

CHAPTER 52

ACTIONS OF PROVING THE TENOR

Parties to action of proving the tenor

- 52.1.** In an action of proving the tenor, the pursuer shall call as a defender-
- (a) any person having an interest in the document to be proved; or
 - (b) where only the pursuer has such an interest, the Lord Advocate as representing the public interest.

Lodging of supporting evidence

52.2. On lodging the summons for signeting, supporting documentary evidence of the tenor of the document to be proved in an action of proving the tenor, so far as in the possession or control of the pursuer, shall be lodged in process.

Proof in undefended actions

52.3.—(1) In an action of proving the tenor in which no defences have been lodged, evidence shall be given by affidavit unless the court otherwise directs.

(2) In an action to which paragraph (1) applies, if counsel or other person having a right of audience, on consideration of the available affidavits and supporting documents, is satisfied that a motion for decree may properly be made, he or she may move the court by minute in Form 52.3 to grant decree in terms of the summons.

(3) The court may, on consideration of the minute, affidavits and any other supporting documents, without requiring appearance-

- (a) grant decree in terms of the minute; or
- (b) put the action out by order for further procedure, if any, including proof by parole evidence, as the court thinks fit.