ANNO SEXTO

GEORGII IV. REGIS.

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C A P. XXIV.

An Act for the more easy Recovery of Small Debts in the Sheriff Courts in *Scotland*.

[20th *May* 1825.]

WHEREAS it is expedient to render the Recovery of Small Debts more easy, cheap, and expeditious in the Sheriff Courts in *Scotland:* May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act, it shall be lawful for any Sheriff in *Scotland*, within his County, to hear, try, and determine all Civil Causes and Complaints that may be competently brought before him, wherein the Debt or Demand shall not exceed the Value of Eight Pounds Sterling, exclusive of Expences and Fees of Extract, in a summary Way, as more particularly herein-after mentioned.

Sheriff may hear and determine Civil Causes for Sums under a certain Amount in a summary Manner.

II. And be it enacted, That all such Causes, the Pursuer whereof shall choose to have the same heard and determined according to the summary Mode herein-after provided, shall proceed upon Petition or Complaint agreeable to the Form in Schedule (A.) subjoined to this Act, stating shortly the Origin of Debt or Ground of Action, and concluding against the Defender; which Petition or Complaint shall have a Warrant annexed thereto, agreeable to the Form in the said Schedule

Pursuers to proceed upon Petition in such Causes, according to Form set forth in Schedule (A.)

Schedule (A.); which Warrant, being signed by the Sheriff Clerk, shall be a sufficient Authority for any Sheriff's Officer for summoning the Defender to appear and answer at the next Sheriff Court, the same not being sooner than upon the Sixth Day after the Date of the Citation, and also for summoning Witnesses and Havers for both Parties: Provided always, that a Copy of the said Petition or Complaint, with the Citation annexed, and also a Copy of the Account, Document of Debt or State of the Demand, with the Names and Designations of the Witnesses and Havers, and a Statement of other Means of Proof, shall be delivered at the same Time with the Copy of the said Petition, by the Sheriff's Officer, to the Defender personally, or at his Dwelling Place; in which last Case, if the Defender shall not appear, he shall be cited a Second Time personally, or at his Dwelling Place, upon the Words *de novo* being either subjoined to the original Petition, and signed by the Sheriff Clerk, or written in the Procedure Book kept by the Clerk, and signed by the Sheriff, to appear at the next Court, which shall not be sooner than upon the Sixth Day after the Date of the said Citation; and if the Defender has been cited for the First Time to a Diet of Court, not sooner than Twelve free Days from the Date of the Citation, it shall be lawful for the Sheriff's Officer, in case the Defender shall not have been personally found at the Time of the First Citation, to cite him a Second Time, either personally or at his Dwelling Place, to the same Diet of Court on the Authority of the original Warrant, and without previously returning an Execution of the First Citation; provided that such Second Citation shall not be given sooner than upon the Sixth Day after the Date of the First Citation, nor later than upon the Sixth Day before the Diet of Court to which the Defender is so cited for the Second Time; and the Officer summoning shall in all Cases return an Execution of Citation, signed by him, or shall appear and give Evidence upon Oath of his having duly cited the Defender in manner foresaid.

Copy of such Petition, with Citation annexed, to be delivered by Sheriff's Officer to Defender.

III. And be it enacted, That where an Officer of Court shall be required by any Party, whether Pursuer or Defender, to cite any Persons as Witnesses or Havers, he shall be obliged to lodge a written Execution of every such Citation in the Clerk's Hands, at or before the Diet of Court to which the Witnesses have been summoned, or otherwise to verify in Court the Execution of Citation; and if any Witnesses or Havers cited shall fail to appear, it shall be competent to the Party or Parties for whom they are summoned to apply for a new Warrant to compel their Attendance at the next Court, or any subsequent Court to which the Case may be adjourned; which Warrant shall require them to attend to give Evidence under a Penalty not exceeding Forty Shillings, which shall be awarded by the Court, unless a reasonable Excuse be offered and sustained, and shall be made payable to the Party at whose Instance the Witness was cited, to be recovered in the same Manner as other Sums under this Act, without Prejudice always to Letters of Second Diligence for compelling Witnesses and Havers to attend, as at present competent.

Officer of Court to lodge written Execution in Clerk's Hands, when required by Pursuer or Defender to cite Persons as Witnesses.

Penalty for not appearing after having been cited by such Officer.

IV. And be it enacted, That when the Parties shall appear, the Sheriff shall hear them *vivâ voce*, and examine Witnesses or Havers upon

Sheriff to hear Parties vivâ voce, and

upon Oath; and also the Parties by Declaration, or upon Oath; and no Procurators, Solicitors, or any Persons practising the Law, shall be allowed to plead for them, *vivâ voce*, without Leave of the Court, nor shall any of the Pleadings, Arguments, Minutes, or Evidence be reduced to Writing, or be entered upon any Record, unless with Leave of the Court first had and obtained, in consequence of any Difficulty in point of Law, or special Circumstances of any particular Case: Provided always, that where the Sheriff shall order any Pleadings, Arguments, Minutes, or Evidence to be reduced to Writing, every Case in which such Order shall be made shall thenceforth be conducted according to the Forms and Proceedings in use before the passing of this Act, and shall be disposed of in all respects as if this Act had not been passed.

examine Witnesses upon Oath.

