

**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?*

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| Comments |
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**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

**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?*

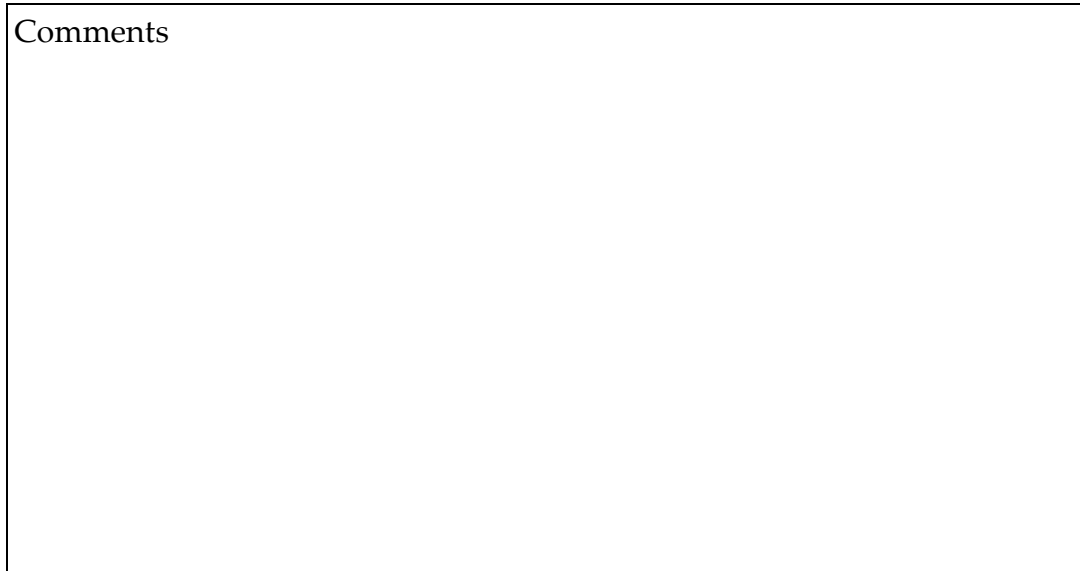
Yes       No

Comments

**Consultation question 5**

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

Comments



**Consultation question 6**

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

Comments



**Consultation question 7**

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

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| Comments |
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**Consultation question 8**

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

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| <p>In order to minimise the number of hearings, it may be appropriate for arbitration and/or mediation to be suggested to parties at an early stage. As the rules currently stand, it seems that arbitration and/or mediation will not be suggested to the parties until the Sheriff suggests it in his written consideration or case conference.</p> <p>It may be appropriate to make provision for the Sheriff Clerk to provide information to parties about arbitration and/or mediation at the first stage. We suggest that this be done by asking the claimant to indicate whether they would be interested in arbitration and/or mediation on the claim form. The responding party could also be asked to indicate whether they would be interested in arbitration and/or mediation on the response form.</p> |
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**Consultation question 9**

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

While arbitration and/or mediation is encouraged in the draft rules, they provide no guidance on what these are and how they work. It might be helpful to provide information on this. This would allow parties to make an informed decision at an early stage on whether arbitration and/or mediation would be appropriate.

**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?*

There should be mention of arbitration and/or mediation in this part of the rules to make clear to parties that this route is available and encouraged. As it stands, arbitration and/or mediation may not be mentioned to the parties until the Sheriff issues first orders, which could be up to 63 days after the submission of the claim form to the court.

**Consultation question 11**

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

The rules could make provision for the Sheriff Clerk to provide information to parties on arbitration and/or mediation, and/or to indicate to the Sheriff where a claim may be suitable for arbitration and/or mediation.

**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?*

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| Comments |
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**Consultation question 14**

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

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| Comments |
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**Consultation question 15**

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

Under the section entitled “What has to go in the Claim Form?” it may be appropriate to suggest that the claimant indicates whether they would be interested in resolving the dispute by arbitration or mediation.

