents are sought to be recovered)*.

You are hereby required to produce to the sheriff clerk at *(insert address)* within seven days of the service on you of this Order:

[Insert such of the following calls as are required]

1. All books, medical records, reports, charts, X-rays, notes and other documents of *(specify the name of each medical practitioner or general practitioner practice named in summons in accordance with rule 34.2(2)(b))*, and relating to the pursuer *[or, as the case may be, the deceased]* from *(insert date)*, in order that excerpts may be taken therefrom at the sight of the Commissioner of all entries showing or tending to show the nature, extent and cause of the pursuer's *[or, as the case may be, the deceased's]* injuries when he or she attended his or her doctor on or after *(specify date)* and the treatment received by him or her since that date.
2. All books, medical records, reports, charts, X-rays, notes and other documents of *(specify, in separate calls, the name of each hospital or other institution named in summons in accordance with rule 34.2(2)(b))*, and relating to the pursuer *[or, as the case may be, the deceased]* from *(insert date)*, in order that excerpts may be taken therefrom at the sight of the Commissioner of all entries showing or tending to show the nature, extent and cause of the pursuer's *[or, as the case may be, the deceased's]* injuries when he or she was admitted to that institution on or about *(specify date)*, the treatment received by him or her since that date and his or her certificate of discharge, if any.
3. The medical records and capability assessments held by the defender's occupational health department relating to the pursuer *[or, as the case may be, the deceased]*, except insofar as prepared for or in contemplation of litigation, in order that excerpts may be taken therefrom at the sight of the Commissioner of all entries showing or tending to show the nature and extent of any injuries, symptoms and conditions from which the pursuer *[or, as the case may be, the deceased]* was suffering and the nature of any assessment and diagnosis made thereof on or subsequent to *(specify date)*.

4. All wage books, cash books, wage sheets, computer records and other earnings information relating to the pursuer [*or, as the case may be, the deceased*] (N.I. number (*specify number*)) held by or on behalf of (*specify employer*), for the period (*specify dates commencing not earlier than 26 weeks prior to the date of the accident or the first date of relevant absence, as the case may be*) in order that excerpts may be taken therefrom at the sight of the Commissioner of all entries showing or tending to show—
 - (a) the pursuer's [*or, as the case may be, the deceased's*] earnings, both gross and net of income tax and employee National Insurance Contributions, over the said period;
 - (b) the period or periods of the pursuer's [*or, as the case may be, the deceased's*] absence from employment over the said period and the reason for absence;
 - (c) details of any increases in the rate paid over the period (*specify dates*) and the dates on which any such increases took effect;
 - (d) the effective date of, the reasons for and the terms (including any terms relative to any pension entitlement) of the termination of the pursuer's [*or, as the case may be, the deceased's*] employment;
 - (e) the nature and extent of contributions (if any) to any occupational pension scheme made by the pursuer [*or, as the case may be, the deceased*] and his or her employer;
 - (f) the pursuer's present entitlement (if any) to any occupational pension and the manner in which said entitlement is calculated.

5. All accident reports, memoranda or other written communications made to the defender or anyone on his or her behalf by an employee of the defender who was present at or about the time at which the pursuer [*or, as the case may be, the deceased*] sustained the injuries in respect of which the summons in this cause was issued and relevant to the matters contained in the statement of claim.

6. Any assessment current at the time of the accident referred to in the summons or at the time of the circumstances referred to in the summons giving rise to the cause of action (as the case may be) undertaken by or on behalf of the defender for the purpose of regulation 3 of the Management of Health and Safety at Work Regulations 1992 and subsequently regulation 3 of the Management of Health and Safety at Work Regulations 1999 [*or (specify the regulations or other legislative provision under which the risk assessment is required)*] in order that excerpts may be taken therefrom at the sight of the Commissioner of all entries relating to the risks posed to workers [*or (specify the matters set out in the statement of claim to which the risk assessment relates)*].

