

SCHEDULE 1

The Simple Procedure Rules

Part 1: An overview of simple procedure

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1.1 What is simple procedure?

- (1) Simple procedure is a court process designed to provide a speedy, inexpensive and informal way to resolve disputes.

1.2 What are the principles of simple procedure?

- (1) Cases are to be resolved as quickly as possible, at the least expense to parties and the courts.
- (2) The approach of the court to a case is to be as informal as is appropriate, taking into account the nature and complexity of the dispute.
- (3) Parties are to be treated even-handedly by the court.

- (4) Parties are to be encouraged to settle their disputes by negotiation or alternative dispute resolution, and should be able to do so throughout the progress of a case.
- (5) Parties should only have to come to court when it is necessary to do so to progress or resolve their dispute.

1.3 Who takes part in a simple procedure case?

- (1) A simple procedure case involves a claim being made in the sheriff court.
- (2) The person who makes the claim is the claimant.
- (3) The person the claim is made against is the respondent.
- (4) The claimant and the respondents are the parties.
- (5) The case will be decided by the sheriff, who is in charge of the court.
- (6) The sheriff clerk provides administrative support to the sheriff.
- (7) A claim which is registered by the sheriff clerk is a simple procedure case.
- (8) Parties may represent themselves or have representatives.
- (9) Parties may be assisted by courtroom supporters.

1.4 What are the sheriff's responsibilities?

- (1) The sheriff must take into account the principles of simple procedure when managing cases and when interpreting these rules.
- (2) The sheriff must ensure that parties who are not represented, or parties who do not have legal representation, are not unfairly disadvantaged.
- (3) The sheriff must encourage cases to be resolved by negotiation or alternative dispute resolution, where possible.
- (4) If a case cannot be resolved by negotiation or alternative dispute resolution, the sheriff must decide the case.

1.5 What are parties' responsibilities?

- (1) Parties must respect the principles of simple procedure.

- (2) Parties must be honest with each other, with representatives and with the sheriff.
- (3) Parties must be respectful and courteous to each other, to representatives, to witnesses and to the sheriff.
- (4) Parties must not try to make a witness give misleading evidence.
- (5) Parties must consider throughout the progress of a case whether their dispute could be resolved by negotiation or alternative dispute resolution.
- (6) Parties must approach any negotiation or alternative dispute resolution with an open and constructive attitude.
- (7) Parties must follow the sheriff's orders.

1.6 What are representatives' responsibilities?

- (1) Representatives must respect the principles of simple procedure.
- (2) Representatives must be honest with each other, with parties and with the sheriff.
- (3) Representatives must be respectful and courteous to each other, to parties, to witnesses and to the sheriff.
- (4) Representatives must act in the best interests of the person being represented, and not allow any personal interest to influence their advice or actions.
- (5) Representatives must not knowingly make claims or arguments which have no factual or legal basis.
- (6) Representatives must maintain client confidentiality.
- (7) Representatives must not try to make a witness give misleading evidence.
- (8) Representatives must not act where they have a conflict of interest.
- (9) When appearing against a party who is not represented, or who is not legally represented, representatives must not take advantage of that party.
- (10) When appearing against a party who is not represented, or who is not legally represented, representatives must help the court to allow that person to argue a case fairly.
- (11) Representatives must follow the sheriff's orders.

1.7 What are the sheriff clerk's responsibilities?

- (1) The sheriff clerk must maintain a register of simple procedure cases.
- (2) The sheriff clerk must send the sheriff's written orders to the parties.

1.8 What are the sheriff's powers?

- (1) The sheriff may give orders to the parties, either in person or by giving written orders.
- (2) The sheriff may do anything or give any order considered necessary to encourage negotiation or alternative dispute resolution between the parties.
- (3) The sheriff may do anything or give any order considered necessary to decide the case.
- (4) The sheriff may relieve a party from the consequences of failing to comply with any of the Simple Procedure Rules. When doing so, the sheriff may impose conditions or make orders about expenses.
- (5) The sheriff may give orders which vary a deadline or period of time set out in the Simple Procedure Rules.
- (6) The sheriff may make decisions about the form, location and conduct of a discussion in court, case management discussion or hearing. The sheriff must explain to parties why these decisions were made.
- (7) The sheriff may combine separate cases, so that any discussion in court, case management discussion or hearing in the cases is held at the same time.
- (8) The sheriff may continue any discussion in court, case management discussion or hearing to another day only if it is necessary to do so.
- (9) The sheriff may pause and restart the progress of a case.
- (10) The sheriff may decide a case without a hearing.
- (11) If a claim, or part of a claim, obviously has no real prospect of success, the sheriff may dismiss the claim or that part of it at any time.
- (12) If a claim, or part of a claim, obviously will not succeed because it is incompetent, the sheriff may dismiss the claim or that part of it at any time.

- (13) If a response, or part of a response, obviously will not succeed because it is incompetent, the sheriff may decide a case, or that part of it, at any time.
- (14) The sheriff may make provisional orders or interim orders which protect or secure a claimant's position before a hearing.
- (15) The sheriff may order an authenticated copy of any document to be treated as an original, where the original is lost or destroyed.
- (16) The sheriff may transfer a simple procedure case to another court, whether in the same sheriffdom or not.
- (17) If a claim should have been raised in a different sheriff court the sheriff must transfer the claim to a court in which the claim could have been raised, unless the sheriff is satisfied that there is a good reason not to.