
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 123

**Act of Sederunt (Rules of the Court of
Session 1994 and Ordinary Cause Rules
1993 Amendment) (Views of the Child) 2019**

Amendment of the Ordinary Cause Rules 1993

- 3.—**(1) The Ordinary Cause Rules 1993(1) are amended in accordance with this paragraph.
- (2) In rule 33.7 (warrants and forms for intimation)(2)—
- (a) in paragraph (1)—
 - (i) for “paragraphs (5) and (7)”, substitute “paragraph (5) and rule 33.7A (warrants and forms for intimation to a child and for seeking a child’s views)”;
 - (ii) omit sub-paragraph (h);
 - (b) in paragraph (5)—
 - (i) omit “(h).”;
 - (ii) after “or (p)”, insert “or a child mentioned in rule 33.7A(1)”;
 - (c) omit paragraph (7).
- (3) After rule 33.7, insert—

“Warrants and forms for intimation to a child and for seeking a child’s views

33.7A.—(1) Subject to paragraph (2), in an action which includes a crave for a section 11 order in respect of a child who is not a party to the action, the pursuer must—

- (a) include in the initial writ a crave for a warrant for intimation and the seeking of the child’s views in Form F9;
- (b) when presenting the initial writ for warranting, submit a draft Form F9, showing the details that the pursuer proposes to include when the form is sent to the child.

(2) Where the pursuer considers that it would be inappropriate to send Form F9 to the child (for example, where the child is under 5 years of age), the pursuer must include in the initial writ—

- (a) a crave to dispense with intimation and the seeking of the child’s views in Form F9;
- (b) averments setting out the reasons why it is inappropriate to send Form F9 to the child.

(3) The sheriff must be satisfied that the draft Form F9 submitted under paragraph (1)(b) has been drafted appropriately(3).

(1) The Ordinary Cause Rules 1993 are in schedule 1 of the Sheriff Courts (Scotland) Act 1907 (c.51). Schedule 1 was substituted by S.I. 1993/1956 and was last amended by S.S.I. 2019/74.

(2) Rule 33.7 was last amended by S.S.I. 2016/242.

(3) The Scottish Civil Justice Council has published guidance on the preparation of Form F9 in child-friendly language. This document can be viewed online at the “Publications” page of its website (www.scottishciviljusticecouncil.gov.uk). Alternatively, a copy can be requested by emailing scjc@scotcourts.gov.uk.

(4) The sheriff may dispense with intimation and the seeking of views in Form F9 or make any other order that the sheriff considers appropriate.

(5) An order granting warrant for intimation and the seeking of the child's views in Form F9 under this rule must—

- (a) state that the Form F9 must be sent in accordance with rule 33.7A(6);
- (b) be signed by the sheriff.

(6) The Form F9 must be sent in accordance with—

- (a) rule 33.19 (views of the child – undefended actions), where the action is undefended;
- (b) rule 33.19A (views of the child – section 11 order sought by pursuer only), where the action is defended and a section 11 order is sought by the pursuer only;
- (c) rule 33.19B (views of the child – section 11 order sought by defender only), where a section 11 order is sought by the defender only; or
- (d) rule 33.19C (views of the child – section 11 orders sought by both pursuer and defender), where a section 11 order is sought by both parties.”.

(4) In rule 33.15 (orders for intimation)(4)—

(a) in paragraph (1)—

- (i) for “In any”, substitute “Except in relation to intimation to a child in Form F9, in any”;
- (ii) in sub-paragraph (a), omit “subject to paragraph (2),”;

(b) omit paragraph (2).

(5) For rule 33.19 (procedure in respect of children)(5), substitute—

“Views of the child – undefended actions

33.19.—(1) This rule applies to undefended actions in which a section 11 order is sought and warrant has been granted for intimation and the seeking of the child's views in Form F9.

(2) The pursuer must—

- (a) following the expiry of the period of notice, send the child the Form F9 that was submitted and approved under rule 33.7A (warrants and forms for intimation to a child and for seeking a child's views);
- (b) lodge with the minute for decree a certificate of intimation in Form F9A;
- (c) not send the child a copy of the initial writ.

(3) Except on cause shown, the sheriff must not grant decree in the period of 28 days following the date on which the Form F9 was sent to the child.

