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## SCHEDULES

### <sup>F1</sup>FIRST SCHEDULE

#### ORDINARY CAUSE RULES 1993

##### Textual Amendments

- F1** Sch. 1 (with appendices 1 and 2) substituted (1.1.1994) for Sch. 1 (with appendix) by S.I. 1993/1956, para. 2, **Sch.1**.  
Sch. 1 (except rule 29.10) excluded (1.4.1997) by S.I. 1997/291, **rule 3.24**, Sch. 3  
Sch. 1 extended (14.2.2000) by S.I. 2000/124, **reg. 30(5)**

### [<sup>F1</sup>INITIATION AND PROGRESS OF CAUSES]

#### CHAPTER 16

##### DECREES BY DEFAULT

###### *Application of this Chapter*

- 16.1. This [<sup>F1</sup>Chapter] applies to any cause other than—
- (a) an action to which rule 33.37 (decree by default in family action) applies;
  - [<sup>F2</sup>(aa) an action to which rule 33A.37 (decree by default in a civil partnership action) applies;]
  - (b) an action of multipoleinding; <sup>F3</sup> . . .
  - (c) a cause under the Presumption of Death (Scotland) Act 1977 <sup>F4</sup>. [<sup>F5</sup>; or
  - <sup>F5</sup>(d) a commercial action within the meaning of Chapter 40.]

##### Textual Amendments

- F1** Word in **rule 16.1** substituted (1.3.2001) by S.S.I. 2001/8, **para. 2(1)(4)(a)**  
**F2** **Sch. 1 rule 16.1(aa)** inserted (4.5.2006) by Act of Sederunt (Ordinary Cause Rules) Amendment (Family Law (Scotland) Act 2006 etc.) 2006 (S.S.I. 2006/207), {rule 2(11)}  
**F3** Word in **rule 16.1(b)** omitted (1.3.2001) by virtue of S.S.I. 2001/8, **para. 2(1)(4)(b)**  
**F4** 1977 c.27.  
**F5** **Rule 16.1(d)** and the preceding word “or” inserted (1.3.2001) by S.S.I. 2001/8, **para. 2(1)(4)(c)**

###### *Decrees where party in default*

- 16.2. (1) In a cause to which this Chapter applies, where a party fails—
- (a) to lodge, or intimate the lodging of, any production or part of process within the period required under a provision in these Rules or an order of the sheriff,

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- (b) to implement an order of the sheriff within a specified period, <sup>F6</sup> . . .
- (c) to appear or be represented at any diet, [<sup>F7</sup>, or
- (d) otherwise to comply with any requirement imposed upon that party by these Rules]

that party shall be in default.

- [<sup>F8</sup>(2) Where a party is in default the sheriff may, as the case may be—
- (a) grant decree as craved with expenses;
  - (b) grant decree of absolvitor with expenses;
  - (c) dismiss the cause with expenses; or
  - (d) make such other order as he thinks fit to secure the expeditious progress of the cause.]
- (3) Where no party appears at a diet, the sheriff may dismiss the cause.
- (4) In this rule, “diet” includes—
- (a) a hearing under rule 9.12 (Options Hearing);
  - (b) a hearing under rule 10.6 (Procedural Hearing);
  - (c) a proof or proof before answer; and
  - (d) a debate.

#### **Textual Amendments**

- F6** Word in Sch. 1 rule 16.2(1)(b) omitted (18.8.2006) by virtue of Act of Sederunt (Ordinary Cause and Summary Application Rules) Amendment (Miscellaneous) 2006 (S.S.I. 2006/410), **art. 2(5)(a)**
- F7** Sch. 1 rule 16.2(1)(d) and word inserted (18.8.2006) by Act of Sederunt (Ordinary Cause and Summary Application Rules) Amendment (Miscellaneous) 2006 (S.S.I. 2006/410), **art. 2(5)(b)**
- F8** Sch. 1 rule 16.2(2) substituted (18.8.2006) by Act of Sederunt (Ordinary Cause and Summary Application Rules) Amendment (Miscellaneous) 2006 (S.S.I. 2006/410), **art. 2(5)(c)**

#### *Prorogation of time where party in default*

- 16.3. In an action to which this Chapter applies, the sheriff may, on cause shown, prorogate the time for lodging any production or part of process or for giving intimation or for implementing any order.

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