

SCJC Consultation on the Simple Procedure Rules – Annex B: Consultation questionnaire

ANNEX B CONSULTATION QUESTIONNAIRE

Consultation question 1

Do you have any comments on the way in which a claim is made using simple procedure or the forms associated with this stage?

<p>Comments</p> <p>Given that the upper financial limit for claims in the Simple Procedure is £5,000 we welcome the provision, set out in Part 3.9 (1), by which the sheriff clerk has an obligation to check the Claim Form to make sure that the claim pursued complies, inter alia, with the financial upper limit.</p> <p>In addition we welcome the requirement set out in Part 3.3 in respect of the claimant and Part 4.4 in respect of the respondent that the basis for both the claim and the response must be set out in detail.</p>

Consultation question 2

Do you have any comments on responding to a claim, the way in which time to pay may be requested or the corresponding forms?

<p>Comments</p> <p>None</p>

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Consultation question 3

Do you have any comments in relation to the ways in which forms and documents may be sent or formally served in a simple procedure case?

Comments
None

Consultation question 4

Do you have any comments on what can happen to a case after the last date for a response, or the Application for a Decision Form?

Comments
None

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Consultation question 5

Do you have any comments on the way in which applications can be made in simple procedure, including any of the prescribed forms?

Comments

None. However our view is that Part 9.2 (4) probably needs to be re-drafted as its meaning is not clear.

Consultation question 6

Do you have any comments on documents, evidence or witnesses, or the forms associated with Parts 10 and 11?

Comments

We question the distinction set out in Part 10.4 between the rights of a solicitor and a party litigant in respect of inspection of documents. We suggest that it would be fairer and more in the spirit of the Simple Procedure if Part 10.4 was amended so that a party lodging documents with the court for which confidentiality is not claimed under Part 10.8 should also send copies to the other party or parties at the same time.

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Consultation question 7

Do you have comments on the rules and forms relating to hearings and decisions, including the recall of a decision?

Comments
None

Consultation question 8

Do you have any comment on any other aspect of the Simple Procedure Rules, or any general comments about the rules or forms?

Comments
Yes. We refer to Part 14 and the way in which the courts will deal with party expenses under the Simple Procedure.
In effect, the summary expenses regime has been transplanted into the Simple Procedure. In our view this should be removed and replaced with a fixed expenses regime.
The intention of the Simple Procedure is to have claims which are brought under the Procedure settled at “least expense to parties and the courts”. Our view is that this aim is at odds with the imposition of the present costs regime which allows summary rather than fixed expenses. This is a missed opportunity for the courts to have ensured transparency regarding the expenses associated with litigating via the Simple Procedure.