

SCHEDULE 1

The Simple Procedure Rules

Part 6: Sending and formal service

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6.1 What is this Part about?

- (1) This Part is about what has to be done when these Rules require something to be sent to someone.
- (2) This Part is also about what has to be done when these Rules require a document to be formally served on someone.

6.2 What is the difference between sending and formally serving?

- (1) When these Rules require something to be “sent”, that may be done by anyone and in a number of ways.
- (2) When these Rules require a document to be “formally served” on someone, that may only be done by certain people (sheriff officers, sheriff clerks or solicitors) and may only be done in certain ways.

6.3 When must something be sent or formally served?

- (1) If these Rules say that something must be sent or formally served within a period or number of days, it must be sent or formally served in time for it to arrive before the end of that period or the last day.
- (2) If these Rules say that something must be sent or formally served by a particular day, it must be sent or formally served in time for it to arrive before the end of that day.
- (3) If these Rules say that something must be sent to court within a period, number of days or by a particular day and the end of that period or that day is a Saturday, Sunday, public holiday or court holiday, then it must be sent so that it will be received before the end of the next working day.

6.4 Can a party object to how sending or formal service was done?

- (1) A party who responds to something (such as sending a Response Form in response to a Claim Form or objecting to an application) may not object to how that thing was sent or formally served.

Sending

6.5 How can the court send something to a party?

- (1) The court may send something to a party in one of 5 ways:
 - (a) handing it to that party or to that party’s representative in person,
 - (b) posting it to that party or that party’s representative,

- (c) emailing it to that party or that party's representative, using an email address given on the Claim Form, Response Form or Time to Pay Application,
- (d) making it available to that party or that party's representative using the portal on the Scottish Courts and Tribunals Service website.
- (e) delivering it to a document exchange of which that party or that party's representative is a member.

6.6 How can a party send something to the court?

- (1) A party may send something to the court in one of four ways:
 - (a) handing it in to the court in person,
 - (b) posting it to the court using a postal service which records delivery,
 - (c) submitting it to the court using the portal on the Scottish Courts and Tribunals Service website.
 - (d) delivering it to a document exchange of which the sheriff clerk is a member.

6.7 How can a party send something to another party?

- (1) A party may send something to another party in one of four ways:
 - (a) posting it to that party or that party's representative using a next-day postal service which records delivery,
 - (b) emailing it to that party or that party's representative, using an email address given on the Claim Form, Response Form or Time to Pay Application,
 - (c) making it available to that party or that party's representative using the portal on the Scottish Courts and Tribunals Service website.
 - (d) delivering it to a document exchange of which that party or that party's representative is a member.
- (2) If none of those ways has worked, a party may send it to another party by sheriff officer using one of the methods of formal service mentioned in rule 18.3.

Formal service

6.8 How can you formally serve a document on someone living within Scotland?

- (1) Part 18 of these Rules is about formal service on someone living in Scotland.

6.9 How can you formally serve a document on someone living outside Scotland?

- (1) Part 19 of these Rules is about formal service on someone living outside Scotland.

6.10 What if a person uses a trading name?

- (1) If a person uses a trading name, a document may be formally served on that person at any place of business or office at which that business is carried on within the sheriffdom.
- (2) If that person does not have a place of business or office within the sheriffdom, a document may be formally served on that person at any place where that business is carried on (including the office of the clerk or secretary of a company, association or firm).

6.11 How can the Claim Form be formally served on the respondent?

- (1) As well as following the rules for formal service in Part 18 or Part 19, there are some additional requirements when formally serving the Claim Form.
- (2) The sheriff clerk may formally serve the Claim Form if:
 - (a) the claimant is not a company, limited liability partnership or partnership, and
 - (b) the claimant is not legally represented.
- (3) When formally serving a Claim Form, the envelope must contain only the following:
 - (a) a copy of the Claim Form,
 - (b) any Further Claimant Forms or Further Respondent Forms,

- (c) a blank Response Form,
 - (d) a copy of the Notice of Claim,
 - (e) a copy of the Timetable,
 - (f) if the respondent can apply for time to pay, a blank Time to Pay Application, and
 - (g) any other document approved by the sheriff principal in that sheriffdom.
- (4) If a solicitor or sheriff officer has formally served the Claim Form, then a Confirmation of Formal Service must be sent to the court at least 2 days before the last date for a response.

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

- (1) 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 and cannot find it out, then the claimant does not need to formally serve a copy of the Claim Form on the respondent.
- (3) The claimant must instead complete a Service by Advertisement Application and send it to court with the Claim Form.
- (4) The sheriff may order the details of the claim to be publicised by advertisement on the Scottish Courts and Tribunals Service website.
- (5) The sheriff clerk must make a copy of the Claim Form available for the respondent to collect at the sheriff court.
- (6) If the respondent's address becomes known, the sheriff must order:
 - (a) the Claim Form to be amended,
 - (b) the claimant to formally serve the Claim Form on the respondent,
 - (c) a change to the timetable.

6.13 What if the sheriff considers that formal service of the Claim Form has not been done properly?

- (1) If the sheriff considers that formal service of the Claim Form was not done correctly, then the sheriff may change the timetable.
- (2) If the sheriff changes the timetable, the sheriff clerk must send a new Timetable to the claimant or to the parties.