7. Failing principals, drafts, copies or duplicates of the above or any of them.

Date (*insert date of posting or other method of service*) (*Insert signature, name and business address of the agent for the pursuer*)

NOTES:

1. The documents recovered will be considered by the parties to the action and they may or may not be lodged with the sheriff clerk. A written receipt will be given or sent to you by the sheriff clerk, who may thereafter allow them to be inspected by the parties. The party in whose possession the documents are will be responsible for their safekeeping.
2. Payment may be made, within certain limits, in respect of claims for outlays incurred in relation to the production of documents. Claims should be made in writing to the person who has obtained an order that you produce the documents.
3. If you claim that any of the documents produced by you is **confidential** you must still produce such documents but may place them in a separate sealed packet by themselves, marked "CONFIDENTIAL". Any party who wishes to open the sealed packet must apply to the sheriff by incidental application. A party who makes such an application must intimate the application to you.
4. Subject to paragraph 3 above, you may produce these documents by sending them by registered post or by recorded delivery service, or by hand delivery to the sheriff clerk at (*insert address*).

CERTIFICATE

I hereby certify with reference to the above order of the sheriff at (*insert name of sheriff court*) in the case (*insert court reference number*) and the enclosed specification of documents, served on me and marked respectively X and Y—

1. That the documents which are produced and which are listed in the enclosed inventory signed by me and marked Z, are all the documents in my possession falling within the specification.

or

That I have no documents in my possession falling within the specification.

2. That, to the best of my knowledge and belief, there are in existence other documents falling within the specification, but not in my possession. These documents are as follows: (*describe them by reference to the descriptions of documents in the specification*). They were last seen by me on or about (*date*), at (*place*), in the hands of (*insert name and address of the person*).

or

That I know of the existence of no documents in the possession of any person, other than me, which fall within the specification.

(*Insert date*)

(*Signed*)

(*Name and address*)

Form 10c

Rule 34.5(2)

Form of docquet for deemed grant of recovery of documents in a personal injuries action

Court ref. no:

Court (*insert court*)

Commission and diligence for the production and recovery of the documents called for in this specification of documents is deemed to have been granted.

Date (*insert date*)

(*Signed*)

Sheriff Clerk (depute)

Form 10d

Rule 34.7(1)(c) and (4)

Form of timetable

Court ref. no:

TIMETABLE

in the cause

[A.B.], (*insert name and address*), Pursuer

against

[C.D.], (*insert name and address*), Defender

This timetable has effect as if it were an interlocutor of the sheriff.

1. The diet allocated for the proof in this action will begin on (*date*). Subject to any variation under rule 34.8, this order requires the parties to undertake the conduct of this action within the periods specified in paragraphs 2 to 10 below.
2. An application under rule 11.1 (third party procedure) shall be made by (*date*).
3. Where the pursuer has obtained a commission and diligence for the recovery of documents by virtue of rule 34.5, the pursuer shall serve the order not later than (*date*).
4. For the purposes of rule 34.7(2)(c), the adjustment period shall end on (*date*).
5. The pursuer shall lodge with the sheriff clerk a statement of valuation of claim under rule 34.9 not later than (*date*).
6. The pursuer shall lodge with the sheriff clerk a certified adjusted statement of claim not later than (*date*).
7. The defender (and any third party to the action) shall lodge with the sheriff clerk a certified adjusted response to statement of claim not later than (*date*).
8. The defender (and any third party to the action) shall lodge with the sheriff clerk a statement of valuation of claim under rule 34.9 not later than (*date*).
9. Not later than (*date*) the parties shall lodge with the sheriff clerk lists of witnesses and productions.
10. Not later than (*date*) the pursuer shall lodge with the sheriff clerk a pre-proof minute under rule 34.10.