**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?*

There is no mention of arbitration and/or mediation in the flowchart setting out the options for the responding party. It should be made clear to the responding party that they can, and when they can, suggest arbitration and/or mediation to settle the dispute.



**Consultation question 17**

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

Under the section entitled “What has to go in the Response Form?” it may be appropriate to suggest that the responding party indicates whether they would be interested in resolving the dispute by arbitration and/or mediation.

**Consultation question 18**

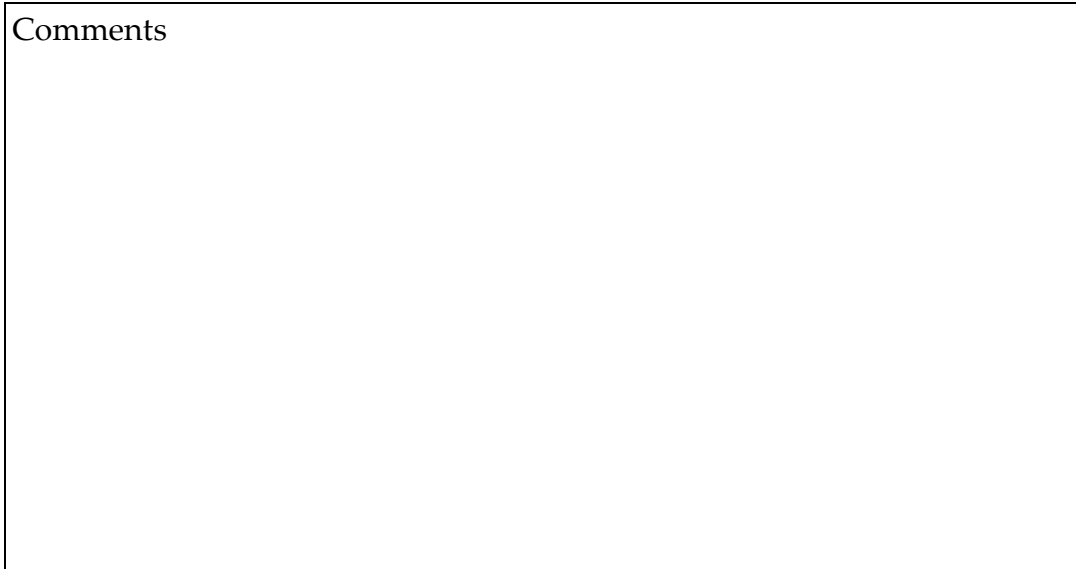
*Do you have any comments on the approach taken in Part 5: Sending and service?*

