



SHERIFFDOM OF TAYSIDE, CENTRAL AND FIFE

COVID 19 GUIDANCE FOR CIVIL BUSINESS - SIMPLE PROCEDURE ACTIONS IN THE SHERIFF COURT

No. 4 of 2020

Introduction

1. The purpose of this guidance is to facilitate the efficient management of Simple Procedure business **throughout** the covid-19 epidemic.
2. This guidance applies to all Simple Procedure actions to which the Act of Sederunt (Simple Procedure) 2016 applies.
3. This guidance has effect from 16 November 2020.

Attendance at court

4. In accordance with Part 1 of Schedule 4 to the Coronavirus (Scotland) Act 2020, any requirement to physically attend court is suspended unless the court otherwise directs in circumstances where that would (i) result in prejudice to the fairness of the proceedings or (ii) otherwise be contrary to the interests of justice.
5. If physical attendance at court is directed, government guidance and regulations on physical distancing, gathering and hygiene must be complied with. Any discussions should take place outside the court building.
6. To avoid parties attending court in person unnecessarily all Simple Procedure hearings will, as far as possible, be conducted either on the basis of written information (or submissions) lodged with the court, or by electronic means, namely by telephone or video conference call, all as directed by the sheriff.
7. It is recognised that some parties, particularly party litigants, may not have access to digital technology to enable them to participate by way of telephone or video conferencing as proposed. All unrepresented parties will therefore be asked to identify the extent to which they are able to progress matters digitally and special

arrangements may be authorised by the sheriff on cause shown on a case by case basis.

Hearings by electronic means

8. Parties must not attend court in person and must contact the Sheriff Clerk at the appropriate court by email or telephone no less than 24 hours in advance of the hearing (i) to make any representations as to how the electronic hearing should be conducted and (ii) to obtain details of how to participate. The email addresses and telephone numbers can be found at the end of this document.
9. Any party participating in a telephone or video conference call will be expected to behave as if they were physically attending court. In particular, parties should arrange to participate in the hearing from a quiet and secure place where they will not be interrupted.
10. The recording of any telephone or video conference call is not permitted, except with the consent of the court.

Lodging of documents

11. All documentation should be lodged with the sheriff clerk in electronic format wherever possible.
12. All documents should be lodged electronically with the court using the SCTS on-line portal or to the e-mail address for the relevant court provided at the end of this document.
13. It is recognised that some parties, particularly those who are party litigants (unrepresented) may be unable to lodge documentation electronically for a variety of reasons. Where this is the case documentation may be lodged with the court in hard copy format.
14. Every document sent to the court, whether by e-mail or in hard copy form, should clearly state the following details:-
 - Case name
 - Case number (once assigned by the Court)
 - Nature of document e.g. Claim Form/Response Form/Evidence/Submissions/Letter

15. Any document lodged electronically will be deemed to have been lodged with the court on the date the email is received. An automated acknowledgement of receipt will be issued.
16. Documents submitted electronically must be submitted as PDF documents, PNG images, JPGs or JPEG images. Each document must not exceed 50MB in size. Where that is not possible enquiries should be made by email to the relevant mailbox referred to at the end of this document to agree a way forward with the relevant clerk of court.
17. Parties should ensure that any documentation lodged with the court is copied (intimated) to the other party at the same time.

Re-start of business

18. To facilitate the restoration of business, the court may assign a hearing in any case.
19. Where a hearing is assigned (other than a hearing at which evidence will be led) parties may be asked to write to the court detailing their respective positions, supported by reasons, in writing (written submissions).

Parties should ensure –

- (a) Their written submissions are submitted to the court no later than by close of business (4pm) two clear working days before the hearing, unless the court specifies a different time-limit. In other words, if a case is set down to call on a Monday then written submissions require to be lodged with the court no later than 4pm on Wednesday of the previous week; if a case is set down to call on a Tuesday then written submissions require to be lodged with the court no later than 4pm on Thursday of the previous week; if a case is set down to call on a Wednesday then written submissions require to be lodged with the court no later than 4pm on Friday of the previous week; if a case is set down to call on a Thursday then written submissions require to be lodged with the court no later than 4pm on Monday of that week and if a case is set down to call on a Friday then written submissions require to be lodged with the court no later than 4pm on Tuesday of that week.
- (b) All written submissions submitted to the court must be intimated (copied) to the other party to the action (or their representative if the other party is legally represented).
- (c) If written submissions are not submitted by email but by hard copy letter or other documentation, this should be intimated (copied) by posting to the other party to the action (or their representative if the other party is legally represented).