(*Insert date*)

(*Signed*)
Sheriff Clerk (depute)

Form 10e

Rule 34.9

Form of statement of valuation of claim

Court ref. no:

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

STATEMENT OF VALUATION OF CLAIM

in the cause

[A.B.], *(insert name and address)*, Pursuer

against

[C.D.], *(insert name and address)*, Defender

| <i>Head of claim</i> | <i>Components</i> | <i>Valuation</i> |
|----------------------------|---|------------------|
| Solatium | Past | £x |
| | Future | £x |
| Interest on past solatium | Percentage applied to past solatium <i>(state percentage rate)</i> | £x |
| Past wage loss | Date from which wage loss claimed: <i>(date)</i> Date to which wage loss claimed: <i>(date)</i> Rate of net wage loss <i>(per week, per month or per annum)</i> | £x |
| Interest on past wage loss | Percentage applied to past wage loss: <i>(state percentage rate)</i> | £x |

| | | |
|--|---|----|
| Future wage loss | Multiplier: (<i>state multiplier</i>) Multiplicand: (<i>state multiplicand and show how calculated</i>) Discount factor applied (if appropriate): (<i>state factor</i>) Or specify any other method of calculation | £x |
| Past services | Date from which services claimed: (<i>date</i>) Date to which services claimed: (<i>date</i>) Nature of services: (<i>.....</i>) Person by whom services provided: (<i>.....</i>) Hours per week services provided: (<i>.....</i>) Net hourly rate claimed: (<i>.....</i>) Total amount claimed: (<i>.....</i>) Interest | £x |
| Future loss of capacity to provide personal services | Multiplier: (<i>insert multiplier</i>) Multiplicand: (<i>insert multiplicand, showing how calculated</i>) | £x |
| Needs and other expenses | One off Multiplier: (<i>insert multiplier</i>) Multiplicand: (<i>insert multiplicand</i>) Interest | £x |

| | | |
|---|--|---|
| Any other heads as appropriate (<i>specify</i>) | | £x |
| Total | | £x (<i>insert total valuation of claim</i>) |
| List of Supporting Documents:— | | |

(*Insert date*)

(*Signed*)

(*Name and address*)

Form 10f

Rule 34.10(2)

Minute of pre-proof conference

Court ref. no:

SHERIFFDOM OF *(insert sheriffdom)*

AT *(insert place of sheriff court)*

JOINT MINUTE OF PRE-PROOF CONFERENCE

in the cause

[*A.B.*], Pursuer

against

[*C.D.*], Defender

[*E.F.*] for the pursuer and

[*G.H.*] for the defender hereby state to the court:

1. That the pre-proof conference was held in this case [*at (place) or by (telephone conference or video conference or other remote means)*] on [*date*].
2. That the following persons were present—
(State names and designations of persons attending conference)
3. That the following persons were available to provide instructions by telephone or video conference—
(State names and designations of persons available to provide instructions by telephone or video conference)
4. That the persons participating in the conference discussed settlement of the action.
5. That the following questions were addressed—

Section 1

| | | <i>Yes</i> | <i>No</i> |
|----|--|------------|-----------|
| 1. | Is the diet of proof still required? | | |
| 2. | If the answer to question 1 is “yes”, does the defender admit liability? (If “no”, complete section 2) If yes, does the defender plead contributory negligence? If yes, is the degree of contributory negligence agreed? If yes, state % degree of fault attributed to the pursuer. | | |
| 3. | If the answer to question 1 is “yes”, is the quantum of damages agreed? (If “no”, complete section 3) | | |

Section 2

[To be inserted only if the proof is still required]

It is estimated that the hearing will last [*insert number*] [*days/hours*].

NB. If the estimate is more than one day then this should be brought to the attention of the sheriff clerk. This may affect prioritisation of the case.

During the course of the pre-proof conference, the pursuer called on the defender to agree certain facts, questions of law and matters of evidence.

