SHERIFF COURT, SCOTLAND

PROCEDURE

1955 No. 206 (S. 17)

Act of Sederunt (Applications to Sheriff under Housing (Repairs and Rents) (Scotland) Act, 1954) 1955

Made - - - - 1*st February*, 1955
Coming into Operation 1*st March*, 1955

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Sheriff Courts and Legal Officers (Scotland) Act, 1927(a), and section 34 of the Administration of Justice (Scotland) Act, 1933(b), and of all other powers competent to them in that behalf, do hereby enact as follows:—

1. Applications to the Sheriff under the Housing (Repairs and Rents) (Scotland) Act, 1954(c), (hereinafter referred to as "the Act") shall be made as nearly as may be in one of the forms contained in the First Schedule hereto as follows:—

(*a*) if made under subsection (1) of section 7 of the Act, Form I;
(*b*) if made under subsection (4) of section 16 of the Act, Form II;
(*c*) if made under subsection (2) of section 21 of the Act, Form III;
(*d*) if made under subsection (5) of section 36 of the Act, Form IV;
(*e*) if made under subsection (3) of section 39 of the Act, Form V;
(*f*) if made under paragraph 4 of the First Schedule to the Act, Form VI;
(*g*) if made under paragraph 4 of the First Schedule as read with paragraph 5 of the Second Schedule to the Act, Form VII.

2. Citation upon any of the foregoing applications shall be made by citing the respondent to appear on a date not being sooner than upon the sixth day after such citation, and such citation shall be as nearly as may be in the form of the Second Schedule hereto and shall be a sufficient warrant for citing witnesses and havers.

3. All applications under the Act shall be entered in the Book of Causes of the Small Debt Court, or in a similar book to be kept for the purpose, and such entries shall set forth the names and designations of the parties and the several deliverances and the dates thereof, which book shall be signed by the Sheriff. The determinations and deliverances of the Sheriff, with any findings for expenses, may be written on the principal application or separately, shall be signed by the Sheriff Clerk or his depute, and shall have the force and effect of extracts.

4. This Act of Sederunt may be cited as the Act of Sederunt (Applications to Sheriff under Housing (Repairs and Rents) (Scotland) Act, 1954) 1955 and shall come into operation on the 1st day of March, 1955.

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

J. L. Clyde,
I.P.D.

Edinburgh,
1st February, 1955.

(a) 17 & 18 Geo. 5. c. 35. (b) 23 & 24 Geo. 5. c. 41. (c) 2 & 3 Eliz. 2. c. 50.

FIRST SCHEDULE

FORM I

Application under section 7 (1) of the Act

Under the Housing (Repairs and Rents) (Scotland) Act, 1954

In the Sheriff Court at

APPLICATION
by

.....

.....

Applicant

against

.....

.....

Respondent

1. The Applicant(*a*) is the lessee of the house..... (hereinafter referred to as "the house") of which the Respondent(*a*) is the lessor.

2. On the.....day of....., 19..., the Applicant(*a*) incurred expenditure of £..... [in complying with a notice dated..... by the.....Council under Section 7 of the Housing (Scotland) Act, 1950, requiring the execution of](*b*) [in defraying expenses incurred by the..... Council under Section 8 of the Housing (Scotland) Act, 1950, in carrying out](*b*) works for rendering the house fit for human habitation.

3. The obligations of the Applicant and the Respondent with respect to the repair of the house are contained in the lease between them dated..... [which is produced herewith].(*b*)

4. The lease expires on the.....day of....., 19....

5. The rent payable under the lease is £.....per annum.

6. (*c*).

7. No agreement has been reached between the parties as to what part, if any, of the said expenditure should be recovered by the Applicant(*a*) from the Respondent(*a*).

8. This application is made under subsection (1) of section 7 of the Housing (Repairs and Rents) (Scotland) Act, 1954.

THEREFORE the Applicant craves the Court—

(*a*) to determine what part (if any) of the said expenditure the Applicant(*a*) should recover from the Respondent(*a*) having regard to the matters stated in paragraphs 3 to 6 of the statement above.

(*b*) to deal with the expenses of this application as the Court may think fit.

Applicant
or
Applicant's Solicitor.

Date....., 19....

Notes for guidance in completing this form

(*a*) If the application is made by the lessor, substitute "Respondent" for "Applicant" or "Applicant" for "Respondent" as the case may be.

(*b*) Delete words in square brackets if not applicable.

(*c*) Here insert a statement of any other relevant circumstances.

FORM II

Application under section 16 (4) *of the Act*

Under the Housing (*Repairs and Rents*) (*Scotland*) *Act*, 1954

In the Sheriff Court at

APPLICATION
by

.....

.....

Applicant

against

.....

.....

Respondent

1. The Applicant(*a*) is the landlord of the dwelling-house..... (hereinafter referred to as "the dwelling-house") of which the Respondent(*a*) is the tenant.

