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SCOTTISH STATUTORY INSTRUMENTS

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**2001 No. 143**

**SHERIFF COURT**

**Act of Sederunt (Child Support Rules) Amendment 2001**

*Made* - - - - *30th March 2001*

*Coming into force* - - *2nd April 2001*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(1) and section 40A(8) of the Child Support Act 1991(2) 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 Sheriff Courts (Scotland) Act 1971, do hereby enact and declare:

**Citation, commencement and interpretation**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Child Support Rules) Amendment 2001 and shall come into force on 2nd April 2001.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

**Amendment of the Act of Sederunt (Child Support Rules) 1993**

2.—(1) The Act of Sederunt (Child Support Rules) 1993(3) shall be amended in accordance with the following paragraphs.

(2) In rule 2(1) (application for a liability order), “and Form A” shall be omitted.

(3) In rule 5(1) (appeal against a deduction from earnings order), for “Form A” there shall be substituted “Form A1”.

(4) After rule 5 insert—

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(1) 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), and the Adults with Incapacity (Scotland) Act 2000 (asp 4), Schedule 5, paragraph 13, and was extended by sections 39(2) and 49 of the Child Support Act 1991 (c. 48).

(2) 1991 c. 48; section 40A was inserted by section 17(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the Act of 2000”).

(3) S.I.1993/920.

**“Application for commitment to prison or disqualification from driving**

**5A.**—(1) An application under section 39A(1)(4) of the Act of 1991 shall be made by summary application.

(2) Citation, where necessary, of a respondent in respect of an application under paragraph (1) shall be in Form 7.

**Warrant of arrest**

**5B.**—(1) The sheriff may issue a warrant for the arrest of the liable person if—

- (a) he has been cited in terms of rule 5A(2) and fails to appear in person at the hearing; or
- (b) the sheriff otherwise considers it to be appropriate for the purpose of enabling an inquiry in terms of section 39A(3) of the Act of 1991.

(2) A warrant issued in terms of paragraph (1) shall be in Form 8.

**Evidence of means**

**5C.** In any proceedings following an application made in terms of rule 5A(1), a statement in writing to the effect that wages of any amount have been paid to the liable person during any period, purporting to be signed by or on behalf of his employer, shall be sufficient evidence of the facts there stated.

**Warrant of commitment to prison**

**5D.** A warrant for the commitment of a liable person to prison issued in terms of section 40A(1)(a) of the Act of 1991 shall be in Form 9.

**Order for disqualification from driving**

**5E.**—(1) A disqualification order made in terms of section 40B(1)(5) of the Act of 1991 shall be in Form 10.

(2) An application in terms of section 40B(5) of the Act of 1991 for a reduction in a period of disqualification, shall be made by minute.

**Renewal of application**

**5F.** If no order is made in respect of an application under section 39A(1) of the Act of 1991 any further application under that section, including the renewal of an application, shall be made of new by summary application in terms of rule 5A(1).”.

(5) After Form 6 in the Schedule, insert the forms as set out in the Schedule to this Act of Sederunt.

Edinburgh  
30th March 2001

*Rodger of Earlsferry*  
Lord President, I.P.D.

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(4) Section 39A was inserted by section 16(1) of the Act of 2000.

(5) Section 40B was inserted by section 16(3) of the Act of 2000

SCHEDULE

Rule 2(5)

FORM 7 Form of citation for summary application for commitment to prison or disqualification from driving

Rule 5A

CITATION FOR SUMMARY APPLICATION

SHERIFFDOM OF (insert name of sheriffdom)

AT (insert place of sheriff court)

[A.B.], (insert designation and address), Applicant

against

[C.D.], (insert designation and address), Respondent

Court ref. No. (insert ref no.)

(Insert place and date). You [C.D.] are hereby served with this copy writ and warrant, and are required to answer it.

**YOU MUST APPEAR IN PERSON AT THE HEARING.**

**IF YOU ARE UNCERTAIN AS TO WHAT FURTHER ACTION TO TAKE** you should consult a solicitor. You may be eligible for legal aid depending on your income and you can get information about legal aid from a solicitor. You may also obtain advice from any Citizens Advice Bureau or other advice agency.

**IF YOU HOLD A LICENCE TO DRIVE A MOTOR VEHICLE YOU MUST BRING IT (INCLUDING ANY COUNTERPART TO THAT LICENCE) WITH YOU TO THE HEARING.**

**YOU SHOULD ALSO BRING WITH YOU DOCUMENTARY EVIDENCE OF YOUR FINANCIAL CIRCUMSTANCES AND, TO ASSIST THE COURT TO INQUIRE INTO YOUR MEANS, A COMPLETED FORM 7A ATTACHED.**

**IF YOU DO NOT APPEAR IN PERSON IN ANSWER TO THIS DOCUMENT THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.**

Signed (signature of sheriff officer)

or [X.Y.] (add designation and business address)

Solicitor for the Applicant

FORM 7A Form of notice to be served on respondent to assist court to inquire into respondent's financial position

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 7

**(to be completed by respondent)**

Respondent's financial position

My	Weekly	Fortnightly	Monthly	My	weekly	fortnightly	monthly
Outgoings are:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	income is:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rent/mortgage	£			Wages/Pensions	£		
Heating	£			Social Security	£		
Food	£			Other	£		
Loans (HP etc)	£						
Other	£						
Total	£			Total	£		

Dependants: Children – how many       Dependant relatives – how many

Here list all capital (if any) e.g. value of house; amounts in bank or building society accounts; shares or other investments:

Here list any outstanding debts:

FORM 8 Form of Warrant to Arrest