

**ACT OF SEDERUNT (SHERIFF COURT ORDINARY CAUSE RULES) 1993
No.1956 (S.223)**

SCHEDULE 1

Initiation and progress of causes

CHAPTER 17 SUMMARY DECREES

[17.1.](#) Application of this Chapter

[17.2.](#) Applications for summary decree

[17.3.](#) Application of summary decree to counterclaims, etc.

Application of this Chapter

17.1. This Chapter applies to any action other than-

- (a) a family action within the meaning of rule 33.1(1);
- (aa) a civil partnership action within the meaning of rule 33A.1(1);
- (b) an action of multiplepounding; or
- (c) a cause under the Presumption of Death (Scotland) Act 1977.

Applications for summary decree

17.2. (1) Subject to paragraphs (2) to (5) of this rule, a pursuer may, at any time after a defender has lodged defences, apply by motion for summary decree against that defender on the ground that there is no defence to the action, or part of it, disclosed in the defences.

(2) In applying for summary decree, the pursuer may move the sheriff-

- (a) to grant decree in terms of all or any of the craves of the initial writ;
- (b) to pronounce an interlocutor sustaining or repelling a plea-in-law; or
- (c) to dispose of the whole or part of the subject-matter of the cause.

(4) On a motion under paragraph (1), the sheriff may-

(a) if satisfied that there is no defence to the action or to any part of it to which the motion relates, grant the motion for summary decree in whole or in part, as the case may be; or

(b) ordain any party, or a partner, director, officer or office-bearer of, any party-

- (i) to produce any relevant document or article; or
- (ii) to lodge an affidavit in support of any assertion of fact made in the

pleadings or at the hearing of the motion.

(5) Notwithstanding the refusal of all or part of a motion for summary decree, a subsequent motion may be made where there has been a change of circumstances.

Application of summary decree to counterclaims, etc.

17.3. (1) Where a defender has lodged a counterclaim-

(a) he may apply by motion for summary decree against the pursuer on that counterclaim on the ground that there is no defence to the counterclaim, or a part of it, disclosed in the answers to it; and

(b) paragraphs (2) to (5) of rule 17.2 shall, with the necessary modifications, apply to a motion by a defender under this paragraph as they apply to a motion by a pursuer under paragraph (1) of that rule.

(2) Where a defender or third party has made a claim against another defender or third party who has lodged defences or answers, as the case may be-

(a) he may apply by motion for summary decree against that other defender or third party on the ground that there is no defence to the claim, or a part of it, disclosed in the defences or answers, as the case may be; and

(b) paragraphs (2) to (5) of rule 17.2 shall, with the necessary modifications, apply to a motion by a defender or third party under this paragraph as they apply to a motion by a pursuer under paragraph (1) of that rule.