2. The responsibility of the landlord for the repair of the dwelling-house is set forth in.....

3. A question has arisen between the parties hereto under section 16 of the Housing (Repairs and Rents) (Scotland) Act, 1954 (hereinafter referred to as "the Act")

(1) whether the landlord is responsible for the repair of the dwelling-house(*b*);

(2) as to the amount of any reduction in the amount of the repairs increase in respect of the dwelling-house under the proviso to subsection (2) of the said section 16(*b*).

4. No agreement in writing as to said question has been entered into between the parties hereto.

5. This application is made under subsection (4) of section 16 of the Act.

THEREFORE the Applicant craves the Court—

(*a*) to determine—

(i) whether the landlord is wholly responsible for the repair of the dwelling-house;

(ii) whether the landlord is responsible in part only for the repair of the dwelling-house, and, if so, the amount of any reduction in the amount of the repairs increase in respect of the dwelling-house under the proviso to subsection (2) of the said section 16.

(*b*) to deal with the expenses of this Application as the Court may think fit.

Applicant
or
Applicant's Solicitor.

Date....., 19....

Notes for guidance in completing this form

(*a*) If the application is made by the tenant substitute "Respondent" for "Applicant" or "Applicant" for "Respondent" as the case may be.

(*b*) Delete (1) or (2) if inapplicable.

FORM III

Application under section 21 (2) of the Act

Under the Housing (Repairs and Rents) (Scotland) Act, 1954

In the Sheriff Court at

APPLICATION
by

.....

.....

Applicant

against

.....

.....

Respondent

1. The Applicant(*a*) is the tenant of the dwelling-house .... (hereinafter referred to as " the tenant's dwelling-house ") of which ..... (design) is the landlord at a rent of ..... per week [or month or year].

2. The landlord is entitled to recover from the applicant(*a*) as from..... ..... a repairs increase amounting to ..... per week [month or year].

3. The respondent(*b*) is sub-tenant of that part of the tenant's dwelling-house consisting of ..... (hereinafter referred to as " the sub-tenant's dwelling-house "), at a rent of ..... per week [or month or year].

4. No agreement in writing has been entered into between the parties hereto as to the amount of the just proportion of the said repairs increase by which the rent recoverable from the respondent(*b*) may be increased.

5. This application is made under subsection (2) of section 21 of the Act

THEREFORE the Applicant craves the Court—

(*a*) to determine the amount of the just proportion of the repairs increase by which the rent recoverable from the Respondent may be increased.

(*b*) to deal with the expenses of this application as the Court may think fit.

Applicant
or
Applicant's Solicitor.

Date , 19 .

(*a*) Where the application is by a sub-tenant substitute " respondent ".

(*b*) Where the application is by a sub-tenant substitute " applicant ".

FORM IV

Application under section 36 (5) of the Act

Under the Housing (Repairs and Rents) (Scotland) Act, 1954

In the Sheriff Court at

APPLICATION
by

.....

.....

Applicant

against

.....

.....

Respondent

1. The applicant is the owner of the dwelling-house .... (hereinafter referred to as "the dwelling-house") of which ..... (design) is the tenant.

2. The Respondent is the assessor under the Valuation Acts.

3. A question has arisen between the Applicant and the Respondent as to whether the dwelling-house is a dwelling-house in respect of which a repairs increase is recoverable under the provisions of Part II of the Housing (Repairs and Rents) (Scotland) Act, 1954 (hereinafter referred to as "the Act").

4. No agreement as to said question has been reached between the parties hereto.

5. This application is made under subsection (5) of section 36 of the Act.

THEREFORE the Applicant craves the Court—

(*a*) to appoint service of this application to be made on the assessor, the said tenant and the ..... Council as rating authority under Part II of the Local Government (Scotland) Act, 1947;

(*b*) to determine whether the dwelling-house is such a dwelling-house as aforesaid; and

(*c*) to find any party opposing this application liable to the Applicant in the expenses of the application and to decern therefor or to make such other order as to expenses as to the Court shall appear just.

Applicant
or
Applicant's Solicitor.

Date , 19 .

Note.—This form is suitable for use where the Applicant is the owner and the question has arisen between him and the Assessor under the Valuation Acts. It may be adapted and used for other circumstances arising under section 36 (5).

FORM V

Application under section 39 (3) *of the Act*

Under the Housing (Repairs and Rents) (Scotland) Act, 1954

In the Sheriff Court at

APPLICATION
by

.....

.....

Applicant

against

.....

.....

Respondent

1. The Applicant is tenant of the dwelling-house .... (hereinafter referred to as "the dwelling-house") of which the Respondent is the landlord.

2. A question has [or questions have] arisen between the parties hereto under subsection (3) of section 39 of the Housing (Repairs and Rents) (Scotland) Act, 1954 (hereinafter referred to as "the Act") as to the rent which was recoverable in respect of the dwelling-house immediately before the commencement of the Act, viz.—[Here state the question or questions].

3. No agreement in writing as to said question [or questions] has been entered into between the parties hereto.

4. This application is made under subsection (3) of section 39 of the Act.

THEREFORE the Applicant craves the Court—

(*a*) to determine the question [or questions];

(*b*) to deal with the expenses of this application as the Court may think fit.

