

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

Consultation question 2

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

- *Claim* – for a standard simple procedure case

Content x Not content No Preference

- *Claimant* – for pursuer

Content Not content No Preference x

- *Responding party* – for defender

Content Not content No Preference x

- *Freeze* – for sist

Content x 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

We consider that the terms used in the present rules are relatively straightforward. It may cause confusion to have two different sets of terminology being used in the simple procedure rule and ordinary cause rules. It seems unnecessary to use "freeze" instead of "sist", for example.

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

We consider the numbering and layout to be clear.

Consultation question 6

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

Comments

We would have thought it would be sensible for the rules simply to be placed alongside those already available on the Scottish Courts website.

Consultation question 7

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

Comments

These seem to be clear and easy to follow.

Consultation question 8

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

Comments

The present system, where there is a preliminary hearing and a full hearing works perfectly well, and there is not a surplus of hearings. The new rules do not give sufficient guidance on how hearings will operate in practice. It should not depend on the approach of an individual summary sheriff or the time available. We would have concerns in practical terms if the first hearing is intended to operate as a Proof, should evidence be required. Given the number of summary cause and small claims cases which are generally heard at Glasgow Sheriff Court, we consider this could result in the court becoming overloaded and no Proofs in fact being able to proceed.

Consultation question 9

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

Comments

No, this appears to be sensible.

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

Consultation question 11

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

Comments

Again, these appear to be sensible. It may be helpful to party litigants to have these set out in the rules.

Consultation question 12

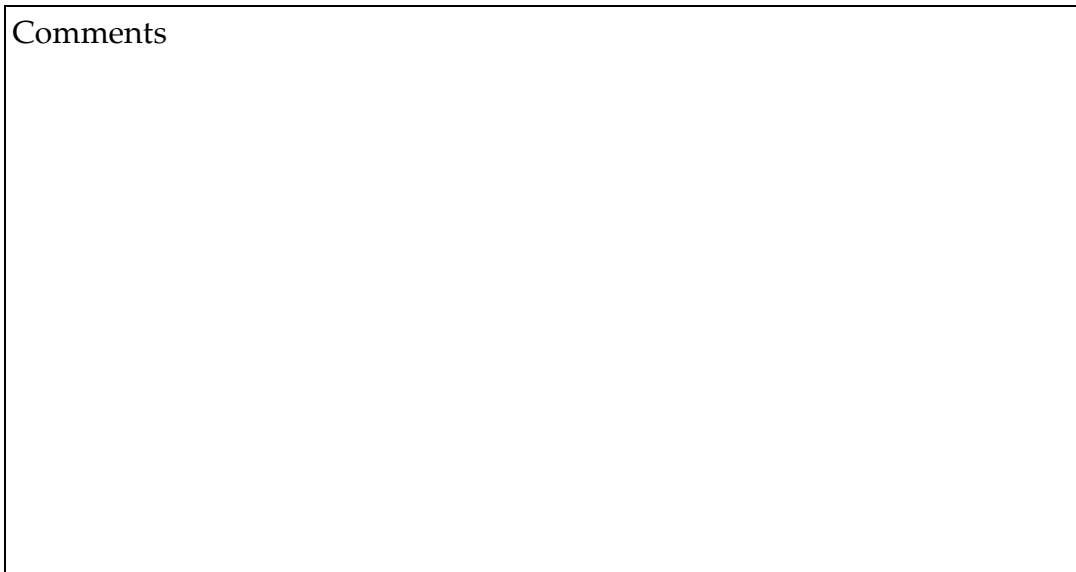
Do you have any other comments on the approach taken in Part 1: The simple procedure?

