

SCHEDULE 1

## The Simple Procedure Rules

### Part 19: Formal service outside Scotland

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#### 19.1 What is this Part about?

- (1) This Part is about how to formally serve a document on someone outside Scotland.

#### 19.2 How can you formally serve a document on someone who lives outside Scotland?

- (1) Different rules apply depending on the country that the person lives in.

- (2) If the person lives in England and Wales, Northern Ireland, the Isle of Man or the Channel Islands, see rule 19.3.
- (3) If the person lives in an EU member state (including Denmark), see rule 19.4.
- (4) If the person lives in a Hague Convention country (other than an EU member state), see rule 19.5.
- (5) If the person lives in a country with which the United Kingdom has a convention about how to serve court documents (such as Algeria, Libya and the United Arab Emirates), see rule 19.6.
- (6) If none of the above applies, see rule 19.7.

**19.3 How can you formally serve a document on someone who lives in England and Wales, Northern Ireland, the Isle of Man or the Channel Islands?**

*Method*

- (1) There are two ways to formally serve a document on someone who lives in England and Wales, Northern Ireland, the Isle of Man or the Channel Islands.
- (2) It may be done by posting the document to the person's home or business address using a postal service which records delivery. This is called postal service.
- (3) It may also be done by using the rules for personal service under the domestic law of the country where the document is to be served. This is called personal service.

*Who can formally serve the document?*

- (4) The sheriff clerk may formally serve a Claim Form on the respondent by postal service only if:
  - (a) the claimant is not a company or a partnership, and
  - (b) the claimant is not legally represented.
- (5) Otherwise, postal service may only be done by one of two persons:

- (a) the party's solicitor,
  - (b) a sheriff officer instructed by the party.
- (6) Personal service may be done by a person who is authorised to do so under the domestic law of the country where the document is to be served.

*Additional requirements*

- (7) Where postal service is used, the envelope containing the document must have the following label printed or written on it:

**THIS ENVELOPE CONTAINS A [NAME OF DOCUMENT] FROM  
[NAME OF SHERIFF COURT], SCOTLAND**

**IF DELIVERY CANNOT BE MADE, THE LETTER MUST BE  
RETURNED TO THE SHERIFF CLERK AT**

**[FULL ADDRESS OF SHERIFF COURT]**

- (8) After formally serving a document, a Confirmation of Formal Service must be completed by the person who served it.
- (9) If postal service has been used, any postal receipts must be attached to the Confirmation of Formal Service.
- (10) If a solicitor or a sheriff officer has formally served a document, the Confirmation of Formal Service must be sent to the sheriff court within one week of service taking place.

**19.4 How can you formally serve a document on someone who lives in an EU member state (including Denmark) under the Service Regulation?**

*Method*

- (1) There are up to 4 ways to formally serve a document on someone who lives in an EU member state (including Denmark) under the Service Regulation, depending on what the law of that member state permits.

- (2) It may be done by posting the document to the person's home or business address using a postal service which records delivery. This is called postal service.
- (3) It may be done by sending the document to a messenger-at-arms and asking them to arrange for it to be served. This is called service by transmitting agency.
- (4) It may be done by sending the document to a person who is entitled to serve court documents in that member state and asking them to arrange for it to be formally served. This is called direct service. This method can only be used if the law of the member state permits it.
- (5) It may be done by sending the document to the Secretary of State for Foreign, Commonwealth and Development Affairs and asking the Secretary of State to arrange for it to be formally served by a British consular authority. This is called consular service. This method can always be used if the document is being served on a British national. Otherwise, it can only be used if the law of the member state permits it.

*Who can formally serve the document?*

- (6) The sheriff clerk may formally serve a Claim Form on the respondent by postal service only if:
  - (a) the claimant is not a company or a partnership, and
  - (b) the claimant is not legally represented.
- (7) Otherwise, postal service may only be done by one of two persons:
  - (a) the party's solicitor,
  - (b) a sheriff officer instructed by the party.
- (8) For the other methods of formal service, the party sends the document to the Secretary of State for Foreign Commonwealth and Development Affairs or a person who is entitled to serve court documents in the country where the Form or Notice is to be formally served. That person will make the necessary arrangements for formal service.