Views of the child – section 11 order sought by pursuer only

33.19A.—(1) This rule applies to defended actions in which only the pursuer seeks a section 11 order and warrant has been granted for intimation and the seeking of the child's views in Form F9.

(2) The pursuer must—

(4) Rule 33.15 was substituted by [S.I. 1996/2167](#).

(5) Rule 33.19 was substituted by [S.I. 1996/2167](#).

- (a) no later than 14 days after the notice of intention to defend is lodged, send the child the Form F9 that was submitted and approved under rule 33.7A (warrants and forms for intimation to a child and for seeking a child's views);
- (b) on the same day, lodge a certificate of intimation in Form F9A;
- (c) not send the child a copy of the initial writ, the notice of intention to defend or the defences.

Views of the child – section 11 order sought by defender only

33.19B.—(1) This rule applies to defended actions in which only the defender seeks a section 11 order and warrant has been granted for intimation and the seeking of the child's views in Form F9.

- (2) The defender must—
 - (a) no later than 14 days after the notice of intention to defend is lodged, send the child the Form F9 that was submitted and approved under rule 33.34 (notice of intention to defend and defences etc.);
 - (b) on the same day, lodge a certificate of intimation in Form F9A;
 - (c) not send the child a copy of the initial writ, the notice of intention to defend or the defences.

Views of the child – section 11 orders sought by both pursuer and defender

33.19C.—(1) This rule applies to defended actions in which section 11 orders are sought by both the pursuer and the defender and warrant has been granted for intimation and the seeking of the child's views in Form F9.

- (2) The pursuer must—
 - (a) no later than 14 days after the notice of intention to defend is lodged, send the child the Form F9 that was submitted and approved under rule 33.7A (warrants and forms for intimation to a child and for seeking a child's views), amended so as also to narrate the section 11 order sought by the defender;
 - (b) on the same day—
 - (i) lodge a certificate of intimation in Form F9A;
 - (ii) send the defender a copy of the Form F9 that was sent to the child;
 - (c) not send the child a copy of the initial writ, the notice of intention to defend or the defences.

Views of the child – the sheriff's role

33.19D.—(1) In a family action, in relation to any matter affecting a child, where that child has—

- (a) returned a Form F9 to the sheriff clerk; or
- (b) otherwise indicated to the court a wish to express views,

the sheriff must not grant any order unless an opportunity has been given for the views of that child to be obtained or heard.

(2) Where the sheriff is considering making an interim section 11 order before the views of the child have been obtained or heard, the sheriff must consider whether, and if so how, to seek the child's views in advance of making the order.

- (3) Where a child has indicated a wish to express views, the sheriff must order any steps to be taken that the sheriff considers appropriate to obtain or hear the views of that child.
- (4) The sheriff must not grant an order in a family action, in relation to any matter affecting a child who has expressed views, unless the sheriff has given due weight to the views expressed by that child, having regard to the child's age and maturity.
- (5) In any action in which a section 11 order is sought, where Form F9 has not been sent to the child concerned or where it has been sent but the sheriff considers that the passage of time requires it to be sent again, the sheriff may at any time order either party to—
- (a) send the Form F9 to that child within a specified timescale;
 - (b) on the same day, lodge—
 - (i) a copy of the Form F9 that was sent to the child;
 - (ii) a certificate of intimation in Form F9B.”.
- (6) In rule 33.21(3) (interlocutor appointing a child welfare reporter)—
- (a) in sub-paragraph (c), after “sought”, insert “and include a direction as to whether a copy of the report is to be provided to the parties under paragraph (9)(d)”;
 - (b) following sub-paragraph (c), omit “and”;
 - (c) after sub-paragraph (d), insert—

“; and

 - (e) where the appointment is under paragraph (1)(b) and seeking the views of the child forms part of the enquiries to be undertaken, include a direction as to whether the views of the child should be recorded in a separate report and, if so, whether a copy of that report is to be provided to the parties under paragraph (9)(d).”.
- (7) In rule 33.33A (late appearance and application for recall by defenders)(6)—
- (a) in paragraph (1)—
 - (i) for “(h)”, substitute “(g)”;
 - (ii) after “(q)”, insert “or rule 33.7A(1) (warrants and forms for intimation to a child and for seeking a child's views)”;
 - (b) after paragraph (4), insert—

