

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2002 No. 7**

**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**

**Amendment of the Ordinary Cause Rules**

- 2.**—(1) The Ordinary Cause Rules shall be amended in accordance with the following paragraphs.
- (2) In rule 3.2 (actions relating to heritable property) insert at the end—
- “**(3)** In an action falling within section 1(1)(b) or (c) of the Mortgage Rights (Scotland) Act 2001**(1)**, 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.”.
- (3) In rule 3.3 (warrants of citation)—
- (a) after paragraph (1)(c) insert—
- “**(d)** an action to which rule 3.2(3) applies,”; and
- (b) insert at the end—
- “**(4)** In an action to which rule 3.2(3) applies, the warrant of citation shall be in Form O2A.”.
- (4) In rule 5.2 (form of citation and certificate)—
- (a) at the end of paragraph (1)(b) omit “or”;
- (b) at the end of paragraph (1)(c) insert “or”;
- (c) after paragraph (1)(c) insert—
- “**(d)** an action to which rule 3.2(3) applies,”; and
- (d) after paragraph (2) insert—
- “**(2A)** In an action to which rule 3.2(3) applies, citation shall be in Form O5A which shall be attached to a copy of the initial writ and warrant of citation and shall have appended to it a notice of intention to defend in Form O7.”.
- (5) After rule 34.11 (service on unnamed occupiers), insert—

**“Applications under the Mortgage Rights (Scotland) Act 2001**

**34.12.**—(1) In an action to which rule 3.2(3) applies, an application under either of the following provisions of the Mortgage Rights (Scotland) Act 2001 shall be made by minute in the action:—

- (a) section 1(2) (application to the court for an order under section 2);

(b) section 2(5) (application to vary or revoke an order or to further continue proceedings).

(2) Any such minute may be lodged by a person who is entitled to make an application even although that person has not been called as a defender and such a person may appear or be represented at any hearing to determine the application.”.

(6) In Appendix 1 (forms)–

- (a) after Form O2 insert Form O2A;
- (b) after Form O5 insert Form O5A; and
- (c) for Form O6 substitute Form O6,

set out in Schedule 1 to this Act of Sederunt.