No Solicitor to plead for Parties, unless with Leave of Court first obtained.

V. And be it enacted, That if a Defender who has been duly cited personally, or by Two Citations at his Dwelling Place, shall fail to appear personally, or by one of his Family, or by such Person as the Sheriff shall allow, he shall be held as confessing the Debt or Justice of the Demand, and Decree shall pass against him, unless a sufficient Excuse for a Delay shall be stated, in which Case and at all Times, on account of the Absence of Witnesses, or any other good Reason, it shall be competent for the Sheriff to adjourn any Cause to the next or any other Court Day, and to order the Parties and Witnesses then to attend.

Defender failing to appear, shall be held as confessing the Debt.

VI. And be it enacted, That where a Decree has been pronounced in Absence of a Defender, it shall be competent for him, upon consigning the Sum decerned for in the Hands of the Clerk, at any Time before the Days of the Charge elapse, to obtain from the Clerk a Warrant, signed by him, sisting Execution till the next Court Day, or to any subsequent Court Day to which the same may be adjourned, and containing Authority for citing the Pursuer, Witnesses and Havers for both Parties; and the Clerk shall be bound to certify to the Sheriff, on the next Court Day, every such Application for Rehearing and Sist granted; which Warrant, being duly served upon the Pursuer personally, or by Two Citations at his Dwelling Place, in the Manner provided in other Cases by this Act, shall be an Authority for re-hearing the Cause; and in like Manner, where Absolvitor has passed in Absence of the Pursuer, it shall be competent for him at any Time within One Calendar Month thereafter, upon consigning in the Hands of the Clerk the Sum awarded by the Sheriff in his Decree of Absolvitor as the Expences for the Defender and his Witnesses, to obtain a Warrant, signed by the Clerk, for citing the Defender and Witnesses for both Parties; which Warrant, being duly served upon the Defender personally, or by Two Citations at his Dwelling Place, in the Manner provided in other Cases by this Act, shall be an Authority for re-hearing the Cause as hereby provided in the Case of a Re-hearing, at the Instance of the Defender, the said Sum of Expences awarded by the Sheriff, and so deposited by the Pursuer, being in every Case paid over to the Defender, unless the contrary shall be specially ordered by the Court.

Where Decree pronounced in Absence of Defender, he may obtain Warrant to sist Execution till next Court Day.

VII. And

Book of Causes to be kept.

VII. And be it enacted, That the Sheriff Clerk shall keep a Book wherein shall be entered all Causes conducted under the Authority of this Act, setting forth the Names and Designations of the Parties, and whether present or absent at the calling of the Cause, the Nature and Amount of the Claim, and Date of giving it in, the Mode of Citation, the several Deliverances or Interlocutors, and the final Decree, with the Date thereof; which Book shall be signed each Court Day by the Sheriff, and the said Entries by the Clerk shall be according to the Form in Schedule (B.) annexed to this Act, or with such Additions as the Sheriff shall appoint; and the Decree, stating the Amount of Expences found due to either Party, and containing Warrant for arresting or poinding the Effects of the Party, or committing him to Prison, shall be by the Clerk annexed to the Complaint, and on the same Paper with it, the said Decree and Warrant so annexed, being conformable to Schedule (A.) annexed to the present Act; which Decree and Warrant so written out, being signed by the Clerk, shall be a sufficient Authority for Execution, Six free Days from the Date of the Decree, if the Party against whom it shall have been given was personally present when it was pronounced; but if he was not so present, Execution shall only proceed after a Charge of Six free Days, by delivering a Copy of the Decree to the Party personally, or at his Dwelling Place.

Sums found due may be paid by Instalments.

VIII. And be it enacted, That the Sheriff may, if he thinks proper, direct the Sum or Sums found due to be paid by Instalments, weekly or monthly, according to the Circumstances of the Party found liable, and under such Conditions or Qualifications as he shall think fit to annex.

No Decree subject to Stay of Execution, except only in Cases of Action of Reduction before Court of Session, on the Ground of Malice on the Part of Sheriff.