*Additional requirements*

- (9) Where a party chooses service by transmitting agency, the party must give the messenger- at-arms a translation of the document into a language

which the recipient understands or an official language of the member state where the document is to be served.

- (10) After translating a document, the translator must complete a Translation Certificate and give it to the party who is formally serving the document.
- (11) Where postal service is used, the envelope containing the document must have the following label printed or written on it:

**THIS ENVELOPE CONTAINS A [NAME OF DOCUMENT] FROM  
[NAME OF SHERIFF COURT], SCOTLAND**

**IF DELIVERY CANNOT BE MADE, THE LETTER MUST BE  
RETURNED TO THE SHERIFF CLERK AT**

**[FULL ADDRESS OF SHERIFF COURT]**

- (12) That label must also be translated into an official language of the country where the document is to be served, unless English is an official language of that country.
- (13) After formally serving a document by postal service, a Confirmation of Formal Service must be completed by the person who formally served it.
- (14) Any postal receipts must be attached to the Confirmation of Formal Service.
- (15) If a solicitor or a sheriff officer has used postal service, the Confirmation of Formal Service must be sent to the sheriff court within one week of formal service taking place.
- (16) If any other method of formal service was used, the party who requested service of the document must send the certificate that the party receives from the person who served the document to the sheriff court within one week of receiving it.
- (17) If the document was translated into another language, the Translation Certificate must be sent to the sheriff court with the Confirmation of Formal Service or the certificate from the person who served the document.

**19.5 How can you formally serve a document on someone who lives in a Hague Convention country (other than an EU member state)?**

### *Method*

- (1) There are up to 4 ways to formally serve a document on someone who lives in a Hague Convention country, depending on what the law of that country permits.
- (2) It may be done by posting the document to the person's home or business address using a postal service which records delivery. This is called postal service. This method can only be used if the law of the country permits it.
- (3) It may be done by sending the document to the Scottish Ministers and asking them to arrange for it to be formally served. This is called service via central authority. This method can always be used.
- (4) It may be done by sending the document to the Secretary of State for Foreign, Commonwealth and Development Affairs and asking the Secretary of State to arrange for it to be formally served by a British consular authority. This is called consular service. This method can always be used if the document is being formally served on a British national. Otherwise, it can only be used if the law of the country permits it.
- (5) It may be done by sending the document to a person who is entitled to serve court documents in that country and asking them to arrange for it to be formally served. This is called service by competent person. This method can only be used if the law of the country permits it.

### *Who can formally serve the document?*

- (6) The sheriff clerk may formally serve a Claim Form on the respondent by postal service only if:
  - (a) the claimant is not a company or a partnership, and
  - (b) the claimant is not legally represented.
- (7) Otherwise, postal service may only be done by one of two persons:
  - (a) the party's solicitor,
  - (b) a sheriff officer instructed by the party.
- (8) For the other methods of formal service, the party sends the Form or Notice to the Scottish Ministers, the Secretary of State for Foreign, Commonwealth and Development Affairs or a person who is entitled to serve court documents in the country where the Form or Notice is to be formally served. That person will make the necessary arrangements for formal service.

*Additional requirements*

- (9) Any document must be accompanied by a translation into an official language of the country where it is to be formally served, unless English is an official language of that country.
- (10) After translating a document, the translator must complete a Translation Certificate and give it to the party who is formally serving the Form or Notice.
- (11) Where postal service is used, the envelope containing the document must have the following label printed or written on it:

**THIS ENVELOPE CONTAINS A [NAME OF DOCUMENT] FROM  
[NAME OF SHERIFF COURT], SCOTLAND**

**IF DELIVERY CANNOT BE MADE, THE LETTER MUST BE  
RETURNED TO THE SHERIFF CLERK AT**

**[FULL ADDRESS OF SHERIFF COURT]**

- (12) That label must also be translated into an official language of the country where the Form or Notice is to be served, unless English is an official language of that country.
- (13) After formally serving a document by postal service, a Confirmation of Formal Service must be completed by the person who served it.
- (14) Any postal receipts must be attached to the Confirmation of Formal Service.
- (15) If a solicitor or a sheriff officer has used postal service, the Confirmation of Formal Service must be sent to the sheriff court within one week of service taking place.
- (16) If any other method of formal service was used, the party who requested formal service of the document must send the certificate that the party receives from the person who formally served the document to the sheriff court within one week of receiving it.
- (17) If the document was translated into another language, the Translation Certificate must be sent to the sheriff court with the Confirmation of Formal Service or the certificate from the person who served the document.