Comments

**Consultation question 19**

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

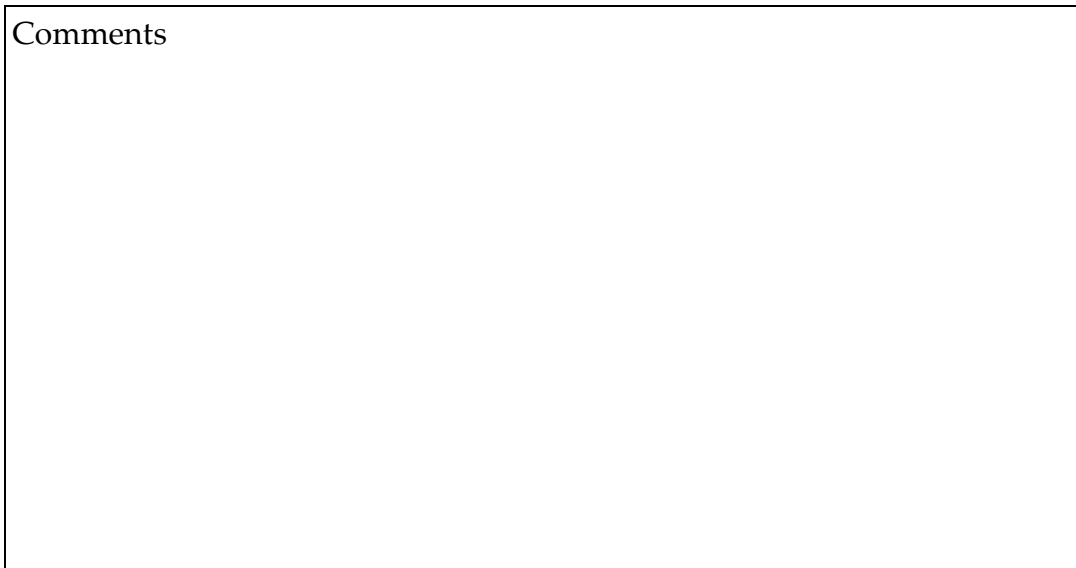
Comments



**Consultation question 20**

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

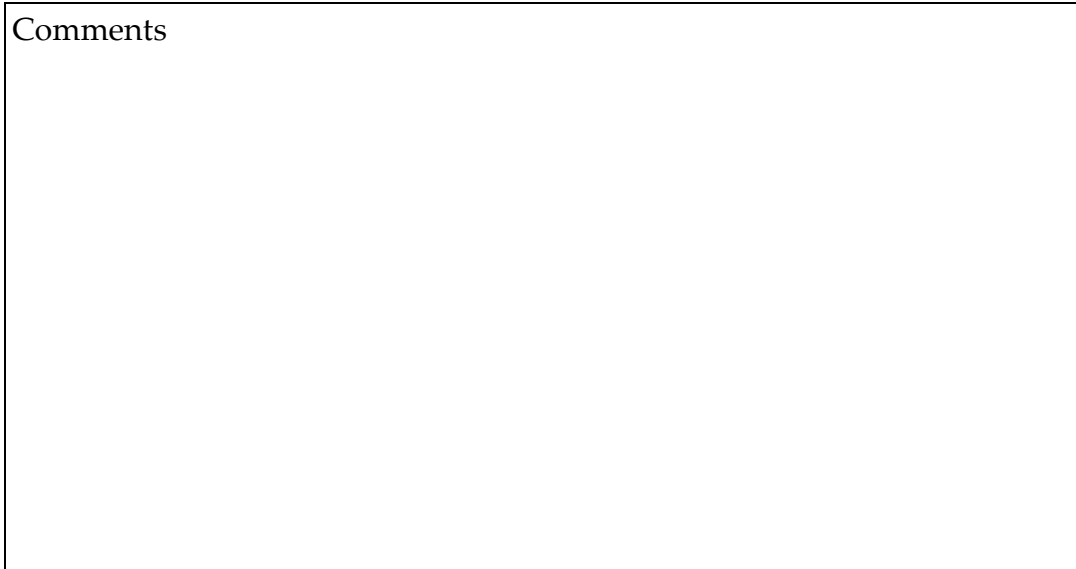
Comments



**Consultation question 21**

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

Comments



**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?*

The rules do not make it clear if cases would be frozen if the parties agree to settle the case by arbitration or mediation. It may be appropriate for the Sheriff to automatically freeze the case where parties have indicated they will use arbitration or mediation and/or to explicitly provide that using arbitration or mediation can be used as a reason to apply for the freezing of a case.

