

CHAPTER 45A

ACTIONS OF REMOVING

Application of this Chapter

45A.1.-(1) Subject to paragraph (2), this Chapter applies only to a conclusion for removing in an action of removing against a person or persons in possession of heritable property without right or title to possess the property.

(2) This Chapter 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.

Service on unnamed occupiers

45A.2.-(1) Where the name of a person in occupation of the 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”.

(2) 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 court otherwise directs, by a messenger-at-arms-

- (a) affixing a copy of the summons and a citation in Form 45A.2 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 45A.2 addressed to “the occupiers”.

(3) Paragraphs (1), (2) and (4) of rule 16.3 (service by messenger-at-arms) shall apply to service of a summons under this rule as they apply to service by a method to which those paragraphs apply.

Shortening or dispensing with periods of time

45A.3. Where the action is directed against a person in occupation of the heritable property *vi clam aut precario*, the pursuer may apply by motion to shorten or dispense with the period of notice or other period of time in these Rules relating to the conduct of the action or the extracting of any decree.

Application by occupiers to become defenders

45A.4. A person not named as a defender in the summons who is in occupation of the heritable property may, within the period of notice, apply by minute to be sisted as a defender to the action.