Comments

Consultation question 13

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

Comments



Consultation question 14

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

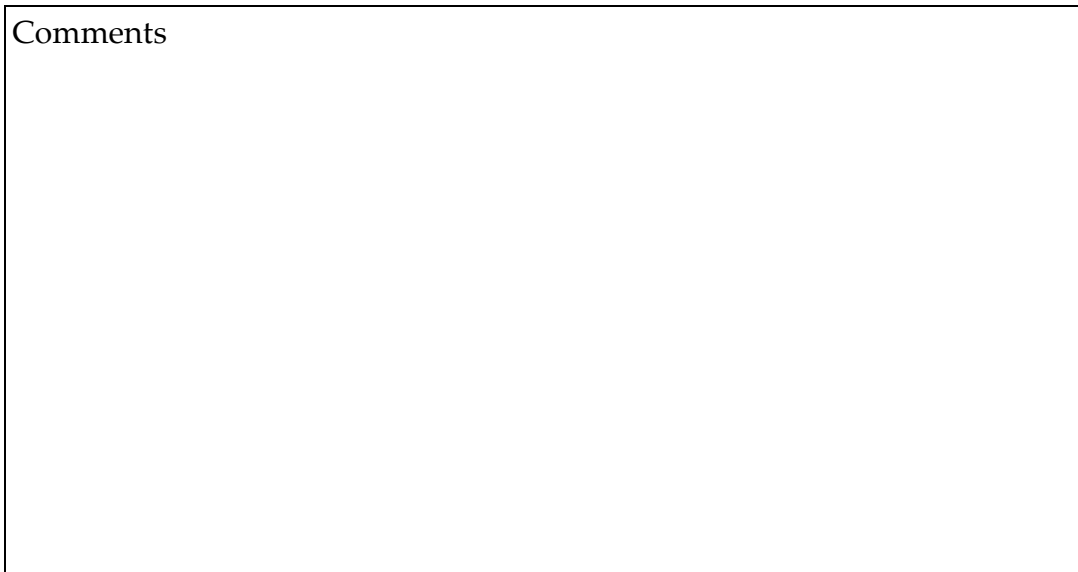
Comments



Consultation question 15

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

Comments



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

We consider that the timescales placed upon the Defender are onerous, given that the Defender appears to be expected to lodge documents and list of witnesses etc along with the response.

There may also be funding issues for legally aided parties as emergency legal aid cover would generally not cover extensive preparatory work.

Consultation question 18

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

Comments

No, this appears straightforward.

Consultation question 19

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

Comments

No, this appears straightforward.

Consultation question 20

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

Comments

Consultation question 21

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

Comments

As per our response to 17, we consider that there is a great deal of “front loading” in advance of the first consideration of the case. Whilst this may not present a difficulty for the Pursuer, who can ingather paperwork prior to lodging the claim, it may cause problems for the Defender.

