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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\(5\)](#)

#### SPECIAL PROVISIONS IN RELATION TO PARTICULAR CAUSES

##### CHAPTER 33A

##### CIVIL PARTNERSHIP ACTIONS

##### *PART III*

##### *DEFENDED CIVIL PARTNERSHIP ACTIONS*

##### *Notice of intention to defend and defences*

33A.34(1) This rule applies where the defender in a civil partnership action seeks—

- (a) to oppose any crave in the initial writ;
- (b) to make a claim for—
  - (i) aliment;
  - (ii) an order for financial provision within the meaning of section 8(3) of the Act of 1985; or
  - (iii) a section 11 order; or
- (c) an order—
  - (i) under section 16(1)(b) or (3) of the Act of 1985 <sup>F1</sup> (setting aside or varying agreement as to financial provision);
  - (ii) under section 18 of the Act of 1985 (which relates to avoidance transactions); or
  - (iii) under Chapter 3 or Chapter 4 of Part 3 or section 127 of the Act of 2004; or
- (d) to challenge the jurisdiction of the court.

(2) In an action to which this rule applies, the defender shall—

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- (a) lodge a notice of intention to defend in Form CP16 before the expiry of the period of notice; and
  - (b) make any claim or seek any order referred to in paragraph (1), as the case may be, in those defences by setting out in his defences–
    - (i) craves;
    - (ii) averments in the answers to the condescence in support of those craves; and
    - (iii) appropriate pleas-in-law.
- (3) Where a defender intends to make an application for a section 11 order which, had it been made in an initial writ, would have required a warrant for intimation under rule 33A.7, the defender shall include a crave in his notice of intention to defend for a warrant for intimation or to dispense with such intimation; and rule 33A.7 shall, with the necessary modifications, apply to a crave for a warrant under this paragraph as it applies to a crave for a warrant under that rule.

#### **Textual Amendments**

**F1** Section 16(3) was amended by the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [Schedule 3](#), paragraph 5.

#### *Abandonment by pursuer*

33A.35. Notwithstanding abandonment by a pursuer of a civil partnership action, the court may allow a defender to pursue an order or claim sought in his defences; and the proceedings in relation to that order or claim shall continue in dependence as if a separate cause.

#### *Attendance of parties at Options Hearing*

33A.36. All parties to a civil partnership action shall, except on cause shown, attend personally the hearing under rule 9.12 (Options Hearing).

#### *Decree by default*

33A.37(1) In a civil partnership action in which the defender has lodged a notice of intention to defend, where a party fails–

- (a) to lodge, or intimate the lodging of, any production or part of process;
- (b) to implement an order of the sheriff within a specified period; <sup>F2</sup> . . .
- (c) to appear or be represented at any diet, [<sup>F3</sup>or
- (d) otherwise to comply with any requirement imposed upon that party by these Rules]

that party shall be in default.

- (2) Where a party is in default under paragraph (1), the sheriff may–
  - (a) where the civil partnership action is one mentioned in rule 33A.1(1) (a) [<sup>F4</sup>(b) or (f)], allow that action to proceed as undefended under Part II of this Chapter; or
  - (b) where the civil partnership action is one mentioned in rule 33A.1(1)(c) to (e), grant decree as craved; or

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- (c) grant decree of absolvitor; or
  - (d) dismiss the civil partnership action or any claim made or order sought; [<sup>F5</sup>or]
  - [<sup>F6</sup>(da) make such other order as he thinks fit to secure the expeditious progress of the cause; and]
  - (e) award expenses.
- (3) Where no party appears at a diet in a civil partnership action, the sheriff may dismiss that action.
- (4) In a civil partnership action, the sheriff may, on cause shown, prorogate the time for lodging any production or part of process, or for intimating or implementing any order.

#### Textual Amendments

- F2** Word in Sch. 1 rule 33.37(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(10)(a)**
- F3** Sch. 1 rule 33.37(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(10)(b)**
- F4** Words in Sch. 1 rule 33A.37(2)(a) substituted (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(49)}
- F5** Word in Sch. 1 rule 33A.37(2)(d) substituted (18.8.2006) by Act of Sederunt (Ordinary Cause and Summary Application Rules) Amendment (Miscellaneous) 2006 (S.S.I. 2006/410), **art. 2(10)(c)**
- F6** Sch. 1 rule 33A.37(2)(da) inserted (18.8.2006) by Act of Sederunt (Ordinary Cause and Summary Application Rules) Amendment (Miscellaneous) 2006 (S.S.I. 2006/410), **art. 2(10)(d)**

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