“(4A) Where the sheriff makes an order under paragraph (1) or (3), the sheriff must order any steps to be taken that the sheriff considers appropriate to obtain or hear the views of the child in relation to any section 11 order sought by the defender.”
- (8) In rule 33.34 (notice of intention to defend and defences etc.)(7)—
- (a) in paragraph (2)(a), after “period of notice”, insert “and, at the same time, send a copy to the pursuer”;
 - (b) omit paragraph (3);
 - (c) after paragraph (4), insert—

“(4A) Subject to paragraph (4B), where a defender intends to make an application for a section 11 order in respect of a child who is not a party to the action and where the initial writ does not include a crave for a section 11 order, the defender must—

 - (a) include in the notice of intention to defend a crave for a warrant for intimation and the seeking of the child's views in Form F9;

(6) Rule 33.33A was inserted by [S.S.I. 2008/223](#) and amended by [S.S.I. 2012/188](#).

(7) Rule 33.34 was last amended by [S.S.I. 2012/221](#).

- (b) when lodging the notice of intention to defend, submit a draft Form F9, showing the details that the defender proposes to include when the form is sent to the child.
- (4B) Where the defender considers that it would be inappropriate to send Form F9 to the child (for example, where the child is under 5 years of age), the defender must include in the notice of intention to defend—
 - (a) a crave to dispense with intimation and the seeking of the child’s views in Form F9;
 - (b) averments setting out the reasons why it is inappropriate to send Form F9 to the child.
- (4C) The sheriff must be satisfied that the draft Form F9 submitted under paragraph (4A)(b) has been drafted appropriately⁽⁸⁾.
- (4D) The sheriff may dispense with intimation and the seeking of views in Form F9 or make any other order that the sheriff considers appropriate.
- (4E) An order granting warrant for intimation and the seeking of the child’s views in Form F9 under this rule must —
 - (a) state that the Form F9 must be sent to the child in accordance with rule 33.19B (views of the child – section 11 order sought by defender only);
 - (b) be signed by the sheriff.”.
- (9) After rule 33.44 (applications after decree relating to a section 11 order)⁽⁹⁾, insert—

“Warrants for intimation to child and permission to seek views

- 33.44A.**—(1) Subject to paragraph (2), when lodging a minute under rule 14.3 (lodging of minutes)⁽¹⁰⁾ which includes a crave after final decree for, or the variation or recall of, a section 11 order in respect of a child who is not a party to the action, the minuter must—
- (a) include in the minute a crave for a warrant for intimation and the seeking of the child’s views in Form F9;
 - (b) when lodging the minute, submit a draft Form F9, showing the details that the minuter proposes to include when the form is sent to the child.
- (2) Where the minuter considers that it would be inappropriate to send Form F9 to the child (for example, where the child is under 5 years of age), the minuter must include in the minute—
- (a) a crave to dispense with intimation and the seeking of the child’s views in Form F9;
 - (b) averments setting out the reasons why it is inappropriate to send Form F9 to the child.
- (3) The sheriff must be satisfied that the draft Form F9 submitted under paragraph (1)(b) has been drafted appropriately⁽¹¹⁾.
- (4) The sheriff may dispense with intimation and the seeking of views in Form F9 or make any other order that the sheriff considers appropriate.
- (5) An order granting warrant for intimation and the seeking of the child’s views in Form F9 under this rule must—

⁽⁸⁾ The Scottish Civil Justice Council has published guidance on the preparation of Form F9 in child-friendly language. This document can be viewed online at the “Publications” page of its website (www.scottishciviljusticecouncil.gov.uk). Alternatively, a copy can be requested by emailing scjc@scotcourts.gov.uk.

⁽⁹⁾ Rule 33.44 was last amended by [S.S.I. 2000/239](#).

⁽¹⁰⁾ Rule 14.3 was substituted by [S.I. 1996/2445](#).

⁽¹¹⁾ The Scottish Civil Justice Council has published guidance on the preparation of Form F9 in child-friendly language. This document can be viewed online at the “Publications” page of its website (www.scottishciviljusticecouncil.gov.uk). Alternatively, a copy can be requested by emailing scjc@scotcourts.gov.uk.