Applicant
or
Applicant's Solicitor.

Date 19

FORM VI

Application under the First Schedule to the Act

Under the Housing (Repairs and Rents) (Scotland) Act, 1954

In the Sheriff Court at

APPLICATION
by

.....

.....

Applicant

against

.....

.....

Respondent

1. The Applicant is tenant of the dwelling-house .... (hereinafter referred to as "the dwelling-house") of which the Respondent is the landlord.

2. On ..... day of ....., 19 , the Respondent served on the applicant under section 17 of the Housing (Repairs and Rents) (Scotland) Act, 1954 (hereinafter referred to as "the Act") a notice of his intention to increase the rent of the dwelling-house, which notice is produced herewith.

3. The Applicant disputes the Respondent's right so to increase said rent and this Application is accordingly made under sub-paragraph (1) of paragraph 4 of the First Schedule to the Act.

THEREFORE the Applicant craves the Court—

(*a*) to determine

(i) whether there has been carried out on the dwelling-house during the said period work to a value not less than that specified in the said notice;

(ii) whether the value so specified is at least the value required by $\frac{\text{paragraph[s] 1 [and 3]*}}{\text{paragraph[s] 2 [and 3]}}$ of the First Schedule to the Act; and

(iii) any questions arising out of or in course of this application:

(*b*) if the Court is not satisfied that work to that value has been carried out or that the value so specified is at least the value required as aforesaid to certify accordingly; and

(*c*) to deal with the expenses of this application as the Court may think fit.

Applicant
or
Applicant's Solicitor.

Date , 19 .

* Delete words which are not applicable.

FORM VII

Application under the Second Schedule to the Act
Under the Housing (Repairs and Rents) (Scotland) Act, 1954
Sheriffdom of *at*

APPLICATION
by

.....
.....
Applicant

against

.....
.....
Respondent

1. The Applicant is the landlord of the dwelling-house .....
..... (hereinafter referred to as "the dwelling-house") of which the Respondent is the tenant.

2. The dwelling-house is one to which section 20 of the Housing (Repairs and Rents) (Scotland) Act, 1954 (hereinafter referred to as "the Act") applies by reason of .....

3. The applicant wishes to serve on the Respondent under section 17 of the Act a notice of his intention to increase the rent in terms of the draft notice produced herewith.

4. During the period of $\frac{\text{twelve months}*}{\text{three years}}$ ending on the ..... day of ....., 19....., work of the description specified in the declaration forming part of the draft notice was carried out on or for the benefit of the dwelling-house to a value not less than .....(*a*) of the rent which was recoverable in respect of the dwelling-house immediately before the commencement of the Act.

5. No agreement in writing has been reached between the Applicant and the Respondent that work has been carried out as mentioned in the immediately preceding paragraph.

6. This application is made under sub-paragraph (1) of paragraph 4 of the First Schedule, as read with paragraph 5 of the Second Schedule, to the Act.

THEREFORE the Applicant craves the Court—

(*a*) to determine that there has been carried out on the dwelling-house during the said period work to a value not less than that specified in the said declaration and that the value so specified is at least the value required by $\frac{\text{paragraph(s) 1 (and 3)}*}{\text{paragraph(s) 2 (and 3)}}$ of the First Schedule to the Act;

(*b*) to determine any questions arising out of or in course of this application and

(*c*) to deal with the expenses of this application as the Court may think fit.

Applicant
or
Applicant's Solicitor.

* Delete words which are not applicable.
(*a*) Here insert percentage or fraction.

SECOND SCHEDULE

Grants Warrant to cite the respondent by serving him with a copy of the application and warrant and Appoints him to answer within the Sheriff Court House at on at o'clock noon.

Sheriff Clerk
or Sheriff Clerk Depute.

Note

Where it appears from the application that there is more than one person interested whether as respondent or otherwise in the determination of the question this form is to be adapted to provide for service on all interested parties.

EXPLANATORY NOTE

(*This Note is not part of the Act of Sederunt but is intended to indicate its general purport.*)

This Act of Sederunt lays down the procedure to be followed on applications to the Sheriff under the Housing (Repairs and Rents) (Scotland) Act, 1954. It also prescribes the forms of application to be used.

SITTINGS AND DISTRIBUTION OF BUSINESS

1955 No. 1979 (S. 149)

The Sheriff Courts (Angus) Order, 1955

Made - - - - 21*st December,* 1955
Coming into Operation 1*st January,* 1956

In exercise of the powers conferred on me by section 19 of the Sheriff Courts (Scotland) Act, 1907(**a**), as read with the Secretaries of State Act. 1926(**b**), I hereby make the following Order—

1. Ordinary Courts and Small Debt Courts shall be held at Dundee on Tuesday and Friday of each week during the ordinary sittings of the court for the discharge of judicial business.

2.—(1) This Order shall be recorded in the Sheriff Court Books at Dundee and intimated on the walls of the Sheriff Court House there.

(2) This Order shall come into operation on the first day of January, 1956.

(**a**) 7 Edw. 7. c. 51. (**b**) 16 & 17 Geo. 5. c. 18.