

SCHEDULE 1

SUMMARY CAUSE RULES 2002

CHAPTER 17

Productions and documents

Lodging of productions

17.1.—(1) A party who intends to rely at a proof upon any documents or articles in his possession, which are reasonably capable of being lodged with the court, must—

- (a) lodge them with the sheriff clerk together with a list detailing the items no later than 14 days before the proof; and
- (b) at the same time send a copy of the list to the other party.

(2) The documents referred to in paragraph (1) include any affidavit or other written statement admissible under section 2(1) of the Civil Evidence (Scotland) Act 1988(1).

(3) A party lodging a document under this rule must send a copy of it to every other party, unless it is not practicable to do so.

(4) Subject to paragraph (5), only documents or articles produced—

- (a) in accordance with paragraph (1) (and, if it was a document to which rule 8.5(1) applies, was on the list lodged in accordance with that rule);
- (b) at a hearing under rule 8.2; or
- (c) under rule 18.2(2) or (3),

may be used or put in evidence.

(5) Documents other than those mentioned in paragraph (4) may be used or put in evidence only with the—

- (a) consent of the parties; or
- (b) permission of the sheriff on cause shown, and on such terms as to expenses or otherwise as to him seem proper.

Copy productions

17.2.—(1) A copy of every production, marked with the appropriate number of process of the principal production, must be lodged for the use of the sheriff at a proof not later than 48 hours before the diet of proof.

(2) Each copy production consisting of more than one sheet must be securely fastened together by the party lodging it.

Borrowing of productions

17.3.—(1) Any productions borrowed must be returned not later than noon on the day preceding the date of the proof.

(2) A receipt for any production borrowed must be entered in the list of productions and that list must be retained by the sheriff clerk.

(3) Subject to paragraph (4), productions may be borrowed only by—

- (a) a solicitor; or

(1) 1988 c. 32.

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(b) his authorised clerk for whom he shall be responsible.

(4) A party litigant or an authorised lay representative may borrow a production only with permission of the sheriff and subject to such conditions as the sheriff may impose.

(5) Productions may be inspected within the office of the sheriff clerk during normal business hours, and copies may be obtained by a party litigant, where practicable, from the sheriff clerk.

Penalty for failure to return productions

17.4.—(1) If a solicitor has borrowed a production and fails to return it for any diet at which it is required, the sheriff may impose upon such solicitor a fine not exceeding £50.

(2) A fine imposed under paragraph (1) shall—

- (a) be payable to the sheriff clerk; and
- (b) be recoverable by civil diligence.

(3) An order imposing a fine under this rule shall not be subject to review except that the sheriff who granted it may, on cause shown, recall it.

Documents lost or destroyed

17.5.—(1) This rule applies to any—

- (a) summons;
- (b) form of response;
- (c) answers to a counterclaim;
- (d) third party notice or answers to a third party notice;
- (d) Register of Summary Causes; or
- (e) other document lodged with the sheriff clerk in connection with an action.

(2) Where any document mentioned in paragraph (1) is—

- (a) lost; or
- (b) destroyed,

a copy of it, authenticated in such manner as the sheriff may require, may be substituted and shall, for the purposes of the action including the use of diligence, be equivalent to the original.

Documents and productions to be retained in custody of sheriff clerk

17.6.—(1) This rule applies to all documents or other productions which have at any time been lodged or referred to during a hearing or proof.

(2) The sheriff clerk must retain in his custody any document or other production mentioned in paragraph (1) until—

- (a) after the expiry of the period during which an appeal is competent; and
- (b) any appeal lodged has been disposed of.

(3) Each party who has lodged productions in an action shall—

- (a) after the final determination of the claim, where no appeal has been lodged, within 14 days after the appeal period has expired; or
- (b) within 14 days after the disposal of any appeal lodged on the final determination of the action,

uplift the productions from the sheriff clerk.

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(4) Where any production has not been uplifted as required by paragraph (3), the sheriff clerk shall intimate to—

(a) the solicitor who lodged the production; or

(b) where no solicitor is acting, the party himself or such other party as seems appropriate, that if he fails to uplift the production within 28 days after the date of such intimation, it will be disposed of in such manner as the sheriff directs.