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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 3

#### COMMENCEMENT OF CAUSES

##### *Form of initial writ*

- 3.1. [<sup>F1</sup>(1) A cause shall be commenced—
- (a) in the case of an ordinary cause, by initial writ in Form G1; or
  - (b) in the case of a commercial action within the meaning of Chapter 40, by initial writ in Form G1A.]
- (2) The initial writ shall be written, typed or printed on A4 size paper of durable quality and shall not be backed or folded.
- (3) Where the pursuer has reason to believe that an [<sup>F2</sup>agreement] exists prorogating jurisdiction over the subject-matter of the cause to another court, the [<sup>F3</sup>initial] writ shall contain details of that agreement.
- (4) Where the pursuer has reason to believe that proceedings are pending before another court involving the same cause of action and between the same parties as those named in the instance of the initial writ, the [<sup>F3</sup>initial] writ shall contain details of those proceedings.
- (5) An article of condescendence shall be included in the [<sup>F3</sup>initial] writ averring—
- (a) the ground of jurisdiction; and
  - (b) the facts upon which the ground of jurisdiction is based.
- (6) Where the residence, registered office or place of business, as the case may be, of the defender is not known and cannot reasonably be ascertained, the pursuer shall set out in the instance that the whereabouts of the defender are not known and aver in the condescendence what steps have been taken to ascertain his present whereabouts.

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- (7) The initial writ shall be signed by the pursuer or his solicitor (if any) and the name and address of that solicitor shall be stated on the back of every service copy of that writ.

#### Textual Amendments

- F1** Rule 3.1(1)(a)(b) substituted for rule 3.1(1) (1.3.2001) by S.S.I. 2001/8, para. 2(1)(2)  
**F2** Word in rule 3.1(3) substituted (1.1.1996) by S.I. 1996/2445, para. 3(2)(a)(i)  
**F3** Word in rule 3.1(3)-(5) substituted (1.11.1996) by S.I. 1996/2445, para. 3(2)(a)(ii)(b)(c)

#### *Actions relating to heritable property*

- 3.2. (1) In an action relating to heritable property, it shall not be necessary to call as a defender any person by reason only of any interest he may have as the holder of a heritable security over the heritable property.
- (2) Intimation of such an action shall be made to the holder of the heritable security referred to in paragraph (1)—
- (a) where the action relates to any heritable right or title; and
  - (b) in any other case, where the sheriff so orders.
- [<sup>F4</sup>(3) In an action falling within section 1(1)(b) or (c) of the Mortgage Rights (Scotland) Act 2001 <sup>M1</sup>, the initial writ shall include averments about those persons who appear to the pursuer to be entitled to apply for an order under section 2 of that Act and such persons shall, so far as known to the pursuer, be called as defenders for their interest.]

#### Textual Amendments

- F4** Rule 3.2(3) inserted (17.1.2002) by Act of Sederunt (Amendment of Ordinary Cause Rules and Summary Applications, Statutory Applications and Appeals etc. Rules) (Applications under the Mortgage Rights (Scotland) Act 2001) 2002 (S.S.I. 2002/7), {para. 2(2)}

#### Marginal Citations

- M1** 2001 asp 11.

#### *Warrants of citation*

- 3.3. (1) The warrant of citation in any cause other than—
- (a) a family action within the meaning of rule 33.1(1),
  - (b) an action of multiplepounding,
  - (c) an action in which a time to pay direction under the Debtors (Scotland) Act 1987 [<sup>F5</sup> or a time order under the Consumer Credit Act 1974 <sup>F6</sup>] may be applied for by the defender,
  - [<sup>F7</sup>(d) an action to which rule 3.2(3) applies,]
  - [<sup>F8</sup>(e) a civil partnership action within the meaning of rule 33A.1(1).]
- shall be in [<sup>F9</sup>Form O1].
- (2) In a cause in which a time to pay direction under the Debtors (Scotland) Act 1987 [<sup>F10</sup> or a time order under the Consumer Credit Act 1974] may be applied for the defender, the warrant of citation shall be in [<sup>F9</sup>Form O2].

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(3) In a cause in which a warrant of citation in accordance with [F9Form O2] is appropriate, there shall be served on the defender (with the initial writ and warrant) a notice in [F9Form O3].

[F11(4) In an action to which rule 3.2(3) applies, the warrant of citation shall be in Form O2A.]