Those calls, and the defender’s responses, are as follows—

| <i>Call</i> | <i>Response</i> | |
|-------------|-----------------|---------------|
| | <i>Admitted</i> | <i>Denied</i> |
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |

During the course of the pre-proof conference, the defender called on the pursuer to agree certain facts, questions of law and matters of evidence.

Those calls, and the pursuer's responses, are as follows—

| <i>Call</i> | <i>Response</i> | |
|-------------|-----------------|---------------|
| | <i>Admitted</i> | <i>Denied</i> |
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |

Section 3

Quantum of damages

Please indicate where agreement has been reached on an element of damages.

| <i>Head of claim</i> | <i>Components</i> | <i>Not agreed</i> | <i>Agreed at</i> |
|----------------------------|---|-------------------|------------------|
| Solatium | Past Future | | |
| Interest on past solatium | Percentage applied to past solatium (<i>state percentage</i>) | | |
| Past wage loss | Date from which wage loss claimed Date to which wage loss claimed Rate of net wage loss (<i>per week, per month or per annum</i>) | | |
| Interest on past wage loss | | | |
| Future wage loss | Multiplier Multiplicand (<i>showing how calculated</i>) | | |

| | | | |
|--|---|--|--|
| Past necessary services | Date from which services claimed Date to which services claimed Hours per week services provided Net hourly rate claimed | | |
| Past personal services | Date from which services claimed Date to which services claimed Hours per week services provided Net hourly rate claimed | | |
| Interest on past services | | | |
| Future necessary services | Multiplier Multiplicand (<i>showing how calculated</i>) | | |
| Future personal services | Multiplier Multiplicand (<i>showing how calculated</i>) | | |
| Needs and other expenses | One off Multiplier Multiplicand (<i>showing how calculated</i>) | | |
| Any other heads as appropriate (specify) | | | |

(Insert date of signature)

(Signed by each party/his or her solicitor)

Form 10g

Rule 34.12(5)

Form of intimation to connected persons

Court ref. no:

SHERIFFDOM OF *(insert sheriffdom)*

AT *(insert place of sheriff court)*

in the cause

[A.B.], Pursuer

against

[C.D.], Defender

To: *(insert name and address as in warrant)*

You are hereby given notice that an action has been raised in the above sheriff court against *(insert name of defender)*, by your *(insert relationship, e.g. father, brother or other relative as the case may be)*. A copy of the summons is attached.

It is believed that you may have a title or interest to sue *(name of defender)* in this action, which is based upon *(the injuries from which the late (insert name and designation) died) (or the death of the late (insert name and designation))*. You may therefore be entitled to enter this action as an additional pursuer. This may be done by lodging an incidental application with the sheriff clerk at *(insert address of sheriff court)*.

If you wish to appear as a party in the action, or are uncertain about what action to take, you should contact a solicitor. You may, depending on your financial circumstances, be entitled to legal aid, and you can get information about legal aid from a solicitor.

You may also obtain advice from any Citizen's Advice Bureau, other advice agency or any sheriff clerk's office.

(Insert date of signature)

(Signed)
(Solicitor for the pursuer)

Form 10h

Rule 34.13(2)

Form of claim for provisional damages

Court ref. no:

SHERIFFDOM OF *(insert sheriffdom)*

AT *(insert place of sheriff court)*

in the cause

[*A.B.*], Pursuer

against

[*C.D.*], Defender

For payment to the pursuer by the defender of the sum of *(amount in words and figures)* as provisional damages under section 12(2)(a) of the Administration of Justice Act 1982.

(Statements to include that there is a risk that the pursuer will as result of the act or omission which gave rise to the cause of action develop serious disease or serious deterioration of condition in the future; and that the defender was, at the time of the act or omission which gave rise to the cause of action, a public authority, public corporation or insured or otherwise indemnified in respect of the claim).

