

## SCHEDULE 1

### SUMMARY CAUSE RULES 2002

#### CHAPTER 33

#### *Child Support Act 1991*

#### **Interpretation of rules 33.2 to 33.4**

**33.1.** In rules 33.2 to 33.4 below—

“the 1991 Act” means the Child Support Act 1991(1);

“child” has the meaning assigned in section 55 of the 1991 Act;

“claim relating to aliment” means a crave for decree of aliment in relation to a child or for recall or variation of such a decree; and

“maintenance calculation” has the meaning assigned in section 54 of the 1991 Act(2).

#### **Statement of claim**

**33.2.**—(1) Any summons or counterclaim which contains a claim relating to aliment and to which section 8(6), (7), (8) or (10) of the 1991 Act applies must—

(a) state, where appropriate—

(i) that a maintenance calculation under section 11 of the 1991 Act (maintenance calculations)(3) is in force;

(ii) the date of the maintenance calculation;

(iii) the amount and frequency of periodical payments of child support maintenance fixed by the maintenance calculation; and

(iv) the grounds on which the sheriff retains jurisdiction under section 8(6), (7), (8) or (10) of the 1991 Act; and

(b) unless the sheriff on cause shown otherwise directs, be accompanied by any document issued by the Secretary of State to the party intimating the making of the maintenance calculation referred to in sub-paragraph (a).

(2) Any summons or counterclaim which contains a claim relating to aliment and to which section 8(6), (7), (8) or (10) of the 1991 Act does not apply must include a statement—

(a) that the habitual residence of the absent parent, person with care or qualifying child, within the meaning of section 3 of the 1991 Act(4), is outwith the United Kingdom; or

(b) that the child is not a child within the meaning of section 55 of the 1991 Act.

(3) A summons or counterclaim which involves parties in respect of whom a decision has been made in any application, review or appeal under the 1991 Act must—

(a) include in the statement of claim statements to the effect that such a decision has been made and give details of that decision; and

(b) unless the sheriff on cause shown otherwise directs, be accompanied by any document issued by the Secretary of State to the parties intimating that decision.

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(1) 1991 c. 48.

(2) Section 54 was relevantly amended by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 1(2).

(3) Section 11 was substituted by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 1(1).

(4) Section 3 was amended by the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 52(2) and S.I.2001/155.

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

### **Effect of maintenance calculations**

**33.3.**—(1) On receiving notification that a maintenance calculation has been made, cancelled or has ceased to have effect so as to affect an order of a kind prescribed for the purposes of section 10 of the 1991 Act, the sheriff clerk must enter in the Register of Summary Causes in respect of that order a note to that effect.

(2) The note mentioned in paragraph (1) must state that—

- (a) the order ceases or ceased to have effect from the date two days after the making of the maintenance calculation; or
- (b) the maintenance calculation has been cancelled or has ceased to have effect.

### **Effect of maintenance calculations on extracts of decrees relating to aliment**

**33.4.**—(1) Where a decree relating to aliment is affected by a maintenance calculation, any extract of that decree issued by the sheriff clerk must be endorsed with the following certificate:—

“A maintenance calculation having been made under the Child Support Act 1991 on (*insert date*), this order, in so far as it relates to the making or securing of periodical payments to or for the benefit of (*insert name(s) of child/children*), ceases to have effect from (*insert date two days after the date on which the maintenance calculation was made*).”.

(2) Where a decree relating to aliment has ceased to have effect on the making of a maintenance calculation and that maintenance calculation is later cancelled or ceases to have effect, any extract of that order issued by the sheriff clerk must be endorsed also with the following certificate:—

“The jurisdiction of the child support officer under the Child Support Act 1991 having terminated on (*insert date*), this order, in so far as it relates to (*insert name(s) of child/children*), again shall have effect as of (*insert date of termination of child support officer’s jurisdiction*).”.