#### Textual Amendments

- F5** Words in [Sch. 1 rule 3.3\(1\)\(c\)](#) inserted (29.1.2007) by [Act of Sederunt \(Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules\) Amendment \(Miscellaneous\) 2007 \(S.S.I. 2007/6\)](#), [para. 2\(4\)\(a\)](#)
- F6** 1974 c. 39.
- F7** [Rule 3.3\(1\)\(d\)](#) inserted (17.1.2002) by [Act of Sederunt \(Amendment of Ordinary Cause Rules and Summary Applications, Statutory Applications and Appeals etc. Rules\) \(Applications under the Mortgage Rights \(Scotland\) Act 2001\) 2002 \(S.S.I. 2002/7\)](#), {[para. 2\(3\)\(a\)](#)}
- F8** [Sch. 1 rule 3.3\(1\)\(e\)](#) 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\(2\)](#)}
- F9** Words in [rule 3.3](#) substituted (1.11.1996) by [S.I. 1996/2445](#), [para. 3\(3\)](#)
- F10** Words in [Sch. 1 rule 3.3\(2\)](#) inserted (29.1.2007) by [Act of Sederunt \(Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules\) Amendment \(Miscellaneous\) 2007 \(S.S.I. 2007/6\)](#), [para. 2\(4\)\(b\)](#)
- F11** [Rule 3.3\(4\)](#) inserted (17.1.2002) by [Act of Sederunt \(Amendment of Ordinary Cause Rules and Summary Applications, Statutory Applications and Appeals etc. Rules\) \(Applications under the Mortgage Rights \(Scotland\) Act 2001\) 2002 \(S.S.I. 2002/7\)](#), {[para. 2\(3\)\(b\)](#)}

#### *Warrants for arrestment to found jurisdiction*

- 3.4. (1) Where an application for a warrant for arrestment to found jurisdiction may be made, it shall be made in the crave of the [F12:initial] writ.
- (2) Averments to justify the granting of such a warrant shall be included in the condescendence.

#### Textual Amendments

- F12** Word in [rule 3.4\(1\)](#) substituted (1.11.1996) by [S.I. 1996/2445](#), [para. 3\(4\)](#)

#### *Warrants and precepts for arrestment on dependence*

- 3.5. (1) A copy of—
- (a) an initial writ with warrant to cite which includes a warrant to arrest on the dependence,
  - (b) defences which include, or a minute of amendment which includes, a counterclaim with warrant granted to arrest on the dependence endorsed on that writ,
- certified as a true copy by the pursuer or defender, as the case may be, or his solicitor, shall be sufficient warrant to arrest on the dependence if it is otherwise competent to do so.

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- (2) A precept of arrestment may be issued by the sheriff<sup>F13</sup> . . . on production to him of—
- (a) an initial writ containing a crave for payment of money on which a warrant of citation has been issued;
  - (b) defences which include, or a minute of amendment which includes, a counterclaim containing a crave for payment of money; or
  - (c) a document of liquid debt.
- [<sup>F14</sup>(3) Averments to justify the granting of a warrant to arrest on the dependence, or a precept of arrestment, shall be included in the condescence of an initial writ or the statement of claim in a counterclaim.]

#### Textual Amendments

- F13** Word in Sch. 1 rule 3.5(2) omitted (21.5.2004) by virtue of Act of Sederunt (Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules) Amendment (Miscellaneous) 2004 (S.S.I. 2004/197), **art. 2(2)(a)**
- F14** Sch. 1 rule 3.5(3) inserted (21.5.2004) by Act of Sederunt (Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules) Amendment (Miscellaneous) 2004 (S.S.I. 2004/197), **art. 2(2)(b)**

#### *Period of notice after citation*

- 3.6. (1) Subject to rule 5.6(1) (service where address of person is not known) and to paragraph (2) of this rule, a cause shall proceed after one of the following periods of notice has been given to the defender:—
- (a) where the defender is resident or has a place of business within Europe, 21 days after the date of execution of service; or
  - (b) where the defender is resident or has a place of business outside Europe, 42 days after the date of execution of service.
- (2) Subject to paragraph (3), the sheriff may, on cause shown, shorten or extend the period of notice on such conditions as to the method or manner of service as he thinks fit.
- (3) A period of notice may not be reduced to a period of less than 2 days.
- (4) Where a period of notice expires on a Saturday, Sunday, or public or court holiday, the period of notice shall be deemed to expire on the next day on which the sheriff clerk's office is open for civil court business.

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