

SCHEDULE 1

The Simple Procedure Rules

Part 16: How to appeal a decision

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16.1 What is this Part about?

- (1) This Part is about how a party can appeal a decision and how the sheriff and Sheriff Appeal Court will deal with an appeal.

16.2 How do you appeal a decision?

- (1) A party may appeal a decision within 4 weeks from the Decision Form being sent.
- (2) A party may appeal a decision by sending a completed Appeal Form to the sheriff court.
- (3) That party must at the same time send a copy of the completed Appeal Form to the other party.
- (4) The Appeal Form must set out the legal points which the party making the appeal wants the Sheriff Appeal Court to answer.
- (5) A party may not appeal a decision if that party can apply to have that decision recalled (see Part 13).

16.3 What will the sheriff do with an appeal?

- (1) The sheriff must prepare a draft Appeal Report within 4 weeks of the court receiving an Appeal Form.
- (2) The draft Appeal Report must set out the factual and legal basis for the decision which the sheriff came to.
- (3) The draft Appeal Report must set out legal questions for the Sheriff Appeal Court to answer.
- (4) The sheriff clerk must send the draft Appeal Report to all parties.
- (5) All parties may, within 2 weeks of the draft Appeal Report being sent to them, send the sheriff a note of any other legal points they wish the Sheriff Appeal Court to answer and any factual points in the draft Appeal Report they disagree with.
- (6) The sheriff may order a discussion in court to consider whether amendments should be made to the Appeal Report.
- (7) The sheriff may then amend the Appeal Report.
- (8) The sheriff must then sign or authenticate electronically the Appeal Report.
- (9) The sheriff clerk must send a copy of the signed Appeal Report to each party.
- (10) The sheriff clerk must transmit the following to the Clerk of the Sheriff Appeal Court:
 - (a) the note of the reasons for the sheriff's decision (if one was prepared),
 - (b) a copy of the Decision Form,
 - (c) all written orders,
 - (d) the signed Appeal Report, and
 - (e) any note sent to the court by a party.

16.4 What will the Sheriff Appeal Court do with an appeal?

- (1) The Clerk of the Sheriff Appeal Court must, within 2 weeks of receiving the signed Appeal Report, arrange an appeal hearing and send all parties notice of where and when the appeal hearing is to be held.

- (2) Unless the Sheriff Appeal Court orders otherwise, an appeal hearing must be before one Appeal Sheriff.
- (3) At the end of the appeal hearing, the Sheriff Appeal Court may either make a decision there and then, or may take time to consider the decision.
- (4) If the Sheriff Appeal Court takes time to consider the decision, the decision must be made within 4 weeks from the date of the appeal hearing.
- (5) If the Sheriff Appeal Court makes a decision there and then, it must explain the reasons for that decision to the parties in person.
- (6) If the Sheriff Appeal Court takes time to consider a decision, the court must prepare a note of the reasons for the decision, and the Clerk of the Sheriff Appeal Court must send that note to the parties.
- (7) The Sheriff Appeal Court may alter the decision which the sheriff made by either amending the Decision Form or issuing a new Decision Form.
- (8) Parts 2, 4, 5 and 6 of the Act of Sederunt (Sheriff Appeal Court Rules) 2015 apply to the appeal.