

Small claims - Scotland

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1 Existence of a specific small claims procedure

In Scotland, prior to 28 November 2016, Sheriff Courts had a small claims procedure which was a simplified procedure dealing with monetary claims up to a threshold of £3,000.

From 28 November 2016, a new form of claim was introduced known as Simple Procedure.

The next procedure above that is called Summary Cause, which deals with cases up to £5,000 and is slightly more complicated than Simple Procedure.

Simple Procedure

As from 28 November 2016, anyone raising a claim which has a monetary value of £5,000 or less which seeks payment, delivery, recovery of possession of moveable property, or an order for someone to do something specific, should use the [Simple Procedure](#).

Simple Procedure is a court process designed to provide a speedy, inexpensive and informal way to resolve disputes where the monetary value does not exceed £5,000.

A claim is made to the Sheriff Court by a claimant. The party against whom the claim is made is known as the respondent. The final decision in a claim is made by a sheriff or a summary sheriff. You do not need to use a solicitor to use the Simple Procedure but you may do so if you wish.

Further information on Simple Procedure can be found on the [Scottish Courts and Tribunals Service website](#).

1.1 Scope of procedure, threshold

Simple Procedure replaces the previous small claims procedure. It also replaces the Summary Cause procedure, but **only** where it relates to actions for payment, delivery or for recovery of possession of moveable property, or actions which order someone to do something.

Summary Cause actions can be raised as actions of furthcoming (a type of action raised for the recovery of money or property), count reckoning and payment, recovery of possession of heritable property, delivery, and interim aliment. If there is an alternative claim for payment this would have to be below £5,000.

1.2 Application of procedure

An action raised as either a Simple Procedure or Summary Cause must follow the court rules, which are obligatory. These can be found on the [Scottish Courts and Tribunals Service website](#).

1.3 Forms

There are specific forms for all stages of Simple Procedure and Summary Cause e.g. claims form/summons for raising the action, form of decision/extract decree. It is obligatory to use the forms, which are set out in the Simple Procedure Rules 2016 and Summary Cause Rules 2002. These forms are on the [Scottish Courts and Tribunals Service website](#).

1.4 Assistance

The Sheriff Clerk's Office may assist in completing of the claim form (Form 3A) and advice agencies like the Citizens Advice Bureau also offer assistance. If further information on Simple Procedure is required, contact should be made with the claimant's local Sheriff Court.

Information on the Sheriff Courts in Scotland can be found on the [Scottish Courts and Tribunals Service website](#).

1.5 Rules concerning the taking of evidence

Simple Procedure hearings are conducted as informally as the circumstances of the claim permit. The Sheriff or summary Sheriff explains any legal terms or expressions which are used. Documents and other evidence can be lodged with the court and the simple rules set out the procedures for this purpose including what is to be sent to either the claimant or respondent and any applicable time limits for the lodging of documents or other evidence.

1.6 Written procedure

The procedure would be purely written if the action is undefended. If defended, however, the case may require to call in court by way of a hearing or alternatively the Sheriff or summary Sheriff may make a decision without a hearing.

The Sheriff or summary Sheriff may also decide to have a case management discussion. A case management discussion takes place in the courtroom or any other place decided by the Sheriff or summary Sheriff. The Sheriff or summary Sheriff will also decide how the discussion will take place, for example, by video conference, conference call or any other format that they decide.

1.7 Content of decision

At the end of the hearing, the Sheriff or summary Sheriff may either make a decision there and then, or may take time to consider before making a decision. Where the Sheriff or summary Sheriff takes time to consider a decision, the decision must be made within 4 weeks from the date of the hearing.

Where a decision is made with the parties present, the Sheriff or summary Sheriff must explain the reasons for that decision. If time is taken to consider the decision, a note must be prepared setting out the reasons for the decision.

1.8 Reimbursement of costs

There will normally be no award of expenses made in a Simple Procedure claim in which the value of the claim is less than or equal to £300.

If the value is greater than £300 but less than or equal to £1500, the maximum amount of expenses which can normally be awarded by the court to the successful party may not exceed £150.

If the value is greater than £1,500 but less than or equal to £3,000, the maximum amount of expenses which can normally be awarded by the court to the successful party may not exceed 10% of the value of the claim.

For claims where the value is between £3,001 and £5,000, the general rule that whoever is unsuccessful pays the expenses of the successful party similarly applies. If one party has a solicitor, these expenses could be higher. Further information on expenses can be found on the [Scottish Courts and Tribunals Service website](#).

Summary Cause actions do not have the same restrictions and an account of expenses is normally assessed by the Sheriff Clerk, which is then subsequently approved by the Sheriff or summary Sheriff.

1.9 Possibility to appeal

A Simple Procedure decision can be appealed. An appeal to the Sheriff Appeal Court must be by note of appeal in Form 16A and lodged with the court that dealt with the Simple Procedure claim within 4 weeks from the Decision Form being sent by the Sheriff Clerk to the successful party. Separate appeal provisions are made for Summary Cause and further information can be found on the [Scottish Courts and Tribunals Service website](#).

However, in an undefended Simple Procedure case, an application for the recall of a decision of the Sheriff or summary Sheriff can be made to the court. This can be done in certain circumstances and the application must be made in Form 13B. Further information on the recall of decision procedure can be found on the [Scottish Courts and Tribunals Service website](#).

Related links

The [Scottish Courts and Tribunals Service website](#) includes the Ordinary, Summary Cause and Simple Procedure Rules.

Summary Sheriff

The post of summary sheriff was established by the Courts Reform (Scotland) Act 2014. Further information can be found on the [Judiciary of Scotland website](#).

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