

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?

Comments See response from the Glasgow Summary Sheriffs
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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?

Comments

See response from the Glasgow Summary Sheriffs

I would like to add a point further to that response –

There seems to be a potential conflict between the terms of rule 5.7 and the associated form, Form 5B.

Rule 5.7 says that if the claimant has not [responded] to a Time to Pay Application [within two weeks of the Time to pay Notice] the sheriff must decide the case (if the case has not been decided) and grant or refuse [the application].

When a respondent seeks time to pay the form a Time to Pay notice form – form 5B - is sent to the claimant. The Form indicates that “[the claimant] must send [this notice] back to the court within two weeks after the Time to Pay Application is sent or else the court *will* dismiss your claim”(my emphasis).

Reading rule 5.7 together with the warning on form 5B (the form being part of the Act of Sederunt along with the rule) then the only decision available is to dismiss (if the claimant does not respond). That interpretation doesn't sit comfortably with the final words of rule 5.7 which require the sheriff to think about whether to grant or refuse time to pay.

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 See response from the Glasgow Summary Sheriffs
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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 See response from the Glasgow Summary Sheriffs
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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

See response from the Glasgow Summary Sheriffs

Consultation question 6

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

Comments

See response from the Glasgow Summary Sheriffs

Consultation question 7

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

<p>Comments</p> <p>See response from the Glasgow Summary Sheriffs</p>

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?

<p>Comments</p> <p>See response from the Glasgow Summary Sheriffs</p>