**Consultation question 24**

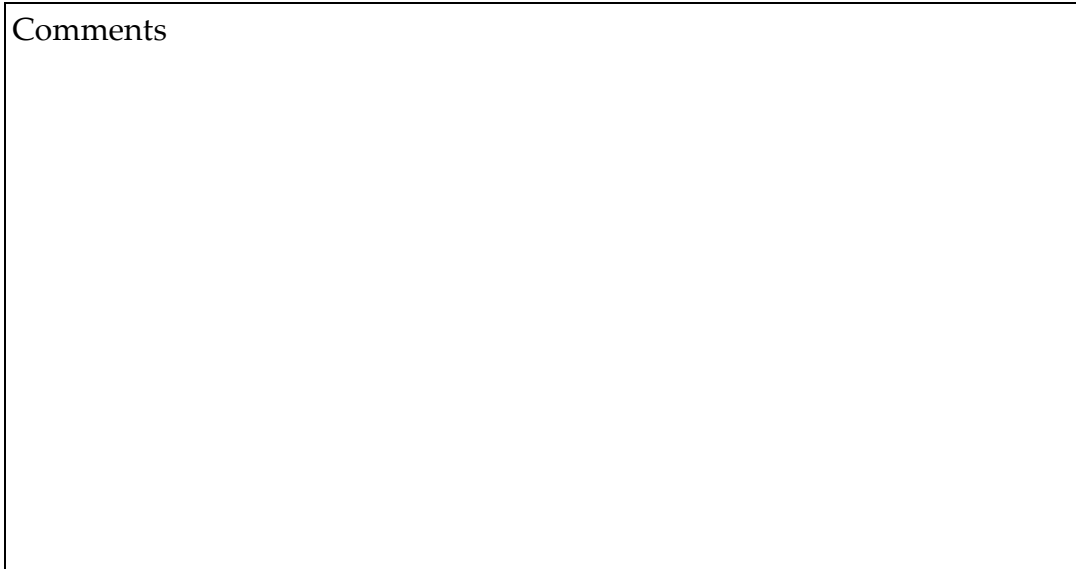
*Do you have any other comments on the approach taken in Part 8: Applications by the parties?*

