
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 139

**Act of Sederunt (Sheriff Court Rules)
(Miscellaneous Amendments) (No. 2) 2013**

Amendment of the Ordinary Cause Rules

2.—(1) The Ordinary Cause Rules are amended in accordance with the following subparagraphs.

(2) In rule 9.12 (options hearing)(1)—

(a) after paragraph (3)(e) insert—

“(f) where the cause has been appointed to proof or proof before answer and Chapter 33AA applies, assign a case management hearing.”;

(b) after paragraph (8) insert—

“(9) Paragraph (8) does not apply where Chapter 33AA applies.”.

(3) In rule 10.6 (procedural hearing)(2)—

(a) after paragraph (3)(e) insert—

“(f) where the cause has been appointed to proof or proof before answer and Chapter 33AA applies, assign a case management hearing.”;

(b) after paragraph (5) insert—

“(6) Paragraph (5) does not apply where Chapter 33AA applies.”.

(4) After rule 14.10 (notice of opposition or answers lodged)(3) insert—

“Orders under section 11 of the Children (Scotland) Act 1995

14.10A.—(1) This rule applies where a notice of opposition or answers are lodged in respect of a minute including a crave for an order under section 11 of the Children (Scotland) Act 1995 (court orders relating to parental responsibilities etc.)(4).

(2) The sheriff, having regard to the measures referred to in Chapter 33AA (expeditious resolution of certain causes), may make such orders as the sheriff considers appropriate to ensure the expeditious resolution of the issues in dispute.”.

(5) In rule 28A.1 (pre-proof hearing)

(a) at the beginning of paragraph(1) insert “Subject to paragraph (1A)”;

(b) after paragraph (1) insert—

“(1A) Where Chapter 33AA applies, the sheriff will fix a pre-proof hearing at the case management hearing.”;

(c) in paragraph (3)(b) for “or 10.6(3)(a) or (b)” substitute “, 10.6(3)(a) or (b) or Chapter 33AA.”

(1) Rule 9.12 was last amended by [S.S.I. 2007/463](#).

(2) Rule 10.6 was last amended by [S.S.I. 2007/463](#).

(3) Rule 14.10 was inserted by [S.I. 1996/2445](#).

(4) [1995 c. 36](#).

(6) After Chapter 33A (civil partnership actions)(5) insert—

“CHAPTER 33AA

EXPEDITIOUS RESOLUTION OF CERTAIN CAUSES

Application of Chapter

33AA.1. This Chapter applies where a cause is proceeding to proof or proof before answer in respect of a crave for an order under section 11 of the Children (Scotland) Act 1995 (court orders relating to parental responsibilities etc.).

Fixing date for Case Management Hearing

33AA.2.—(1) The sheriff shall fix a date for a case management hearing—

- (a) at the Options Hearing in accordance with rule 9.12(3)(f);
- (b) at the Procedural Hearing in accordance with rule 10.6(3)(f);
- (c) on the motion of any party; or
- (d) on the sheriff’s own motion.

(2) Except on cause shown, the date and time to be fixed under paragraph (1) shall be not less than 14 days and not more than 28 days after the interlocutor appointing the cause to a proof or proof before answer.

Pre-hearing conference

33AA.3.—(1) In advance of the case management hearing the parties shall hold a pre-hearing conference, at which parties must—

- (a) discuss settlement of the action;
- (b) agree, so far as is possible, the matters which are not in dispute between them;
- (c) discuss the information referred to in rule 33AA.4(1).

(2) Prior to the case management hearing the pursuer shall lodge with the court a joint minute of the pre-hearing conference or explain to the sheriff why such a minute has not been lodged.

(3) If a party is not present during the pre-hearing conference, that party’s representative must be able to contact the party during the conference, and be in full possession of all relevant facts.

Case Management Hearing

33AA.4.—(1) At the case management hearing the parties must provide the sheriff with sufficient information to enable the sheriff to ascertain—

- (a) the nature of the issues in dispute, including any questions of admissibility of evidence or any other legal issues;
- (b) the state of the pleadings and whether amendment will be required;
- (c) the state of preparation of the parties;
- (d) the scope for agreement of facts, questions of law and matters of evidence;

- (e) the scope for use of affidavits and other documents in place of oral evidence;
 - (f) the scope for joint instruction of a single expert;
 - (g) the number and availability of witnesses;
 - (h) the nature of productions;
 - (i) whether sanction is sought for the employment of counsel;
 - (j) the reasonable estimate of time needed by each party for examination-in-chief, cross-examination and submissions.
- (2) Subject to paragraph (4), at the case management hearing the sheriff will fix—
- (a) a diet for proof or a proof before answer;
 - (b) a pre-proof hearing in accordance with Chapter 28A.
- (3) The diet fixed under paragraph (2)(a)—
- (a) shall be assigned for the appropriate number of days for resolution of the issues with reference to the information provided under paragraph (1) and subject to paragraph (4);
 - (b) may only be extended or varied on exceptional cause shown and subject to such orders (including awards of expenses) as the sheriff considers appropriate.
- (4) The sheriff may make such orders as thought fit to ensure compliance with this rule and the expeditious resolution of the issues in dispute, including—
- (a) restricting the issues for proof;
 - (b) excluding specified documents, reports and/or witnesses from proof;
 - (c) fixing other hearings and awarding expenses.
- (5) A case management hearing may, on cause shown, be continued to a further case management hearing.
- (6) For the purposes of rules 16.2 (decrees where party in default), 33.37 (decree by default in family action) and 33A.37 (decree by default in civil partnership action), a case management hearing shall be a diet in accordance with those rules.”.