IX. And be it enacted, That no Decree given by any Sheriff, according to the Forms and Regulations of this Act, shall be subject to Advocation, Suspension, or Appeal, or any other Form of Review, or Stay of Execution, other than herein-before provided; excepting only an Action of Reduction before the Court of Session, on the Ground of Corruption, or Malice and Oppression on the Part of the Sheriff; nor shall any such Action of Reduction be at all competent after Expiration of One Year from the Date of the Decree of the Sheriff; and in all such Actions of Reduction, the Pursuer shall, before the Summons is called, find sufficient Caution in the Hands of the Clerk of the Process in the Court of Session, for the Payment of the Sum and Expences, if any, for which Decreet has been given against him by the Sheriff, and for the Payment of such Expences as may be awarded against him in the Action of Reduction.

Fees to be taken.

X. And be it enacted, That the following Fees and no other shall be allowed to be taken by the Clerk and Officers of Court, for Matters done under the Authority of this Act.

CLERK'S FEES:

Complaint and Warrant to cite	- One Shilling.
Copy for Service -	- Sixpence.
Entering into Procedure Book	- Sixpence.

For Defender's Appearance	Sixpence.
For every Oath	Sixpence.
Decree and Warrant of Execution	Sixpence.
Warrant *de novo*	Four-pence.
Re-hearing	One Shilling and Sixpence.

OFFICER'S FEES, including ASSISTANTS:

Citation and Execution	Sixpence.
Execution of Arrestment	Sixpence.
Ditto of Poinding	Three Shillings.
Sale	Two Shillings and Sixpence.
Officer's Travelling Expences, *per* Mile	Four-pence.
Assistants, each, *per* Mile	Three-pence.

CRIER'S FEE:

For calling	One Penny.

A Copy of which Table of Fees, signed by the Clerk, shall be hung up in every Court Place, and in his Office; and the said Fees shall be subject to Modification in Causes of very small Amount, or where the Complaint is directed against Two or more Defenders.

Members of College of Justice not exempt under this Act.

XI. And be it enacted, That no Person shall be exempt from the Jurisdiction of the Sheriff in any Cause carried on in a summary Way under this Act, on account of Privilege as being a Member of the College of Justice.

Sheriff to ordain Expences to be taxed.

XII. And be it enacted, That in all Civil Causes wherein the Debt or Demand shall not exceed the Value of Five Pounds, exclusive of Expences and Fees of Extract, which shall in future be brought or carried on before any Sheriff's Court, not according to the summary Form herein provided, it shall be lawful for any Sheriff, notwithstanding, and he is hereby authorized and required to ordain the Expences (unless he shall see Cause to the contrary) to be taxed and regulated according to the Rates above mentioned.

Construction of Terms used in this and other Acts.

XIII. And be it enacted, That in all Cases in this or any Act of Parliament passed or to be passed affecting *Scotland*, where the Term Sheriff or Sheriff Clerk, or Sheriffdom or County, shall be used, the same shall be deemed and taken to apply to any Stewart or Stewart Clerk, or Stewartry in *Scotland*.

Schedule (A.)

UNTO the Honorable the Sheriff for the Shire of

COMPLAINS, That is owing the Complainer the Sum (*here insert Origin of Debt or Ground of Action*) which refuses to pay unless compelled: Therefore the said Defender ought and should be decerned and ordained to make Payment to the Complainer of the aforesaid Sum of with Expences.

AT the Day of the Sheriff Clerk for the Shire of grants Warrant for summoning the said Defender to compear before the Sheriff for the said Shire at , in the Court House thereof, upon the Day of at of the Clock, to answer at the Instance of the said Complainer; and appoints a Copy of the Account pursued for, Document of Debt, or State of the Demand, to be delivered to the Defender along with the Citation; also grants Warrant for citing Witnesses and Havers for both Parties to compear at the same Place and Date, to give Evidence in the said Matter.

J. P. Sheriff Clerk.

UPON Day of One thousand eight hundred and I Officer of Court, summoned the above designed to compear before the said Sheriff, Time and Place above mentioned, to answer at the Instance of the Complainer, with Certification that will otherwise be held as confessing the Debt. This I did by full Copy of the before Complaint and Warrant, with a short Copy of Citation thereto subjoined, as also a Copy of the Names and Designations of Witnesses and Havers, and a Statement of other Means of Proof (*as the Case may be*).

A. B. Officer.

AT the Day of One thousand eight hundred and Years, the which Day the Sheriff for the County of found and hereby finds the within designed Defender, liable to the also within designed Pursuer, in the Sum of with of Expences, decerned and ordained, and hereby decerns and ordains instant Execution by Arrestment, and also Execution to pass hereon by Poinding and Imprisonment after free Days.

J. P. Sheriff Clerk.

Schedule (B.)

No.	Dates of Complaints.	Pursuers.	Defenders.	Sums.	How due.	How cited.	By what Officer.	Interlocutors and Decrees.

N. B.—After the Name of each Pursuer and Defender, let the Letter *P.* or *A.* be added, in order to mark whether the Party was *present* or *absent* when the Cause was called; let Expences be also entered under the Head of Interlocutors.

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