

*Status: Point in time view as at 08/12/2005.*

*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

### <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>SPECIAL PROVISIONS IN RELATION TO PARTICULAR CAUSES]

#### CHAPTER 33A

#### CIVIL PARTNERSHIP ACTIONS

##### [<sup>F1</sup>PART II

##### UNDEFENDED CIVIL PARTNERSHIP ACTIONS]

##### Textual Amendments

- F1** Sch. 1 Ch. 33A inserted (8.12.2005) by [Act of Sederunt \(Ordinary Cause Rules\) Amendment \(Civil Partnership Act 2004\) 2005 \(S.S.I. 2005/638\)](#), [art. 2\(2\)](#)

#### *Evidence in certain undefended civil partnership actions*

33A.29(1) This rule–

- (a) subject to sub paragraph (b), applies to all civil partnership actions in which no notice of intention to defend has been lodged, other than a civil partnership action–
  - (i) for financial provision after overseas proceedings as provided for in Schedule 11 to the Act of 2004; or
  - (ii) for an order under Chapter 3 or Chapter 4 of Part 3 or section 127 of the Act of 2004;
- (b) applies to a civil partnership action in which a curator *ad litem* has been appointed under rule 33A.16 where the curator *ad litem* to the defender has lodged a minute intimating that he does not intend to lodge defences;
- (c) applies to any civil partnership action which proceeds at any stage as undefended where the sheriff so directs;

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- (d) applies to the merits of a civil partnership action which is undefended on the merits where the sheriff so directs, notwithstanding that the action is defended on an ancillary matter.
- (2) Unless the sheriff otherwise directs, evidence shall be given by affidavits.
- (3) Unless the sheriff otherwise directs, evidence relating to the welfare of a child shall be given by affidavit, at least one affidavit being emitted by a person other than a parent or party to the action.
- (4) Evidence in the form of a written statement bearing to be the professional opinion of a duly qualified medical practitioner, which has been signed by him and lodged in process, shall be admissible in place of parole evidence by him.

*Procedure for decree in actions under rule 33A.29*

- 33A.30(1) In an action to which rule 33A.29 (evidence in certain undefended civil partnership actions) applies, the pursuer shall at any time after the expiry of the period for lodging a notice of intention to defend–
- (a) lodge in process the affidavit evidence; and
  - (b) endorse a minute in Form CP27 on the initial writ.
- (2) The sheriff may, at any time after the pursuer has complied with paragraph (1), without requiring the appearance of parties–
- (a) grant decree in terms of the motion for decree; or
  - (b) remit the cause for such further procedure, if any, including proof by parole evidence, as the sheriff thinks fit.

*Extracts of undefended decree*

- 33A.31. In an action to which rule 33A.29 (evidence in certain undefended civil partnership actions) applies, the sheriff clerk shall, after the expiry of 14 days after the grant of decree under rule 33A.30 (procedure for decree in actions under rule 33A.29), issue to the pursuer and the defender an extract decree.

*No recording of evidence*

- 33A.32. It shall not be necessary to record the evidence in any proof in a civil partnership action which is not defended.

*Disapplication of Chapter 15*

- 33A.33. Other than rule 15.1(1), Chapter 15 (motions) shall not apply to a civil partnership action in which no notice of intention to defend has been lodged, or to a civil partnership action in so far as it proceeds as undefended.

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