**19.6 How can you formally serve a document on someone who lives in a country with which the United Kingdom has a convention about how to serve court documents?**

*Method*

- (1) The ways of formally serving a document on someone who lives in a country with which the United Kingdom has a convention about how to serve court documents depends on the convention between the United Kingdom and that country.
- (2) Accordingly, a document can be formally served in any way that is allowed in the convention between the United Kingdom and the country where it is to be served.

*Who can formally serve the document?*

- (3) A document can be formally served by a person who is authorised to do so by the convention between the United Kingdom and the country where it is to be served.

*Additional requirements*

- (4) Where the convention requires that a document must be accompanied by a translation into an official language of the country where it is to be served, the translator must complete a Translation Certificate and give it to the party who is serving the document.
- (5) The party who requested formal service of the document must send the certificate that the party receives from the person who served the document to the sheriff court within one week of receiving it.
- (6) If the document was translated into another language, the Translation Certificate must be sent to the sheriff court with the certificate from the person who served the document.

**19.7 How can you formally serve a document on someone who lives in any other country?**



### *Method*

- (1) There are two ways to formally serve a document on someone who lives in a country where none of the other rules apply.
- (2) It can be done by posting the document to the person's home or business address using a postal service which records delivery. This is called postal service.
- (3) It can also be done by using the rules for personal service under the domestic law of the country where the document is to be served. This is called personal service.

### *Who can formally serve the document?*

- (4) The sheriff clerk may formally serve a Claim Form on the respondent by postal service only if:
  - (a) the claimant is not a company or a partnership, and
  - (b) the claimant is not legally represented.
- (5) Otherwise, postal service may only be done by one of two persons:
  - (a) the party's solicitor,
  - (b) a sheriff officer instructed by the party.
- (6) Personal service may be done by a person who is authorised to do so under the domestic law of the country where the document is to be served.

### *Additional requirements*

- (7) Any document must be accompanied by a translation into an official language of the country where it is to be formally served, unless English is an official language of that country.
- (8) After translating a document, the translator must complete a Translation Certificate and give it to the party who is formally serving the Form or Notice.
- (9) Where postal service is used, the envelope containing the document must have the following label printed or written on it:

**THIS ENVELOPE CONTAINS A [NAME OF DOCUMENT] FROM  
[NAME OF SHERIFF COURT], SCOTLAND**

**IF DELIVERY CANNOT BE MADE, THE LETTER MUST BE  
RETURNED TO THE SHERIFF CLERK AT**

**[FULL ADDRESS OF SHERIFF COURT]**

- (10) That label must also be translated into an official language of the country where the document is to be served, unless English is an official language of that country.
- (11) After formally serving a document by postal service, a Confirmation of Formal Service must be completed by the person who served it.
- (12) Any postal receipts must be attached to the Confirmation of Formal Service.
- (13) If a solicitor or a sheriff officer has used postal service, the Confirmation of Formal Service must be sent to the sheriff court within one week of service taking place.
- (14) If any other method of formal service was used, the party who requested formal service of the document must send the certificate that the party receives from the person who formally served the document to the sheriff court within one week of receiving it.
- (15) If any other method of formal service was used, the party who requested formal service of the document must also send a Method of Service Abroad Certificate to the sheriff court with the certificate that the party receives from the person who served the document to the sheriff court within one week of receiving it.
- (16) If the document was translated into another language, the Translation Certificate must be sent to the sheriff court with the Confirmation of Formal Service or the certificate from the person who formally served the document.