

SCHEDULE 1

The Simple Procedure Rules

PART 3: How to make a claim

3.1 What is this Part about?

- (1) This Part is about how the claimant makes a claim and what the court will do with that claim.

3.2 How is a claim made?

- (1) The process for making a claim is:
 - (a) the claimant completes a Claim Form (see rule 3.3),
 - (b) the claimant sends the Claim Form to the court (see rule 3.7),
 - (c) the sheriff clerk checks and registers the Claim Form (see rule 3.9),
 - (d) the sheriff clerk issues a timetable for the case (see rule 3.10), and
 - (e) the Claim Form is formally served on the respondent, either by the sheriff clerk, a solicitor or a sheriff officer (see Part 6).

3.3 How do you complete a Claim Form?

- (1) The claimant must set out the following information in the Claim Form:
 - (a) the identity of the claimant, including the claimant's address and whether the claimant is an individual, a company or another type of organisation,
 - (b) the identity of the respondent, including the respondent's address (where known) and whether the respondent is an individual, a company or another type of organisation,
 - (c) the essential factual background to the dispute,
 - (d) what the claimant wants from the respondent if the claim is successful,
 - (e) why the claim should succeed,
 - (f) what steps the claimant has already taken (if any) to try to resolve the dispute with the respondent.
- (2) The claimant must list in the Claim Form any documents or other evidence that the claimant thinks support the claim.
- (3) The claimant must list in the Claim Form any witnesses (other than the claimant and the respondent) that the claimant thinks support the claim.

3.4 What if there is more than one claimant?

- (1) If there is more than one claimant, the claimant must complete a Further Claimant Form for each further claimant.
- (2) The Further Claimant Form must identify the further claimant, including the further claimant's address and whether the further claimant is an individual, a company or another type of organisation.

3.5 What if there are more than two respondents?

Status: This is the original version (as it was originally made).

- (1) If there are more than two respondents, the claimant must set out the claim against all respondents in the Claim Form.
- (2) The claimant must also complete a Further Respondent Form for each further respondent.
- (3) The Further Respondent Form must identify the further respondent, including the further respondent's address (where known) and whether the further respondent is an individual, a company or another type of organisation.

3.6 What if the respondent uses a trading name?

- (1) If the respondent uses a trading name, a claim may be made against them using that trading name.

3.7 What do you do with a completed Claim Form?

- (1) The completed Claim Form must be sent to the sheriff court.
- (2) If the Claim Form has been completed on paper then two copies must be sent to the sheriff court.

3.8 How do you ask for provisional orders to be made?

- (1) Provisional orders are orders which protect or secure the claimant's position before the sheriff makes a final decision in a case.
- (2) There are three types of provisional order:
 - (a) an arrestment on the dependence under section 15A(1) of the Debtors (Scotland) Act 1987 (this is an order freezing the respondent's goods or money held by a third party),
 - (b) an inhibition on the dependence under section 15A(1) of the Debtors (Scotland) Act 1987 (this is an order preventing the respondent from selling their home or other land, or taking out a secured loan), and
 - (c) an interim attachment under section 9A(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (this is an order preventing the respondent from selling or removing their goods).
- (3) Part 20 of these Rules is about how the claimant may apply for provisional orders.

3.9 What will the court do with the Claim Form?

- (1) The sheriff clerk will check the Claim Form for problems which mean that it cannot be registered. Such problems might include:
 - (a) the Claim Form not being accompanied by the correct fee,
 - (b) the Claim Form being sent to the wrong sheriff court,
 - (c) the Claim Form asking for something that is not possible in simple procedure, such as making a claim for over £5,000,
 - (d) the Claim Form being incomplete.
- (2) If there are no such problems, the sheriff clerk must register the claim.
- (3) The sheriff clerk must ask for the approval of the sheriff before registering the claim if:
 - (a) the respondent's address is unknown,
 - (b) the claimant is seeking provisional orders or interim orders, or
 - (c) the sheriff clerk thinks that the claim requires the attention of the sheriff for some other reason.

3.10 What happens next?

- (1) After registering a claim, the sheriff clerk must send the claimant a Timetable.
- (2) The Timetable must set out the timetable for the case, including:
 - (a) the last date for service, and
 - (b) the last date for a response.

3.11 What is the last date for service?

- (1) The last date for service is the date by which the Claim Form must be formally served on the respondent.
- (2) This must normally be 3 weeks before the last date for a response.
- (3) If the respondent does not live in an EU member state, the last date for service must normally be 6 weeks before the last date for a response.
- (4) If the respondent is a business with no place of business in an EU member state, the last date for service must normally be 6 weeks before the last date for a response.

3.12 What is the last date for a response?

- (1) The last date for a response is the date by which the respondent must send a Response Form to the court and to the claimant.

3.13 How can the timetable be changed?

- (1) The sheriff may change the timetable at the request of the sheriff clerk or at the request of one of the parties.
 - (2) The claimant may request a change (if, for example, there has been a difficulty serving the Claim Form on the respondent) by sending the court a Change of Timetable Application.
 - (3) The respondent may request a change (if, for example, the Claim Form was formally served on them late) by sending the court a Change of Timetable Application.
 - (4) If the sheriff changes the timetable, the sheriff clerk must send a new Timetable to the claimant or to the parties.
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