- (a) state that the Form F9 must be sent in accordance with rule 33.44A(6);
 - (b) be signed by the sheriff.
- (6) The Form F9 must be sent in accordance with—
- (a) rule 33.44B (views of the child – unopposed minutes relating to a section 11 order), where the minute is unopposed;
 - (b) rule 33.44C (views of the child – craves relating to a section 11 order sought by minuter only), where the minute is opposed and a section 11 order is sought by the minuter only; or
 - (c) rule 33.44D (views of the child – craves relating to a section 11 order sought by both minuter and respondent), where a section 11 order is sought by both the minuter and the respondent.

Views of the child – unopposed minutes relating to a section 11 order

33.44B.—(1) This rule applies to minutes which include a crave after final decree for, or the variation or recall of, a section 11 order in respect of which no notice of opposition or answers are lodged and warrant has been granted for intimation and the seeking of the child’s views in Form F9.

- (2) The minuter must—
- (a) send the child the Form F9 that was submitted and approved under rule 33.44A (warrants for intimation to child and permission to seek views);
 - (b) on the same day, lodge a certificate of intimation in Form F9A;
 - (c) not send the child a copy of the minute.
- (3) Except on cause shown, the sheriff must not determine the minute in the period of 28 days following the date on which the Form F9 was sent to the child.

Views of the child – craves relating to a section 11 order sought by minuter only

33.44C.—(1) This rule applies where a notice of opposition or answers have been lodged in respect of a minute after final decree and a crave for, or the variation or recall of, a section 11 order is sought by the minuter only and warrant has been granted for intimation and the seeking of the child’s views in Form F9.

- (2) The minuter must—
- (a) no later than 14 days after the notice of opposition or answers are lodged, send the child the Form F9 that was submitted and approved under rule 33.44A (warrants for intimation to child and permission to seek views);
 - (b) on the same day, lodge a certificate of intimation in Form F9A;
 - (c) not send the child a copy of the minute, the notice of opposition or answers.

Views of the child – craves relating to a section 11 order sought by both minuter and respondent

33.44D.—(1) This rule applies where a notice of opposition or answers have been lodged in respect of a minute after final decree and craves for, or the variation or recall of, a section 11 order are sought by both the minuter and the respondent and warrant has been granted for intimation and the seeking of the child’s views in Form F9.

- (2) The minuter must—

- (a) no later than 14 days after the notice of opposition or answers are lodged, send the child the Form F9 that was submitted and approved under rule 33.44A (warrants for intimation to child and permission to seek views), amended so as also to narrate the section 11 order sought by the respondent;
 - (b) on the same day—
 - (i) lodge a certificate of intimation in Form F9A;
 - (ii) send the respondent a copy of the Form F9 that was sent to the child;
 - (c) not send the child a copy of the minute, the notice of opposition or answers.”.
- (10) In rule 33.65 (applications after decree)(12), after paragraph (2), insert—
- “(3) Rules 33.44A (warrants for intimation to child and permission to seek views) to 33.44D (views of the child – craves relating to a section 11 order sought by both minuter and respondent) apply (with the necessary modifications) to the seeking of the child’s views in relation to a minute lodged in accordance with this rule.”.
- (11) In rule 33A.7 (warrants and forms for intimation)—
- (a) in paragraph (1)—
 - (i) for “paragraphs (5) and (7)”, substitute “paragraph (5) and rule 33A.7A (warrants and forms for intimation to a child and for seeking a child’s views)”;
 - (ii) omit sub-paragraph (f);
 - (b) in paragraph (5)—
 - (i) omit “(f),”;
 - (ii) after “or (k)”, insert “or a child mentioned in rule 33A.7A(1)”;
 - (c) omit paragraph (7).
- (12) After rule 33A.7, insert—

“Warrants and forms for intimation to a child and for seeking a child’s views

33A.7A.—(1) Subject to paragraph (2), in an action which includes a crave for a section 11 order in respect of a child who is not a party to the action, the pursuer must—

- (a) include in the initial writ a crave for a warrant for intimation and the seeking of the child’s views in Form F9;
- (b) when presenting the initial writ for warranting, submit a draft Form F9, showing the details that the pursuer proposes to include when the form is sent to the child.