Consultation question 22

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

Comments

Consultation question 23

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

Comments No

Consultation question 24

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

Comments

Consultation question 25

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

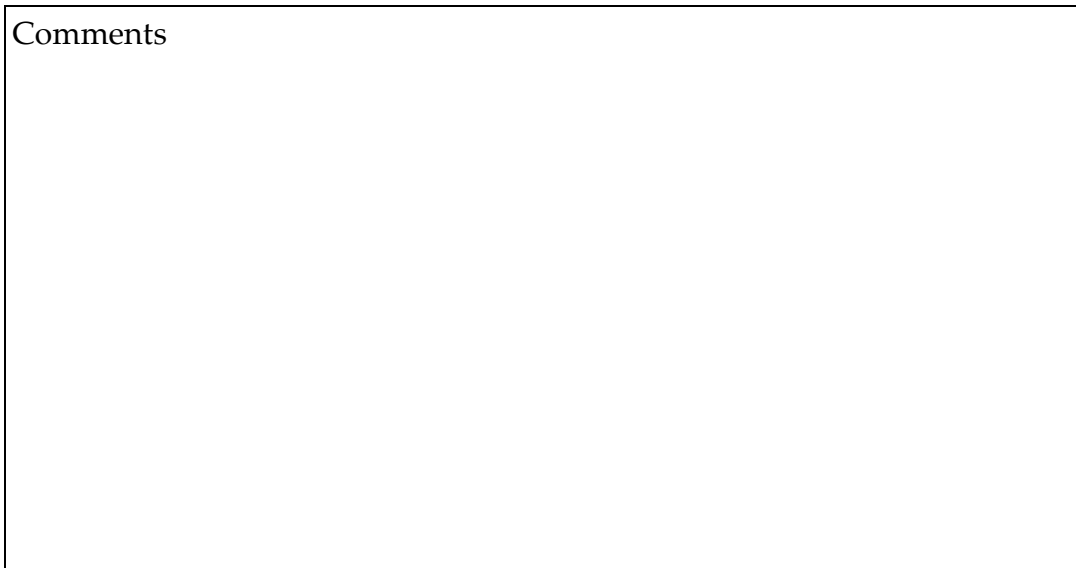
Comments



Consultation question 26

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

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

We consider that this may be helpful to party litigants.

Consultation question 28

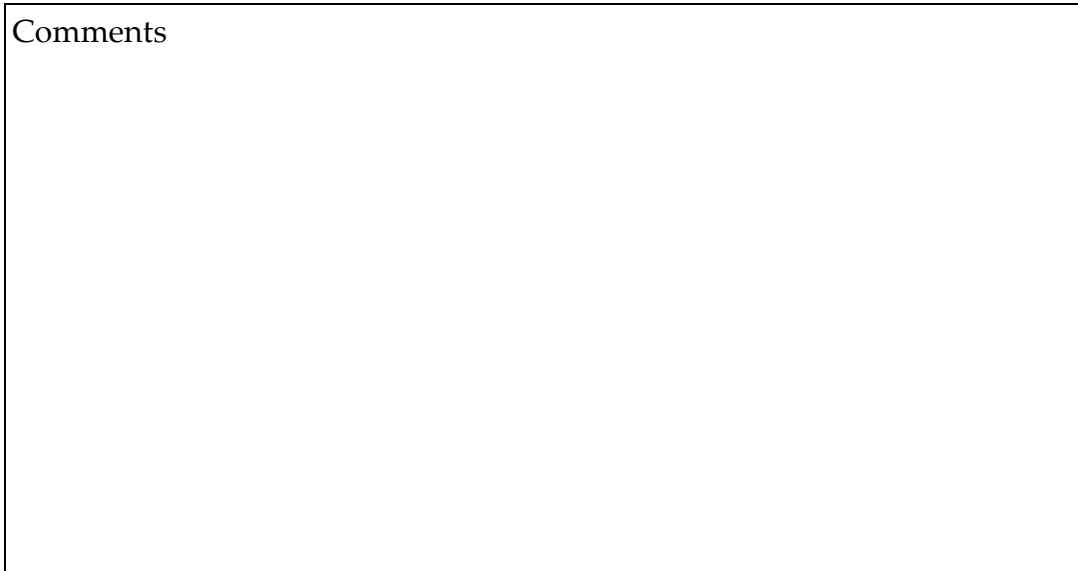
If you think that any of this provision could be dispensed with (or any additional provision is necessary), please identify that provision.