(Insert date of signature)

(Signed)
(Solicitor for the pursuer)

Form 10i

Rule 34.13(3)

Form of application for further damages

Court ref. no:

SHERIFFDOM OF (*insert sheriffdom*)

AT (*insert place of sheriff court*)

APPLICATION FOR FURTHER DAMAGES

in the cause

[*A.B.*], Pursuer

against

[*C.D.*], Defender

The pursuer claims payment from the defender of the sum (*insert amount in words and figures*) as further damages under section 12(2)(b) of the Administration of Justice Act 1982.

(*Insert concise statement of facts supporting claim for further damages*).

The pursuer requests the sheriff to fix a hearing on this incidental application and applies for warrant to serve the application on—

(*Here state names and addresses of other parties to the action; and, where such other parties are insured or otherwise indemnified, their insurers or indemnifiers, if known to the pursuer*).

(*Insert date of signature*)

(*Signed*)

(*Solicitor for the pursuer*)

Form 10j

Rule 34.13(4)

Form of notice of application for further damages

Court ref. no:

SHERIFFDOM OF (*insert sheriffdom*)

AT (*insert place of sheriff court*)

APPLICATION FOR FURTHER DAMAGES

in the cause

[*A.B.*], Pursuer

against

[*C.D.*], Defender

To:

TAKE NOTICE

(*Pursuer's name and address*), pursuer, raised an action against (*defender's name and address*), defender, in the sheriff court at (*insert name of sheriff court*).

In the action, the sheriff on (*date*) made an award of provisional damages in accordance with section 12(2)(a) of the Administration of Justice Act 1982 in favour of the pursuer against (*you or name of party*). [The sheriff specified that the pursuer may apply for an award of further damages under section 12(2)(b) of that Act at any time before (*date*)]. The pursuer has applied by incidental application for an award of further damages against you [*or name of party*]. A copy of the incidental application is attached.

A hearing on the incidental application has been fixed for (*date and time*) at (*place of sheriff court*). If you wish to be heard on the incidental application, you should attend or be represented at court on that date.

(*Insert date of signature*)

(*Signed*)
(*Solicitor for the pursuer*)

SCHEDULE 3

Paragraph 2(5)

APPENDIX 1A

SCHEDULE OF TIMETABLE UNDER PERSONAL INJURIES PROCEDURE

| Steps referred to under rule 34.7(1)(c) | Period of time within which action must be carried out* |
|---|--|
| Application for a third party notice under rule 11.1 (rule 34.7(2)(a)) | Not later than 28 days after the form of response has been lodged |
| Pursuer serving a commission for recovery of documents under rule 34.5 (rule 34.7(2)(b)) | Not later than 28 days after the form of response has been lodged |
| Parties adjusting their respective statements (rule 34.7(2)(c)) | Not later than 8 weeks after the form of response has been lodged |
| Pursuer lodging a statement of valuation of claim (rule 34.7(2)(d)) | Not later than 8 weeks after the form of response has been lodged |
| Pursuer lodging a certified adjusted statement of claim (rule 34.7(2)(e)) | Not later than 10 weeks after the form of response has been lodged |
| Defender (and any third party to the action) lodging a certified adjusted response to statement of claim (rule 34.7(2)(f)) | Not later than 10 weeks after the form of response has been lodged |
| Defender (and any third party to the action) lodging a statement of valuation of claim (rule 34.7(2)(g)) | Not later than 12 weeks after the form of response has been lodged |
| Parties lodging a list of witnesses together with any productions on which they wish to rely (rule 34.7(2)(h)) | Not later than 8 weeks before the date assigned for the proof |
| Pursuer lodging the minute of the pre-proof conference (rule 34.7(2)(i)) | Not later than 21 days before the date assigned for the proof |
| <p>*NOTE: Where there is more than one defender in an action, references in the above table to the form of response having been lodged should be read as references to the first lodging of a form of response.</p> | |

EXPLANATORY NOTE

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

This Act of Sederunt amends the Sheriff Court Summary Cause Rules 2002 (“the Rules”).

