

Status: Point in time view as at 02/04/2001.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Sheriff Courts (Scotland) Act 1907. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

^{F1}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\(5\)](#)

[^{F1}SPECIAL PROVISIONS IN RELATION TO PARTICULAR CAUSES]

CHAPTER 33

FAMILY ACTIONS

PART XII

VARIATION OF COURT OF SESSION DECREES

Application and interpretation of this Part

- 33.83. (1) This Part applies to an application to the sheriff for variation or recall of any order to which section 8 of the ^{M1}Act of 1966 (variation of certain Court of Session orders) applies.
- (2) In this Part, the “Act of 1966” means the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966.

Marginal Citations

- M1** 1966 c.19; section 8 was amended by the [Guardianship Act 1973 \(c.29\)](#), [Schedule 5](#), the [Divorce \(Scotland\) Act 1976 \(c.39\)](#), [Schedule 1](#), the [Matrimonial and Family Proceedings Act 1984 \(c.42\)](#), [Schedule 1](#), paragraph 7, the [Family Law \(Scotland\) Act 1985 \(c.37\)](#), [Schedule 1](#), paragraph 5 and the [Family Law Act 1986 \(c.53\)](#), [Schedule 1](#), paragraph 8 and Schedule 2.

Form of applications and intimation to Court of Session

- 33.84. (1) An application to which this Part applies shall be made by initial writ.

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- (2) In such an application there shall be lodged with the initial writ a copy of the interlocutor, certified by a clerk of the Court of Session, which it is sought to vary.
- (3) Before lodging the initial writ, a copy of the initial writ certified by the pursuer or his solicitor shall be lodged, or sent by first class recorded delivery post to the Deputy Principal Clerk of Session to be lodged in the process of the cause in the Court of Session in which the original order was made.
- (4) The pursuer or his solicitor shall attach a certificate to the initial writ stating that paragraph (3) has been complied with.
- (5) The sheriff may, on cause shown, prorogate the time for lodging the certified copy of the interlocutor required under [F1 paragraph (2)].

Textual Amendments

F1 Words in rule 33.84(5) substituted (1.11.1996) by S.I. 1996/2445, para. 3(55)

Defended actions

- 33.85. (1) Where a notice of intention to defend has been lodged and no request is made under rule 33.87 (remit of applications to Court of Session), the pursuer shall within 14 days after the date of the lodging of a notice of intention to defend or within such other period as the sheriff may order, lodge in process the following documents (or copies) from the process in the cause in the Court of Session in which the original order was made:—
- (a) the pleadings;
 - (b) the interlocutor sheets;
 - (c) any opinion of the court; and
 - (d) any productions on which he seeks to found.
- (2) The sheriff may, on the joint motion of parties made at any time after the lodging of the documents mentioned in paragraph (1)—
- (a) dispense with proof;
 - (b) whether defences have been lodged or not, hear the parties; and
 - (c) thereafter, grant decree or otherwise dispose of the cause as he thinks fit.

Transmission of process to Court of Session

- 33.86. (1) Where decree has been granted or the cause otherwise disposed of—
- (a) and the period for marking an appeal has elapsed without an appeal being marked, or
 - (b) after the determination of the cause on any appeal,
- the sheriff clerk shall transmit to the Court of Session the sheriff court process and the documents from the process of the cause in the Court of Session which have been lodged in the sheriff court process.
- (2) A sheriff court process transmitted under paragraph (1) shall form part of the process of the cause in the Court of Session in which the original order was made.

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Remit of applications to Court of Session

- 33.87. (1) A request for a remit to the Court of Session under section 8(3) of the Act of 1966 shall be made by motion.
- (2) The sheriff shall, in respect of any such motion, order that the cause be remitted to the Court of Session; and, within four days after the date of such order, the sheriff clerk shall transmit the whole sheriff court process to the Court of Session.
- (3) A cause remitted to the Court of Session under paragraph (2) shall form part of the process of the cause in the Court of Session in which the original order was made.

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