

SCHEDULE 1

SUMMARY CAUSE RULES 2002

CHAPTER 30

Recovery of possession of heritable property

Action against persons in possession of heritable property without right or title

30.2.—(1) Subject to paragraph (2), this rule applies only to an action for recovery of possession of heritable property against a person or persons in possession of heritable property without right or title to possess the property.

(2) This rule shall not apply with respect to a person who has or had a title or other right to occupy the heritable property and who has been in continuous occupation since that title or right is alleged to have come to an end.

(3) Where the name of a person in occupation of a heritable property is not known and cannot reasonably be ascertained, the pursuer shall call that person as a defender by naming him as an “occupier”.

(4) Where the name of a person in occupation of the heritable property is not known and cannot reasonably be ascertained, the summons shall be served (whether or not it is also served on a named person), unless the sheriff otherwise directs, by an officer of the court—

- (a) affixing a copy of the summons and a citation in Form 11 addressed to “the occupiers” to the main door or other conspicuous part of the premises, and if practicable, depositing a copy of each of those documents in the premises; or
- (b) in the case of land only, inserting stakes in the ground at conspicuous parts of the occupied land to each of which is attached a sealed transparent envelope containing a copy of the summons and a citation in Form 11 addressed to “the occupiers”.

(5) In an action to which this rule applies, the sheriff may in his discretion, and subject to rule 25.6, shorten or dispense with any period of time provided anywhere in these rules.

(6) An application by a party under this rule to shorten or dispense with any period may be made orally and the provisions in rule 9.1 shall not apply, but the sheriff clerk must enter details of any such application in the Register of Summary Causes.