Paragraph 2 amends Chapter 34 setting out a special procedure for actions for, or arising from, personal injuries. The special procedure is referred to as personal injuries procedure, and will be applicable to actions of damages for, or arising from, personal injuries or death of a person from personal injuries raised from 1st September 2012. Personal injuries actions raised prior to that date will continue to be dealt with under the existing rules in Chapter 34 of the Rules.

Paragraph 2(2) amends rule 14.1(5)(b) of the Rules to provide that the sheriff has discretion as to what orders he or she may make where an application for an additional defender is granted in a personal injuries action.

Paragraph 2(3) substitutes a new Chapter 34 of the Rules, setting out the special procedure for actions for, or arising from, personal injuries.

Inserted rule 34.1 sets out the application and interpretation of the provisions in Chapter 34 of the Rules.

Inserted rule 34.2 and Forms 10 and 10b in Schedule 2 make provision as to the form of summons and any specification of documents where a personal injuries action is raised.

Inserted rule 34.3 and Schedule 1 provide the forms of copy summons to be served on a defender in a personal injuries action.

Inserted rule 34.4 and Form 10a in Schedule 2 provide the form of response to a summons to be used in a personal injuries action.

Inserted rule 34.5 provides that where a summons in a personal injuries action contains a specification of documents, an order granting commission and diligence for the production and recovery of documents shall be deemed to be granted upon the summons being authenticated. It also provides for further procedure thereafter.

Inserted rule 34.6 provides that certain rules do not apply to a personal injuries action and that other rules apply with modification.

Inserted rule 34.7, Form 10d in Schedule 2 and Schedule 3 all make provision in relation to the allocation of diets and the issuing of timetables under personal injuries procedure.

Inserted rule 34.8 makes provision regarding applications to the sheriff for sist or for variation of the timetable by any party to an action which is subject to personal injuries procedure.

Inserted rule 34.9 and Form 10e in Schedule 2 make provision requiring each party to a personal injuries action to lodge with the sheriff clerk a statement of valuation of claim. Rule 34.9 also makes further related provision.

Inserted rule 34.10 requires the parties to a personal injuries action to hold a pre-proof conference not later than 4 weeks before the date assigned for proof, to discuss settlement of the action and to agree, so far as is possible, the matters which are not in dispute between them. The rule also requires the parties to lodge with the sheriff clerk a joint minute of the pre-proof conference, in Form 10f in Schedule 2, not later than 3 weeks before the date assigned for proof. The timescale for lodging the joint minute is subject to any variation of the timetable in terms of rule 34.8.

Inserted rule 34.11 makes provision for the procedure applicable in relation to the fixing of incidental hearings under rules 34.7 or 34.10 by the sheriff clerk.

Inserted rule 34.12 provides for intimation to connected persons where the person who suffered the personal injuries has died and the action is brought by any relative of the deceased.

Inserted rule 34.13 provides for a pursuer to apply for provisional or further damages under section 12 of the Administration of Justice Act 1982.

Inserted rule 34.14 makes special provision in relation to actions raised where liability to a relative of a pursuer may arise under section 5 of the Damages (Scotland) Act 2011 where death of a person has occurred due to mesothelioma.

Paragraph 2(4) amends Appendix 1 to the Rules by inserting new Forms 1e and 1f as set out in Schedule 1 to the instrument; and by substituting the Forms 10 to 10j as set out in Schedule 2 to this instrument for the existing Forms 10 to 10g.

Paragraph 2(5) inserts a new Appendix 1A into the Rules, as set out at Schedule 3 to this instrument. This is the schedule of the timetable under the personal injuries procedure.

Paragraph 3 contains a transitional and saving provision.

© Crown Copyright 2012

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.

Published by TSO (The Stationery Office) and available from:

Online

www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

E-mail: customer.services@tso.co.uk

Textphone: 0870 240 3701

TSO@Blackwell and other Accredited Agents

ISBN 978-0-11-101710-4



9 780111 017104