

SCHEDULE 1

SUMMARY CAUSE RULES 2002

CHAPTER 32

Action for aliment

Recall or variation of decree for aliment

32.1.—(1) Applications for the recall or variation of any decree for payment of aliment pronounced in the small debt court under the Small Debt Acts or in a summary cause under the 1971 Act must be made by summons.

(2) The sheriff may make such interim orders in relation to such applications or in relation to actions brought under section 3 of the Sheriff Courts (Civil Jurisdiction and Procedure) (Scotland) Act 1963⁽¹⁾ as he thinks fit.

(3) In paragraph (1) “the Small Debt Acts” means and includes the Small Debt (Scotland) Acts 1837 to 1889 and Acts explaining or amending the same.

Warrant and forms for intimation

32.2. In the summons in an action brought under section 3 of the Sheriff Courts (Civil Jurisdiction and Procedure) (Scotland) Act 1963, the pursuer must include an application for a warrant for intimation—

(a) in an action where the address of the defender is not known to the pursuer and cannot reasonably be ascertained, to—

(i) every child of the marriage between the parties who has reached the age of 16 years; and

(ii) one of the next-of-kin of the defender who has reached that age,

unless the address of such a person is not known to the pursuer and cannot reasonably be ascertained, and a notice of intimation in Form 36 must be attached to the copy of the summons intimated to any such person; or

(b) in an action where the defender is a person who is suffering from a mental disorder, to—

(i) those persons mentioned in paragraphs (a)(i) and (ii), unless the address of such person is not known to the pursuer and cannot reasonably be ascertained; and

(ii) the guardian of, the defender, if one has been appointed,

and a notice in Form 37 must be attached to the copy of the summons intimated to any such person.

(1) 1963 c. 22. Section 3 was substituted by the Family Law (Scotland) Act 1985 (c. 37), section 23.