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?*

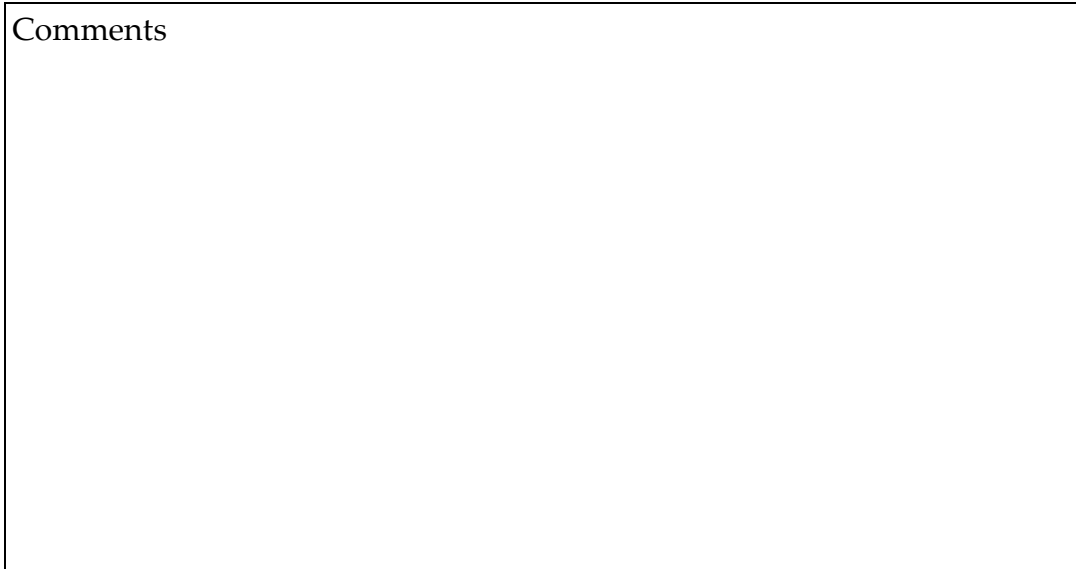
Comments



**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



**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.*

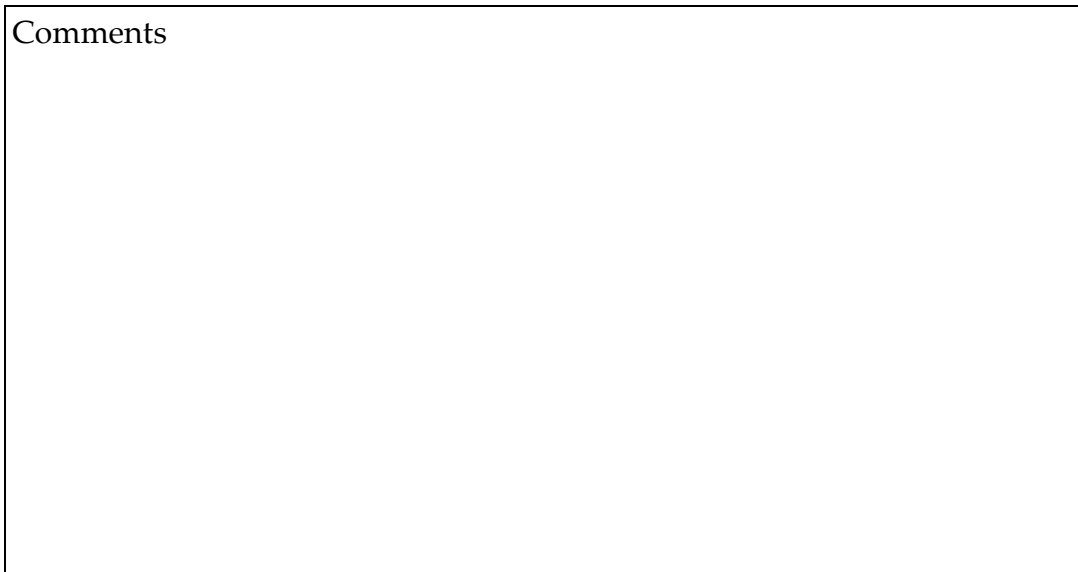
Comments



**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?*

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**Consultation question 34**

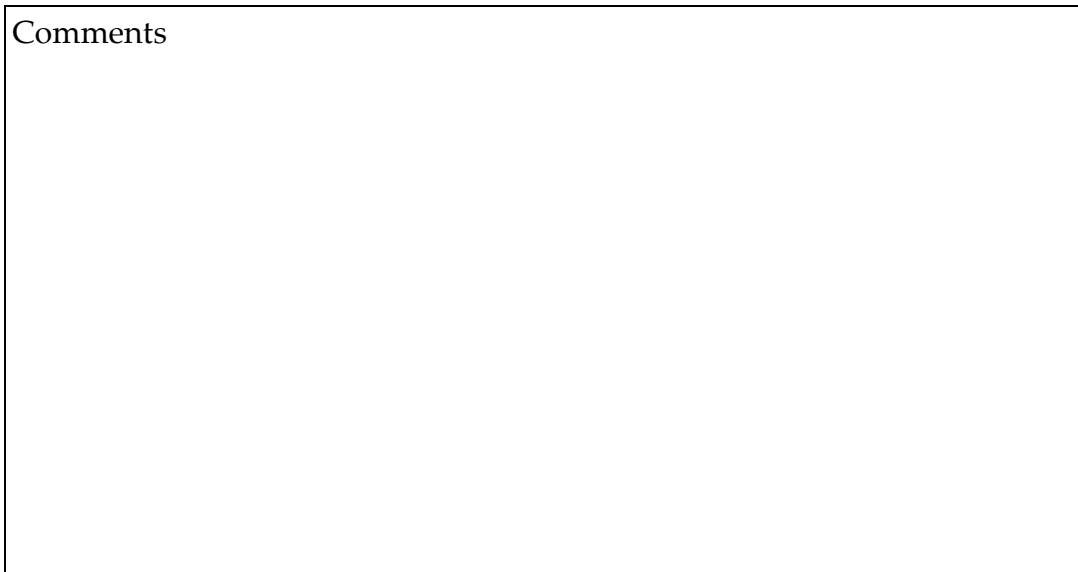
*Do you have any comments on any individual forms?*

The Claim Form and Response Form could include a section on whether the party would be interested in resolving the dispute by arbitration and/or mediation.

**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?*

The duties and powers of the sheriff clerk could include a duty to inform parties of the availability of arbitration and/or mediation as an alternative route.

**Consultation question 38**

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

The draft rules do not provide any guidance on what arbitration and/or mediation involves, and how they can use these methods to resolve their dispute.

We suggest that provision be added to provide information on arbitration and mediation, and how these can be accessed by the parties to allow the parties to make an informed choice at the outset about whether one of these methods would be appropriate for their dispute.