

SCHEDULE 1

SMALL CLAIM RULES 2002

CHAPTER 16

Productions and documents

Lodging of productions

16.1.—(1) A party who intends to rely at a hearing at which evidence is to be led, upon any documents or articles in his possession, which are reasonably capable of being lodged with the court, must—

- (a) lodge them with the sheriff clerk together with a list detailing the items no later than 14 days before the hearing; and
- (b) at the same time send a copy of the list to the other party.

(2) The documents referred to in paragraph (1) include any affidavit or other written statement admissible under section 2(1) of the Civil Evidence (Scotland) Act 1988(1).

(3) Subject to paragraph (4), only documents or articles produced—

- (a) in accordance with paragraph (1);
- (b) at an earlier hearing; or
- (c) under rule 17.2(3) or (4),

may be used or put in evidence.

(4) Documents other than those mentioned in paragraph (3) may be used or put in evidence only with the—

- (a) consent of the parties; or
- (b) permission of the sheriff on cause shown, and on such terms as to expenses or otherwise as to him seem proper.

Borrowing of productions

16.2.—(1) Any productions borrowed must be returned not later than noon on the day preceding the date of any hearing.

(2) A receipt for any production borrowed must be entered in the list of productions and that list must be retained by the sheriff clerk.

(3) Subject to paragraph (4), productions may be borrowed only by—

- (a) a solicitor; or
- (b) his authorised clerk for whom he shall be responsible.

(4) A party litigant or an authorised lay representative may borrow a production only with permission of the sheriff and subject to such conditions as the sheriff may impose.

(5) Productions may be inspected within the office of the sheriff clerk during normal business hours, and copies may be obtained by a party litigant, where practicable, from the sheriff clerk.

Documents lost or destroyed

16.3.—(1) This rule applies to any—

(1) 1988 c. 32.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) summons;
 - (b) form of response;
 - (c) counterclaim;
 - (d) Register of Small Claims; or
 - (e) other document lodged with the sheriff clerk in connection with a claim.
- (2) Where any document mentioned in paragraph (1) is–
- (a) lost; or
 - (b) destroyed,

a copy of it, authenticated in such manner as the sheriff may require, may be substituted and shall, for the purposes of the claim including the use of diligence, be equivalent to the original.

Documents and productions to be retained in custody of sheriff clerk

16.4.—(1) This rule applies to all documents or other productions which have at any time been lodged or referred to during a hearing.

(2) The sheriff clerk must retain in his custody any document or other production mentioned in paragraph (1) until–

- (a) after the expiry of the period during which an appeal is competent; and
- (b) any appeal lodged has been disposed of.

(3) Each party who has lodged productions in a claim shall–

- (a) after the final determination of the claim, where no appeal has been lodged, within 14 days after the appeal period has expired; or
- (b) within 14 days after the disposal of any appeal lodged on the final determination of the claim,

uplift the productions from the sheriff clerk.

(4) Where any production has not been uplifted as required by paragraph (3), the sheriff clerk shall intimate to–

- (a) the solicitor who lodged the production; or
- (b) where no solicitor is acting, the party himself or such other party as seems appropriate,

that if he fails to uplift the production within 28 days after the date of such intimation, it will be disposed of in such manner as the sheriff directs.