20. If the parties have an agreed position, the sheriff may administratively issue an order or interlocutor to that effect.
21. If parties do not have an agreed position the sheriff may determine the matter either (i) on the basis of the parties' written representations or lack of same or (ii) may request further information or (iii) may fix a hearing as above.
22. Where the sheriff pronounces a decision after considering written material only, and that decision is not on joint motion, the interlocutor or court order shall include a Note providing brief reasons for the decision made.

Defended Simple Procedure actions

23. If a case management discussion or any other type of hearing is required it will be held by electronic means in accordance with paragraph 8, unless the sheriff otherwise directs.
24. Parties should note the Simple Procedure Rules give the sheriff wide powers, including power to decide a case without a hearing. If the sheriff indicates the case may be decided without a hearing, the sheriff may make an order requiring parties to lodge written submissions and any other material within a specified timescale, and determine the case on that basis alone. The sheriff may also suggest parties obtain advice, or refer parties to mediation.

Proofs/Evidential Hearings

25. In cases where an evidential hearing has already been assigned, parties will require to lodge the following information with the court at least 14 days prior to that hearing unless otherwise directed by the sheriff—
 - a. A list of witnesses (if not already provided in the claim or response form);
 - b. a short summary of the evidence to be provided by each witness and identifying the disputed area(s) of evidence which it is anticipated each witness will speak to;
 - c. whether some or all of each witness's evidence is agreed;

- d. if any witness requires to give oral evidence, the estimated duration of that evidence;
 - e. whether any witness is a skilled witness who will give opinion evidence;
 - f. the chronological order in which it is proposed that the oral evidence of each witness is taken; and
 - g. the time at which it is reasonably anticipated any witness who is authorised to attend court will need to be in the court building.
26. In respect of any witness, the sheriff may order that a written statement signed by the witness shall be lodged at court and intimated to the opponent(s) within a time period specified by the sheriff. This statement may additionally be used as the basis for the witness' evidence, thereby limiting questioning at the hearing only to such additional questions that the sheriff may permit and to cross examination by an opponent. It shall be competent for a witness' written evidence to be in affidavit form.
27. The oral evidence of all witnesses may be taken by live video link. Where it is so taken, no one else will be present in the room except where the sheriff has permitted the presence of a supporter.
28. Evidence shall be recorded electronically where required, unless the Sheriff otherwise directs.
29. During any proof, except on cause shown or otherwise directed by the sheriff, only the following persons shall be present in the court room:-
- a. the sheriff, clerk and bar officer
 - b. the parties and their representatives
 - c. members of the media
 - d. authorised witnesses.
30. All persons in attendance shall adhere to physical distancing in accordance with government guidance/regulations.

31. Except on cause shown in advance, each witness shall arrive at court no earlier than 15 minutes before the time at which their evidence has been agreed to commence. A witness who arrives early or late may be refused admission to the building. The party which has cited the witness shall be responsible for ensuring the witness is aware of these provisions.

32. In cases where an evidential hearing has not yet been assigned parties will be requested to provide the information listed in paragraph 25 above by order of the sheriff or at a case management discussion. The sheriff may not appoint an evidential hearing unless satisfied that the parties have adequately prepared their case and have limited the scope of the issues truly in dispute.

33. The sheriff may require parties to account for their failure to comply with this guidance, which may lead to delay in the case being progressed. The sheriff may take into account any such failure when deciding any award of expenses.

Sheriff Principal M W Lewis

11 November 2020

Appendix 1

Mailboxes and telephone numbers for civil business:

Alloa: alloacivil@scotcourts.gov.uk / 01259 722734

Dundee: dundeecivil@scotcourts.gov.uk / 01382 229961

Dunfermline: dunfermlinecivil@scotcourts.gov.uk / 01383 724666

Falkirk: falkirkcivil@scotcourts.gov.uk / 01324 620822

Forfar: forfarcivil@scotcourts.gov.uk / 01307 462186

Kirkcaldy: kirkcaldycivil@scotcourts.gov.uk / 01592 260171

Perth: perthcivil@scotcourts.gov.uk / 01738 620546

Stirling: stirlingcivil@scotcourts.gov.uk / 01786 462191