

ANNEX A QUESTIONNAIRE

Please clearly indicate in your response which questions you are commenting on.

1. Do you have any general comments about using Civil Online to submit claims?

- a. The SSA acknowledges that in the generality, the maintenance of a paper-based process in Simple Procedure cases is cumbersome and anachronistic. It further acknowledges that electronic submission has been the default position in the corresponding procedure in England and Wales for some time.
- b. Whilst broadly supporting the proposal that the Simple Procedure Rules be changed to mandate the use of Civil Online, the Association considers it important to highlight the following issues:
 - i. It is in the Association's view critical for the purposes of access to justice that there always remains the exceptional facility for submission of paper documents. There may be a number of reasons for a failure on the part of potential litigants to use an online process, including lack of technical skill or access to the internet (temporary or permanent). It is in our experience likely that those who cannot access the internet or cope with Civil Online will be the poorest and least well educated, and the very elderly; that is to say, the most vulnerable in our society. They should not in our view be further disadvantaged. The Association does not necessarily consider that the Sheriff be the arbiter of whether exceptional circumstances have been met. It may be that a suitably trained Sheriff Clerk Depute at executive officer level or above could be the primary gatekeeper, with the option of a refusal to find exceptional circumstances being referred to a judicial office holder for review.
 - ii. It should be borne in mind that whereas the procedure for claims under £5000 may be simplified, the issues and the documents often are not. It is relatively common to encounter simple procedure cases that involve large volumes of productions. Even in complex cases, it should not be assumed that the parties are legally represented.
 - iii. A large documentary production that originated in paper form may be too large to scan and upload to the portal. Navigation through large documents remains easier when they are in paper format. The Association considers that documents of this character should fall within the paper exception and indeed proposes that it is expressly provided that a document of over 100 pages can be submitted in paper either as an alternative to, or supplementary to, electronic submission. This would be of considerable assistance to the witness speaking to the document and the Sheriff.
 - iv. If primary reliance is to be placed upon Civil Online for Simple Procedure cases it is in the Association's view essential that not only the portal but also the ICMS system used by Sheriffs and clerks be clear and intelligible. The current version of ICMS has its strengths, but it is far from faultless. In particular there have been documented instances where interlocutors have not reached the parties and uploaded documents have not reached the court. Moreover, the current interface available to the Sheriff is slow, and when the process is accessed the document descriptions used in Civil Online do not always identify what the documents are. This slows down consideration by a sheriff of the court process and impacts significantly upon the court time involved. It would currently be quicker and easier to access a paper process. Whilst the Association recognises that much of what is said in this paragraph is already known to SCTS, it remains the Association's view that

implementation of mandatory use of Civil Online should only take place in conjunction with a significant upgrade to ICMS. The kind of upgrade that is required should be carried out in full and direct consultation with serving judicial office holders (sheriffs and summary sheriffs) who have to use the system on a daily basis

- 2. Were there benefits to using Civil Online to submit your claim and if so what were these?**
- 3. Did you have any difficulties using Civil Online when submitting a claim? If so what were these?**
- 4. If you tried to raise a claim but did not do so because of Civil Online, could you explain why and what happened?**
- 5. Do you have any comments about using the API for Civil Online to submit bulk claims?**
- 6. Were there benefits to using Civil Online API for submitting bulk claims and if so what were these?**
- 7. Did you have any difficulties in using the API for Civil Online to submit bulk claims? If you did, what were these? Please include any issues you may have had integrating the API with your own computer system, case management system or general way of submitting claims.**
- 8. If you needed support to use the either of the digital portals, who did you ask for support?**
- 9. Was it easy to find information about what support was available to you?**
- 10. Was the support provided helpful to you?**
- 11. If you play a role in providing support to court users, do you have any comments on any practical issues arising from the rule change?**
- 12. What effect, if any, has the rule change had for your service and service users?**
- 13. Are you aware of any cases whereby individuals have decided not to engage with the court under the new rules? If so, how often has this happened and do you know the reasons why?**

- 14. If you have provided a note to the Sheriff asking to submit your claim on paper please comment on the process. For example - is it straightforward or complicated? Did you encounter any problems and if so please explain?**
- 15. If you requested to submit a claim on paper and NOT through either digital interface (Civil Online or the API) please explain the main reasons why? (Please do not include any personal information which could identify you or your case)**
- 16. Did you need any support or further information to submit the note, if so, why did you feel you needed support? Where did you go to for support to complete the note and was this helpful?**
- 17. Do you think the rules to make the use of Civil Online mandatory for Simple Procedure Cases should remain in place? If yes, why? If no, why?**

Subject to the views expressed in answer to Question 1, the Association is broadly supportive of mandatory use of civil online.

- 18. If the rules continue to be in force past the 30th of September 2021, are there any changes to them that you think could usefully be made and if so, why?**
- 19. Please provide any further comments on the rules under review regarding the submission of claims through Civil Online or the API.**

