

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 We have no issue with the proposal to split the new Simple procedure Rules into two sections.

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 Whilst we do not consider the existing terminology is difficult to understand, we can see the point of trying to ensure that the language used in the new Procedure is as clear as possible. In respect of the examples given, we do not agree that the use of “Freeze” is appropriate given that this has a different meaning in England and Wales. We suggest the use of “Stay” instead.
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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

No comment

Consultation question 5

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

No comment

Consultation question 6

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

We agree the proposed action set out in the consultation document at paragraph 39.

Consultation question 7

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

The “question and answer” approach is agreed.

Consultation question 8

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

Comments

We agree with the approach suggested. Consistency of approach is key to its effectiveness.

Consultation question 9

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

Comments

We agree that ADR should be used where possible and appropriate and that the parties should be encouraged to negotiate at all stages of the process.

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

On the basis that the intention behind the principles is to promote the early and cost-effective resolution of cases we agree with the drafting of Part 1, rules 2.1 to 2.5.

Consultation question 11

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

Comments

We agree the proposed duties as drafted.

Consultation question 12

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

No comment

Consultation question 13

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

No comment

Consultation question 14

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

Comments

The Procedure is intended for use by party litigants as well as lawyers and it therefore needs to be as clear and comprehensible as possible. The time frames are agreed as drafted, but our view is that clarification is needed as to whether the “days” allowed for certain actions are calendar days or working days. The clarity of the timetable would be improved were it to be set out in table format in addition.

Consultation question 15

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

No comment

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?

No comment

Consultation question 17

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

No comment

Consultation question 18

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

No comment

Consultation question 19

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

No comment

Consultation question 20

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

No comment

Consultation question 21

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

No comment

Consultation question 22

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

No comment

Consultation question 23

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

None, save that we consider the use of “Freeze” in this context will be confusing as the word has a different meaning in England and Wales’ legal procedure.

Consultation question 24

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

No comment

Consultation question 25

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

No comment

Consultation question 26

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

No comment

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?

No comment

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.

No comment

Consultation question 29

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

We agree the approach taken in Part 11.

Consultation question 30

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

We agree the approach taken in Part 12.

Consultation question 31

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

No comment

Consultation question 32

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

We agree the approach taken in Part 14.

Consultation question 33

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

We agree the approach taken in Part 15.

Consultation question 34

Do you have any comments on any individual forms?

No comment

Consultation question 35

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

We agree the use of standard orders as proposed.

Consultation question 36

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

No comment

Consultation question 37

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

No comment

Consultation question 38

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

No.