(2) Where the pursuer considers that it would be inappropriate to send Form F9 to the child (for example, where the child is under 5 years of age), the pursuer must include in the initial writ—

- (a) a crave to dispense with intimation and the seeking of the child’s views in Form F9;
- (b) averments setting out the reasons why it is inappropriate to send Form F9 to the child.

(3) The sheriff must be satisfied that the draft Form F9 submitted under paragraph (1)(b) has been drafted appropriately(13).

(4) The sheriff may dispense with intimation and the seeking of views in Form F9 or make any other order that the sheriff considers appropriate.

(12) Rule 33.65 was amended by [S.I. 1996/2167](#).

(13) The Scottish Civil Justice Council has published guidance on the preparation of Form F9 in child-friendly language. This document can be viewed online at the “Publications” page of its website (www.scottishciviljusticecouncil.gov.uk). Alternatively, a copy can be requested by emailing scjc@scotcourts.gov.uk.

- (5) An order granting warrant for intimation and the seeking of the child’s views in Form F9 under this rule must—
- (a) state that the Form F9 must be sent in accordance with rule 33A.7A(6);
 - (b) be signed by the sheriff.
- (6) The Form F9 must be sent in accordance with—
- (a) rule 33A.19 (views of the child – undefended actions), where the action is undefended;
 - (b) rule 33A.19A (views of the child – section 11 order sought by pursuer only), where the action is defended and a section 11 order is sought by the pursuer only;
 - (c) rule 33A.19B (views of the child – section 11 order sought by defender only), where a section 11 order is sought by the defender only; or
 - (d) rule 33A.19C (views of the child – section 11 orders sought by both pursuer and defender), where a section 11 order is sought by both parties.”.
- (13) In rule 33A.15 (orders for intimation)—
- (a) in paragraph (1)—
 - (i) for “In any”, substitute “Except in relation to intimation to a child in Form F9, in any”;
 - (ii) in sub-paragraph (a), omit “subject to paragraph (2),”;
 - (b) omit paragraph (2).
- (14) For rule 33A.19 (procedure in respect of children), substitute—

“Views of the child – undefended actions

33A.19.—(1) This rule applies to undefended actions in which a section 11 order is sought and warrant has been granted for intimation and the seeking of the child’s views in Form F9.

- (2) The pursuer must—
- (a) following the expiry of the period of notice, send the child the Form F9 that was submitted and approved under rule 33A.7A (warrants and forms for intimation to a child and for seeking a child’s views);
 - (b) lodge with the minute for decree a certificate of intimation in Form F9A;
 - (c) not send the child a copy of the initial writ.
- (3) Except on cause shown, the sheriff must not grant decree in the period of 28 days following the date on which the Form F9 was sent to the child.

Views of the child – section 11 order sought by pursuer only

33A.19A.—(1) This rule applies to defended actions in which only the pursuer seeks a section 11 order and warrant has been granted for intimation and the seeking of the child’s views in Form F9.

- (2) The pursuer must—
- (a) no later than 14 days after the notice of intention to defend is lodged, send the child the Form F9 that was submitted and approved under rule 33A.7A (warrants and forms for intimation to a child and for seeking a child’s views);
 - (b) on the same day, lodge a certificate of intimation in Form F9A;
 - (c) not send the child a copy of the initial writ, the notice of intention to defend or the defences.

Views of the child – section 11 order sought by defender only

33A.19B.—(1) This rule applies to defended actions in which only the defender seeks a section 11 order and warrant has been granted for intimation and the seeking of the child's views in Form F9.

(2) The defender must—

- (a) no later than 14 days after the notice of intention to defend is lodged, send the child the Form F9 that was submitted and approved under rule 33A.34 (notice of intention to defend and defences);
- (b) on the same day, lodge a certificate of intimation in Form F9A;
- (c) not send the child a copy of the initial writ, the notice of intention to defend or the defences.

Views of the child – section 11 orders sought by both pursuer and defender

33A.19C.—(1) This rule applies to defended actions in which section 11 orders are sought by both the pursuer and the defender and warrant has been granted for intimation and the seeking of the child's views in Form F9.

(2) The pursuer must—

- (a) no later than 14 days after the notice of intention to defend is lodged, send the child the Form F9 that was submitted and approved under rule 33A.7A (warrants and forms for intimation to a child and for seeking a child's views), amended so as also to narrate the section 11 order sought by the defender;
- (b) on the same day—
 - (i) lodge a certificate of intimation in Form F9A;
 - (ii) send the defender a copy of the Form F9 that was sent to the child;
- (c) not send the child a copy of the initial writ, the notice of intention to defend or the defences.