Comments

Consultation question 29

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


Comments



Consultation question 30

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

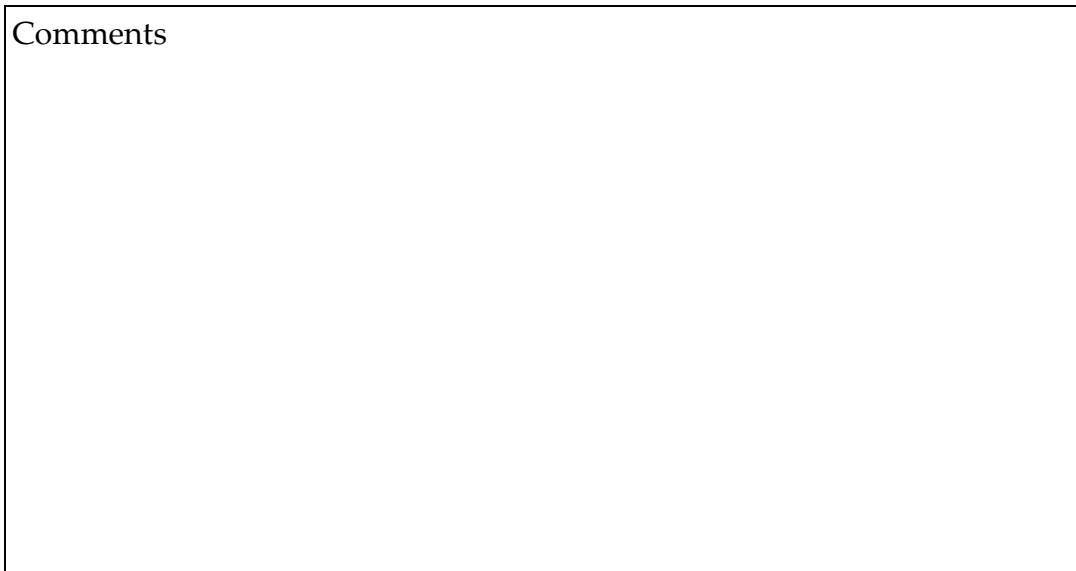
Comments



Consultation question 31

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

Comments



Consultation question 32

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

Comments



Consultation question 33

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

Comments No, these appear fairly "user friendly."
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Consultation question 34

Do you have any comments on any individual forms?

Comments No

Consultation question 35

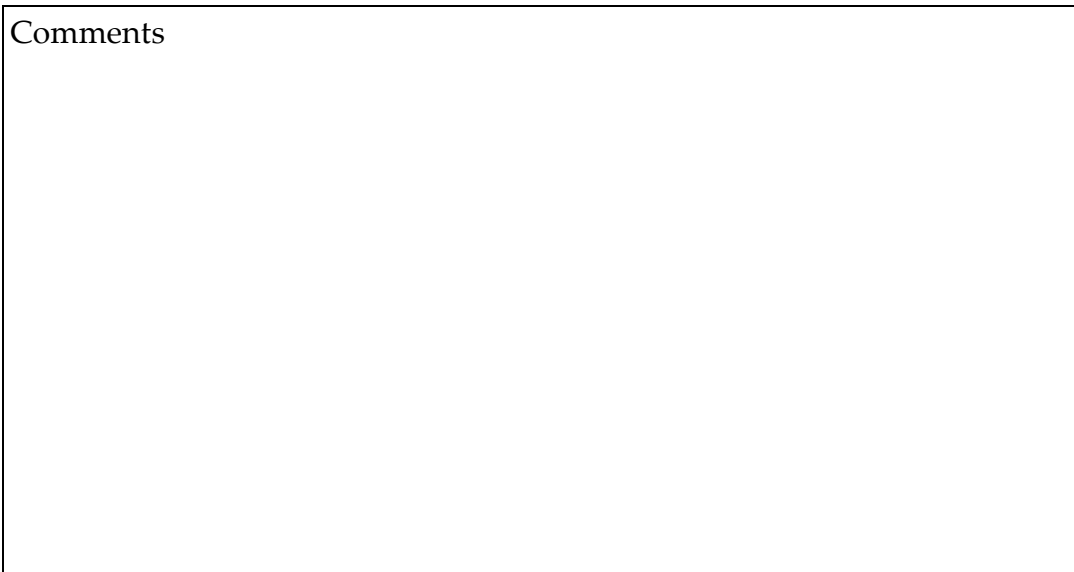
Do you have any comments on the proposal to include standard orders in the rules?

Comments

Consultation question 36

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

Comments



Consultation question 37

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

Comments



Consultation question 38

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

Comments