

SCHEDULE 1

## The Simple Procedure Rules

### Part 13: The decision

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#### 13.1 What is this Part about?

- (1) This Part is about the decisions which the sheriff can make to resolve a dispute.
- (2) This Part is also about the circumstances in which a party can apply to have a decision recalled.

#### 13.2 When must the sheriff make the decision?

- (1) At the end of the hearing, the sheriff may either make a decision there and then, or may take time to consider before making a decision.
- (2) If the sheriff takes time to consider a decision, the decision must be made within 4 weeks from the date of the hearing.

### **13.3 How will the sheriff make the decision?**

- (1) If the sheriff makes a decision there and then, the sheriff must explain the reasons for that decision to the parties in person.
- (2) If the sheriff takes time to consider a decision, the sheriff must prepare a note of the reasons for the decision, and the sheriff clerk must send that note to the parties.
- (3) In every case, the sheriff must set out the decision in the case in a Decision Form.
- (4) The sheriff may correct any errors in a Decision Form before it is sent to a party.

### **13.4 What sort of decisions can the sheriff make?**

- (1) The sheriff may make any decision which resolves the dispute between the parties, including a decision which:
  - (a) orders the respondent to pay the claimant a sum of money,
  - (b) orders the respondent to deliver something to the claimant,
  - (c) orders the respondent to do something for the claimant,
  - (d) dismisses the claim (or part of the claim) made by the claimant,
  - (e) absolves the respondent of the claim (or part of the claim) made by the claimant.
- (2) A decision which absolves the respondent in a claim means that the claimant cannot make a claim about the same subject against the respondent again.

#### *Recalling a decision*

### **13.5 When can a decision of the sheriff be recalled?**

#### **DECISIONS MADE BEFORE 30/07/18**

- (1) A party may apply to have a decision of the sheriff recalled in 6 situations:

- (a) where the sheriff dismissed a claim or made a decision under rule 7.2(4), because the claimant did not send the court an Application for a Decision within 2 weeks from the last date for a response,
- (b) where the sheriff made a decision under rule 7.4(2), because the respondent did not send the court a Response Form by the last date for a response,
- (c) where the sheriff dismissed a claim under rule 7.4(4), because the claimant did not send the court an Application for a decision within 2 weeks from the last date for a response,
- (d) where the sheriff dismissed a claim under rule 12.5(1), because the claimant did not attend the hearing,
- (e) where the sheriff made a decision under rule 12.5(2), because the respondent did not attend the hearing, and
- (f) where the sheriff dismissed a claim under rule 12.5(3), because neither party attended the hearing.

**DECISIONS MADE ON OR AFTER 30/07/18 (Added by SSI 2018/191)**

- (1) A party may apply to have a decision of the sheriff recalled in 5 situations:
  - (a) where the sheriff dismissed a claim because the claimant did not send the court an Application for Decision within 2 weeks from the last date for a response,
  - (b) where the sheriff made a decision because the respondent did not send the court a Response Form or Time to Pay Application by the last date for a response,
  - (c) where the sheriff dismissed a claim because the claimant did not attend a discussion or hearing,
  - (d) where the sheriff has made a decision because the respondent did not attend a discussion or hearing, and
  - (e) where the sheriff dismissed a claim because neither party attended a discussion or hearing.
- (2) If the sheriff dismissed the claim, a party may only apply for recall within 2 weeks of the claim being dismissed.
- (3) If the sheriff made a decision (other than dismissal) in the case, a party may apply for recall at any time before the decision of the sheriff has been fully implemented.

- (4) A party may only apply to have a decision of the sheriff recalled in a case once. [Added by SSI 2017/154 – Does not apply to decisions made before 15 June 2017]

### **13.6 How can a party apply to have a decision of the sheriff recalled?**

#### **DECISIONS MADE BEFORE 30/07/18**

- (1) A party may apply to have a decision of the sheriff recalled by completing the Application to Recall and sending it to the other party.
- (2) That party must at the same time send the court a copy of the Application to Recall with evidence that it was sent to the other party (for example a postal receipt or a copy of an email).
- (3) If the sheriff made a decision following an Application for a Decision, the respondent must include a completed Response Form with the Application to Recall.
- (4) If the party who has been sent the Application to Recall objects to the recall, that party must send that Application to Recall to the court within 10 days of it being sent, setting out that objection.
- (5) After considering the Application to Recall, and any objection that may have been sent, the sheriff may do one of three things:
  - (a) grant the application, and recall the decision,
  - (b) refuse the application, or
  - (c) order the parties to appear at a discussion in court, where the sheriff will consider whether to recall the decision.

### **13.6 How can a party apply to have a decision of the sheriff recalled?**

#### **DECISIONS MADE ON OR AFTER 30/07/18 (Added by SSI 2018/191)**

- (1) A party may apply to have a decision of the sheriff recalled by completing an Application to Recall and sending it to the court.
- (2) If the sheriff made a decision following an Application for a Decision and the respondent wants to dispute the claim or part of the claim, the respondent must include a completed Response Form with the Application for Recall.
- (3) The Sheriff Clerk will check whether the Application to Recall is the first Application to Recall in the case by the party making the application.

- (4) If it is the first Application to Recall by that party, the sheriff must send the parties an order arranging a discussion in court at which the sheriff will consider whether to recall the decision.
- (5) The party making the application must send a copy of the Application to Recall and any Response Form to the other party at least 5 days before the date of the discussion in court.

### **13.7 What happens when a sheriff decides to recall a decision?**

- (1) If the sheriff recalls a decision then the sheriff must give each party orders setting out the next steps they are to take to allow the dispute to be resolved.