Views of the child – the sheriff's role

33A.19D.—(1) In a civil partnership action, in relation to any matter affecting a child, where that child has—

- (a) returned a Form F9 to the sheriff clerk; or
- (b) otherwise indicated to the court a wish to express views,

the sheriff must not grant any order unless an opportunity has been given for the views of that child to be obtained or heard.

(2) Where the sheriff is considering making an interim section 11 order before the views of the child have been obtained or heard, the sheriff must consider whether, and if so how, to seek the child's views in advance of making the order.

(3) Where a child has indicated a wish to express views, the sheriff must order any steps to be taken that the sheriff considers appropriate to obtain or hear the views of that child.

(4) The sheriff must not grant an order in a civil partnership action, in relation to any matter affecting a child who has expressed views, unless the sheriff has given due weight to the views expressed by that child, having regard to the child's age and maturity.

(5) In any action in which a section 11 order is sought, where Form F9 has not been sent to the child concerned or where it has been sent but the sheriff considers that the passage of time requires it to be sent again, the sheriff may at any time order either party to—

- (a) send the Form F9 to that child within a specified timescale;
 - (b) on the same day, lodge—
 - (i) a copy of the Form F9 that was sent to the child;
 - (ii) a certificate of intimation in Form F9B.”.
- (15) In rule 33A.21(3) (interlocutor appointing a child welfare reporter)(**14**)—
- (a) in sub-paragraph (c), after “sought”, insert “and include a direction as to whether a copy of the report is to be provided to the parties under paragraph (9)(d)”;
 - (b) following sub-paragraph (d), omit “and”;
 - (c) after sub-paragraph (d), insert—
 - “; and
 - (e) where the appointment is under paragraph (1)(b) and seeking the views of the child forms part of the enquiries to be undertaken, include a direction as to whether the views of the child should be recorded in a separate report and, if so, whether a copy of that report is to be provided to the parties under paragraph (9)(d).”.
- (16) In rule 33A.33A (late appearance and application for recall by defenders)(**15**), after paragraph (4), insert—
- “(4A) Where the sheriff makes an order under paragraph (1) or (3), the sheriff must order any steps to be taken that the sheriff considers appropriate to obtain or hear the views of the child in relation to any section 11 order sought by the defender.”.
- (17) In rule 33A.34 (notice of intention to defend and defences)(**16**)—
- (a) in paragraph (2)(a), after “period of notice”, insert “and, at the same time, send a copy to the pursuer”;
 - (b) omit paragraph (3);
 - (c) after paragraph (4), insert—
 - “(4A) Subject to paragraph (4B), where a defender intends to make an application for a section 11 order in respect of a child who is not a party to the action and where the initial writ does not include a crave for a section 11 order, the defender must—
 - (a) include in the notice of intention to defend a crave for a warrant for intimation and the seeking of the child’s views in Form F9;
 - (b) when lodging the notice of intention to defend, submit a draft Form F9, showing the details that the defender proposes to include when the form is sent to the child.
 - (4B) Where the defender considers that it would be inappropriate to send Form F9 to the child (for example, where the child is under 5 years of age), the defender must include in the notice of intention to defend—
 - (a) a crave to dispense with intimation and the seeking of the child’s views in Form F9;
 - (b) averments setting out the reasons why it is inappropriate to send Form F9 to the child.

(14) Rule 33A.21 was substituted by [S.S.I. 2016/102](#).

(15) Rule 33A.33A was inserted by [S.S.I. 2008/223](#).

(16) Rule 33A.34 was amended by [S.S.I. 2012/221](#).

(4C) The sheriff must be satisfied that the draft Form F9 submitted under paragraph (4A)(b) has been drafted appropriately⁽¹⁷⁾.

(4D) The sheriff may dispense with intimation and the seeking of views in Form F9 or make any other order that the sheriff considers appropriate.

(4E) An order granting warrant for intimation and the seeking of the child's views in Form F9 under this rule must—

(a) state that the Form F9 must be sent to the child in accordance with rule 33A.19B (views of the child – section 11 order sought by defender only);

(b) be signed by the sheriff.”

