

ANNEX B CONSULTATION QUESTIONNAIRE

Consultation question 1

Do you have any comments on the approach taken to splitting the Simple Procedure Rules into two sets of rules?

Comments It is helpful to have special claims rules for more complicated types of action. However, it is important to consult on the special claims rules as well as the simple procedure rules. The special claims rules cover particularly important types of actions, especially for personal injuries and recovery of possession of heritable property, and even if the new rules are very similar to existing rules, it is very important that these are available for comment before being brought into force.
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Consultation question 2

Are you content with the use of the following terms in the rules?

- Claim – for a standard simple procedure case

Content Not content No Preference

- Claimant – for pursuer

Content Not content No Preference

- Responding party – for defender

Content Not content No Preference

- Freeze – for sist

Content Not content No Preference

Consultation question 3

Do you have any comments on the approach taken to updating hard to understand terminology in the simple procedure rules?

Comments It is an improvement to express the rules in plain English.

Consultation question 4

Is there any terminology remaining in the draft simple procedure rules which you think is unfriendly or difficult for the lay user to understand and, if so, what alternatives would you suggest?

Yes No

Comments

Consultation question 5

Do you have any comments about the approach taken to the numbering and layout of the rules?

Comments

The rules are laid out well and the detailed contents are helpful.

Consultation question 6

Do you have any comments about how, and where, the rules should be presented on the internet?

Comments

The rules should be presented on the scotcourts website in a section clearly labelled "Simple procedure rules for claims under £5000".

Consultation question 7

Do you have any comments on the approach to headings in the Rules?

Comments The headings seem clear.

Consultation question 8

Do you have any comments on the approach taken to minimising the number of hearings?

Comments The new arrangement should be reviewed after a year or two. If parties find difficulties when they attend court on a first occasion for a full hearing it may be better to reinstate a preliminary hearing as a matter of course.

Consultation question 9

Do you have any comments on the approach taken to alternative dispute resolution in the rules?

Comments

Alternative dispute resolution should be encouraged for straightforward claims.

Consultation question 10

Do you have any comments on the proposed principles of simple procedure as set out in Part 1 Rules 2.1 – 2.5?

Comments

It is worthwhile setting out proposed principles, however this may give parties expectations which turn out to be a bit optimistic.

Consultation question 11

Do you have any comments on the proposed duties on sheriffs, parties and representatives?

Comments No further comments.

Consultation question 12

Do you have any other comments on the approach taken in Part 1: The simple procedure?

Comments

Consultation question 13

Do you have any comments on the approach taken in Part 2: Representation and support?

Comments No comments.

Consultation question 14

Do you have any comments on the proposed timetable for raising a simple procedure claim?

Comments The proposed timetable is clearer than the present situation.

Consultation question 15

Do you have any other comments on approach taken in Part 3: Making a claim?

Comments It is an improvement to frontload the claim.
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Consultation question 16

Do you have any comments on the flowchart (at Part 4 Rule 2.4) setting out the options available to the responding party when responding to a claim?

Comments

Consultation question 17

Do you have any other comments on the approach taken in Part 4: Responding to a claim?

Comments No comments.

Consultation question 18

Do you have any comments on the approach taken in Part 5: Sending and service?

Comments No comments.

Consultation question 19

Do you have any comments on the proposed procedures for settlement and for undefended actions?

Comments No comments.

Consultation question 20

Do you have any comments on the proposed model for case management conferences?

Comments No comments.

Consultation question 21

Do you have any other comments on the approach taken in Part 6: The first consideration of a case?

Comments No comments.

Consultation question 22

Do you have any comments on the approach taken in Part 7: Orders of the sheriff?

Comments No comments.

Consultation question 23

Do you have any comments on the proposed model for freezing and unfreezing cases?

Comments No comments.

Consultation question 24

Do you have any other comments on the approach taken in Part 8: Applications by the parties?

Comments No comments.

Consultation question 25

Do you have any comments on the approach taken in Part 9: Documents and other evidence?

Comments No comments.

Consultation question 26

Do you have any comments on the approach taken in Part 10: Witnesses?

Comments No comments.

Consultation question 27

Do you have any comments on whether the detailed provisions on documents, evidence and witnesses are necessary in the Simple Procedure Rules?

Comments No comments.

Consultation question 28

If you think that any of this provision could be dispensed with (or any additional provision is necessary), please identify that provision.

Comments No comments.

Consultation question 29

Do you have any comments on the approach taken in Part 11: The hearing?

Comments

Leaving it to the hearing stage to identify the matters in dispute seems a bit late. This does seem to make it more likely that parties will come along to the hearing and then require to return another day once the matters which are genuinely in dispute are identified. It is difficult to avoid this however without reintroducing a preliminary hearing as a matter of course.

Consultation question 30

Do you have any comments on the approach taken in Part 12: The decision?

Comments

No comments.

Consultation question 31

Do you have any comments on the approach taken in Part 13: Other matters?

Comments No comments.

Consultation question 32

Do you have any comments on the approach taken in Part 14: Appeals?

Comments No comments.

Consultation question 33

Do you have any comments on the approach taken in Part 15: Forms?

Comments

The forms are an improvement on the present situation.

Consultation question 34

Do you have any comments on any individual forms?

Comments

No comments.

Consultation question 35

Do you have any comments on the proposal to include standard orders in the rules?

Comments No comments.

Consultation question 36

Do you have any comments on the terms of the standard orders included in the draft rules?

Comments No comments.

Consultation question 37

Do you have any comments on the approach taken in Part 18?

Comments No comments.

Consultation question 38

Do you have any other comments on the draft Simple Procedure Rules?

Comments No comments.
