

SCHEDULE 1

The Simple Procedure Rules

Part 15: How to enforce a decision

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15.1 What is this Part about?

- (1) This Part is about the steps which a successful party must take to enforce a decision.

15.2 When can a party enforce a decision?

- (1) After the Decision Form is sent, a party must wait 4 weeks before enforcing a decision.
- (2) A party must not enforce a decision if that decision is being appealed (see Part 16).
- (3) A party who is sent an Application to Recall must not enforce a decision until the sheriff has decided whether to recall the decision. (Applies to decisions made before 30/07/18)

- (3) A party who is sent an order arranging a discussion in court at which the sheriff will consider an Application to Recall must not enforce a decision until the sheriff has decided whether to recall the decision. (Applies to decisions made on or after 30/07/18 – amended by SSI 2018/191)
- (4) A party must not enforce a decision which has been recalled.

15.3 How can a party enforce a decision?

- (1) If a party uses a trading name, a decision which names the party using that trading name may be enforced against the party by that name.
- (2) Before enforcing a decision for the payment of a sum of money in the following ways:
 - (a) an earning arrestment (which is where a deduction is made from the earnings of the other party as a way of paying that sum of money),
 - (b) an attachment (which is where certain goods owned by the other party are seized and sold as a way of paying that sum of money),
 - (c) a money attachment (which is where money in the possession of the other party is seized as a way of paying that sum of money),the successful party must formally serve a Charge on the other party by sheriff officer using a method of formal service mentioned in rule 18.3.
- (3) The purpose of formally serving the Charge is to give the other party one last chance to pay the sum of money ordered by the court.
- (4) The Charge must demand payment:
 - (a) within 2 weeks if the other party is in the United Kingdom,
 - (b) within 4 weeks if the other party is outside the United Kingdom,
 - (c) within 4 weeks if the other party's address is unknown.
- (5) If the demand in the Charge is not complied with, then the successful party may instruct a sheriff officer to enforce the decision.
- (6) The requirement to formally serve by sheriff officer is subject to the exceptions in sections 2 and 3 of the Execution of Diligence (Scotland) Act 1926.
- (7) The Charge must be in the form set out in schedule 1 of the Act of Sederunt (Form of charge for payment) 1988(a). [Added by SSI 2017/154 – Does not apply to decisions made before 15 June 2017]
- (8) Where the Charge is formally served, the sheriff officer is not required to send a Confirmation of Formal Service to the court.

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

- (1) Where the claimant is successful but does not know the respondent's address, 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, then instead of formally serving the Charge on the respondent, the claimant must formally serve it by sheriff officer on the sheriff clerk in the sheriff court district where the respondent's last known address was.
- (3) The sheriff clerk must then publicise the Charge by advertising its details on the Scottish Courts and Tribunals Service website for 4 weeks.
- (4) After that 4 weeks, the sheriff clerk must certify on the Charge that the advertisement took place and send it to the person who formally served it.
- (5) The claimant may then instruct a sheriff officer to enforce the decision.

15.5 What if the respondent does not comply with a decision?

- (1) A claimant may make an Alternative Decision Application where the respondent does not comply with a decision which:
 - (a) orders the respondent to deliver something to the claimant, or
 - (b) orders the respondent to do something for the claimant.
- (2) An Alternative Decision Application may only be made where the sheriff alternatively ordered the respondent to pay the claimant a sum of money.
- (3) The application is made by sending an Alternative Decision Application to the court.
- (4) After considering the Alternative Decision Application, the sheriff may do one of three things:
 - (a) grant the application, and order the respondent to pay the claimant a sum of money,
 - (b) refuse the application,
 - (c) order the claimant to appear at a discussion in court, where the sheriff will consider whether to make any orders.