(18) After rule 33A.41 (applications after decree relating to a section 11 order), insert—

“Warrants for intimation to child and permission to seek views

33A.41A.—(1) Subject to paragraph (2), when lodging a minute under rule 14.3 (lodging of minutes) which includes a crave after final decree for, or the variation or recall of, a section 11 order in respect of a child who is not a party to the action, the minuter must—

(a) include in the minute a crave for a warrant for intimation and the seeking of the child's views in Form F9;

(b) when lodging the minute, submit a draft Form F9, showing the details that the minuter proposes to include when the form is sent to the child.

(2) Where the minuter considers that it would be inappropriate to send Form F9 to the child (for example, where the child is under 5 years of age), the minuter must include in the minute—

(a) a crave to dispense with intimation and the seeking of the child's views in Form F9;

(b) averments setting out the reasons why it is inappropriate to send Form F9 to the child.

(3) The sheriff must be satisfied that the draft Form F9 submitted under paragraph (1)(b) has been drafted appropriately⁽¹⁸⁾.

(4) The sheriff may dispense with intimation and the seeking of views in Form F9 or make any other order that the sheriff considers appropriate.

(5) An order granting warrant for intimation and the seeking of the child's views in Form F9 under this rule must—

(a) state that the Form F9 must be sent in accordance with rule 33A.41A(6);

(b) be signed by the sheriff.

(6) The Form F9 must be sent in accordance with—

(a) rule 33A.41B (views of the child – unopposed minutes relating to a section 11 order), where the minute is unopposed;

(b) rule 33A.41C (views of the child – craves relating to a section 11 order sought by minuter only), where the minute is opposed and a section 11 order is sought by the minuter only; or

(c) rule 33A.41D (views of the child – craves relating to a section 11 order sought by both minuter and respondent), where a section 11 order is sought by both the minuter and the respondent.

⁽¹⁷⁾ The Scottish Civil Justice Council has published guidance on the preparation of Form F9 in child-friendly language. This document can be viewed online at the “Publications” page of its website (www.scottishciviljusticecouncil.gov.uk). Alternatively, a copy can be requested by emailing scjc@scotcourts.gov.uk.

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Views of the child – unopposed minutes relating to a section 11 order

33A.41B.—(1) This rule applies to minutes which include a crave after final decree for, or the variation or recall of, a section 11 order in respect of which no notice of opposition or answers are lodged and warrant has been granted for intimation and the seeking of the child’s views in Form F9.

(2) The minuter must—

- (a) send the child the Form F9 that was submitted and approved under rule 33A.41A (warrants for intimation to child and permission to seek views);
- (b) on the same day, lodge a certificate of intimation in Form F9A;
- (c) not send the child a copy of the minute.

(3) Except on cause shown, the sheriff must not determine the minute in the period of 28 days following the date on which the Form F9 was sent to the child.

Views of the child – craves relating to a section 11 order sought by minuter only

33A.41C.—(1) This rule applies where a notice of opposition or answers have been lodged in respect of a minute after final decree and a crave for, or the variation or recall of, a section 11 order is sought by the minuter only and warrant has been granted for intimation and the seeking of the child’s views in Form F9.

(2) The minuter must—

- (a) no later than 14 days after the notice of opposition or answers are lodged, send the child the Form F9 that was submitted and approved under rule 33A.41A (warrants for intimation to child and permission to seek views);
- (b) on the same day, lodge a certificate of intimation in Form F9A;
- (c) not send the child a copy of the minute, the notice of opposition or answers.

Views of the child – craves relating to a section 11 order sought by both minuter and respondent

33A.41D.—(1) This rule applies where a notice of opposition or answers have been lodged in respect of a minute after final decree and craves for, or the variation or recall of, a section 11 order are sought by both the minuter and the respondent and warrant has been granted for intimation and the seeking of the child’s views in Form F9.

(2) The minuter must—

- (a) no later than 14 days after the notice of opposition or answers are lodged, send the child the Form F9 that was submitted and approved under rule 33A.41A (warrants for intimation to child and permission to seek views), amended so as also to narrate the section 11 order sought by the respondent;
- (b) on the same day—
 - (i) lodge a certificate of intimation in Form F9A;
 - (ii) send the respondent a copy of the Form F9 that was sent to the child;
- (c) not send the child a copy of the minute, the notice of opposition or answers.”.

