

SCHEDULE 1

The Simple Procedure Rules

Part 12: The hearing

12.1 [What is this Part about?](#)

12.2 [What is the purpose of the hearing?](#)

12.3 [How will the dispute between the parties be resolved?](#)

12.4 [What will the sheriff do at the hearing?](#)

12.5 [What if a party does not come to the hearing?](#)

12.6 [How will evidence be given at the hearing?](#)

12.1 What is this Part about?

- (1) This Part is about the hearing at which the dispute between the parties should be resolved.

12.2 What is the purpose of the hearing?

- (1) The purpose of the hearing is to help the sheriff to resolve the dispute between the parties.

12.3 How will the dispute between the parties be resolved?

- (1) The sheriff may refer parties to alternative dispute resolution at a hearing.
- (2) If the sheriff thinks a negotiated settlement is possible, the sheriff must help the parties to negotiate a settlement to the dispute.

- (3) If no negotiated settlement is possible, the sheriff must resolve the dispute by deciding it at that hearing.
- (4) The sheriff may continue the hearing to another day without resolving the dispute only if it is necessary to do so.
- (5) But the sheriff must not continue a hearing to another day solely because a witness did not appear.

12.4 What will the sheriff do at the hearing?

- (1) The sheriff must ask the parties about their attitudes to negotiation and alternative dispute resolution.
- (2) The sheriff must identify the factual basis and legal basis of the claim and the response to the claim.
- (3) The sheriff must identify the factual and legal matters genuinely in dispute between the parties.
- (4) The sheriff must take a note of the hearing. This note is for the sheriff's own purposes and must be kept until any appeal is no longer possible or until any appeal has been concluded.

12.5 What if a party does not come to the hearing?

- (1) If the claimant does not come to the hearing or is not represented at the hearing, the sheriff may dismiss the claim.
- (2) If the respondent does not come to the hearing or is not represented at the hearing, the sheriff may make a decision in the case at that hearing.
- (3) If neither party comes to the hearing and neither party is represented at the hearing, the sheriff must dismiss the claim.

12.6 How will evidence be given at the hearing?

- (1) Before evidence is heard, the sheriff must explain to the parties the way the sheriff has decided to consider evidence at the hearing.
- (2) The sheriff may impose conditions on how evidence is presented or dealt with, including conditions on how witnesses are questioned or setting time limits on how long witnesses may be questioned.

- (3) The sheriff may decide whether the evidence of a witness is to be taken on oath or affirmation or not.
- (4) The sheriff may ask questions to the parties or to witnesses.
- (5) The sheriff may inspect any evidence with the parties or their representatives present.
- (6) The sheriff may inspect any place with the parties or their representatives present.