

SCHEDULE 1

The Simple Procedure Rules

PART 15: How to enforce a decision

15.1 What is this Part about?

- (1) This Part is about the steps which a successful party must take to enforce a decision.

15.2 When can a party enforce a decision?

- (1) After the Decision Form is sent, a party must wait 4 weeks before enforcing a decision.
- (2) A party must not enforce a decision if that decision is being appealed (see Part 16).
- (3) A party who is sent an Application to Recall must not enforce a decision until the sheriff has decided whether to recall the decision.
- (4) A party must not enforce a decision which has been recalled.

15.3 How can a party enforce a decision?

- (1) If a party uses a trading name, a decision which names the party using that trading name may be enforced against the party by that name.
- (2) Before enforcing a decision for payment of a sum of money, the successful party must formally serve a Charge on the other party.
- (3) The purpose of formally serving the Charge is to give the other party one last chance to pay the sum of money ordered by the court.
- (4) The Charge must demand payment:
 - (a) within 2 weeks if the other party is in the United Kingdom,
 - (b) within 4 weeks if the other party is outside the United Kingdom,
 - (c) within 4 weeks if the other party's address is unknown.
- (5) If the demand in the Charge is not complied with, then the successful party may instruct a sheriff officer to enforce the decision.

15.4 What if the claimant does not know the respondent's address?

- (1) Where the claimant is successful but does not know the respondent's address, the claimant must take all reasonable steps to find out the respondent's address.
- (2) If the claimant does not know the respondent's address, then instead of formally serving the Charge on the respondent, the claimant must formally serve it on the sheriff clerk in the sheriff court district where the respondent's last known address was.
- (3) The sheriff clerk must then publicise the Charge by advertising its details on the Scottish Courts and Tribunals Service website for 4 weeks.
- (5) After that 4 weeks, the sheriff clerk must certify on the Charge that the advertisement took place and send it to the sheriff officer who formally served it.
- (6) The claimant may then instruct a sheriff officer to enforce the decision.

15.5 What if the respondent does not comply with a decision?

- (1) A claimant may make an Alternative Decision Application where the respondent does not comply with a decision which:

Status: This is the original version (as it was originally made).

- (a) orders the respondent to deliver something to the claimant, or
 - (b) orders the respondent to do something for the claimant.
- (2) An Alternative Decision Application may only be made where the sheriff alternatively ordered the respondent to pay the claimant a sum of money.
- (3) The application is made by sending an Alternative Decision Application to the court.
- (4) After considering the Alternative Decision Application, and any objection that may have been sent, the sheriff may do one of three things:
- (a) grant the application, and order the respondent to pay the claimant a sum of money,
 - (b) refuse the application,
 - (c) order the claimant to appear at a discussion in court, where the sheriff will consider whether to make any orders.
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