(19) In rule 33A.57 (applications after decree), after paragraph (2), insert—

“(3) Rules 33A.41A (warrants for intimation to child and permission to seek views) to 33A.41D (views of the child – craves relating to a section 11 order sought by both minuter and respondent) apply (with the necessary modifications) to the seeking of the child’s views in relation to a minute lodged in accordance with this rule.”.

(20) In Appendix 1 (forms)—

- (a) for Form F9 (form of intimation in an action which includes a crave for a section 11 order)(**19**), substitute Form F9 (form for intimation to a child and for seeking a child's views) in schedule 4;
- (b) after Form F9 (form for intimation to a child and for seeking a child's views), insert Form F9A (form of certificate of intimation of Form F9) in schedule 5;
- (c) after Form F9A (form of certificate of intimation of Form F9), insert Form F9B (form of certificate of intimation of Form F9 (where ordered under rule 33.19D or 33A.19D)) in schedule 6;
- (d) for Form F14 (form of warrant of citation in family action), substitute Form F14 (form of warrant of citation in family action) in schedule 7;
- (e) in Form F26 (form of notice of intention to defend in family action)(**20**), in Part E—
 - (i) for “COMPLETED”, substitute “ANSWERED YES AT”;
 - (ii) after “THIS FORM”, insert “AND THE INITIAL WRIT DOES NOT INCLUDE A CRAVE FOR A SECTION 11 ORDER,”;
 - (iii) for craves (1) and (2), substitute—

“
(1)* Warrant for intimation to the child(ren) (insert full name(s) and date(s) of birth) is sought, by way of Form F9, which also seeks the child(ren)'s views.

(2)* I seek to dispense with intimation to the child(ren) (insert full name(s) and date(s) of birth) and seeking the child(ren)'s views in Form F9 for the following reasons:—;
”

(f) in Form F44 (form of annex to interlocutor appointing a child welfare reporter)(**21**)—

- (i) at the end of Part 1, insert—

“
Is a copy of the report to be provided to the parties under rule 33.21(9)(d)?

Yes

No;
”

- (ii) at the end of Part 3, insert—

“
Where the views of the child form part of the enquiries to be undertaken, should the views of the child be recorded in a separate report?

Yes

No

If yes, is a copy of that report to be provided to the parties under rule 33.21(9)(d)?

Yes

No.
”

(19) Form F9 was substituted by [S.I. 1996/2167](#) and amended by [S.S.I. 2003/26](#).

(20) Form F26 was substituted by [S.S.I. 2005/648](#).

(21) Form F44 was inserted by [S.S.I. 2015/312](#).

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

- (g) omit Form CP7 (form of intimation in a civil partnership action which includes a crave for a section 11 order)(**22**);
- (h) for Form CP14 (form of warrant of citation in a civil partnership action), substitute Form CP14 in schedule 8;
- (i) in Form CP16 (form of notice of intention to defend in a civil partnership action)(**23**), in Part E—
 - (i) for “COMPLETED”, substitute “ANSWERED YES AT”;
 - (ii) after “THIS FORM”, insert “AND THE INITIAL WRIT DOES NOT INCLUDE A CRAVE FOR A SECTION 11 ORDER,”;
 - (iii) for craves (1) and (2), substitute—

“
(1)* Warrant for intimation to the child(ren) (insert full name(s) and date(s) of birth) is sought, by way of Form F9, which also seeks the child(ren)’s views.
”

- (j) in Form CP38 (form of annex to interlocutor appointing a child welfare reporter)(**24**)—
 - (i) at the end of Part 1, insert—

“
Is a copy of the report to be provided to the parties under rule 33A.21(9)(d)?

Yes

No;

- (ii) at the end of Part 3, insert—

“
Where the views of the child form part of the enquiries to be undertaken, should the views of the child be recorded in a separate report?

Yes

No

If yes, is a copy of that report to be provided to the parties under rule 33A.21(9)(d)?

Yes

No.
”

(22) Form CP7 was inserted by [S.S.I. 2005/638](#).

(23) Form CP16 was inserted by [S.S.I. 2005/638](#).

(24) Form CP38 was inserted by [S.S.I. 2016/102](#).