

SCHEDULE 1

SUMMARY CAUSE RULES 2002

CHAPTER 27

Action of multiplepointing

Application of Chapter

27.1. This Chapter applies to an action of multiplepointing.

Application of other rules

27.2.—(1) Rule 8.1 shall not apply to an action of multiplepointing.

(2) Rules 8.2 to 8.17 shall only apply to an action of multiplepointing in accordance with rule 27.7.

Pursuer in multiplepointing

27.3. An action of multiplepointing may be raised by any party holding or having an interest in or claim on the fund or subject *in medio*.

Parties

27.4. The pursuer must call as defenders—

- (a) all persons so far as known to him as having an interest in the fund or subject *in medio*; and
- (b) where he is not the holder of the fund or subject, the holder of that fund or subject.

Statement of fund or subject *in medio*

27.5.—(1) Where the pursuer is the holder of the fund or subject *in medio* he shall include a statement of the fund or subject in his statement of claim.

(2) Where the pursuer is not the holder of the fund or subject *in medio*, the holder shall, before the return day—

- (a) lodge with the sheriff clerk a statement in Form 5a providing—
 - (i) a statement of the fund or subject;
 - (ii) a statement of any claim or lien which he may profess to have on the fund or subject; and
 - (iii) a list of all persons known to him as having an interest in the fund the subject; and
- (b) intimate the statement in Form 5a to the pursuer, the defenders and all persons listed in the statement as having an interest in the fund or subject.

Response to summons

27.6.—(1) If a defender intends to—

- (a) challenge the jurisdiction of the court or the competency of the action;
- (b) object to the extent of the fund or subject *in medio*; or
- (c) make a claim on the fund,

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he must complete and lodge with the sheriff clerk on or before the return day the form of response contained in the defender's copy summons as appropriate, including a statement of his response which gives fair notice to the pursuer.

(2) The sheriff clerk must upon receipt intimate to the pursuer a copy of any response lodged under paragraph (1).

Procedure where response lodged

27.7. Where in a form of response a defender states a defence in accordance with rule 27.6(1)(a)–

- (a) the provisions of rules 8.2 to 8.17 shall, with the necessary modifications, apply to the resolution of the issues raised under that sub-paragraph; and
- (b) rules 27.8 to 27.10 shall apply only once those issues have been so dealt with.

Objections to fund or subject *in medio*

27.8.—(1) If objections to the fund or subject *in medio* have been lodged, the sheriff must, after disposal of any defence–

- (a) fix a hearing; and
- (b) state the order in which the claimants shall be heard at the hearing.

(2) If no objections to the fund or subject *in medio* have been lodged, or if objections have been lodged and disposed of, the sheriff may approve the fund or subject and if appropriate find the holder liable only in one single payment.

Claims hearing

27.9.—(1) This rule applies where–

- (a) no defence or objection to the extent of the fund or subject *in medio* has been stated;
- (b) any defence stated has been repelled; or
- (c) any such objection stated has been dealt with.

(2) The sheriff must–

- (a) order claims in Form 5b to be lodged within 14 days; and
- (b) must fix a claims hearing at which all parties may appear or be represented.

(3) The sheriff clerk must intimate to the parties, the order for claims and the date and time of any claims hearing fixed in terms of paragraph (2).

Procedure at claims hearing

27.10.—(1) If there is no competition between the claimants who appear at the claims hearing, the sheriff may order the holder of the fund or subject *in medio*, or the sheriff clerk if it is consigned with him in terms of rule 27.12, to make it over to the claimants in terms of their claims or otherwise and subject to such provisions as to expenses as he directs.

(2) If the sheriff is unable at the claims hearing to resolve competing claims, he shall pronounce an order–

- (a) fixing a date, time and place for a further hearing; and
- (b) regulating the nature and scope of the hearing and the procedure to be followed.

(3) The sheriff may require that evidence be led at the further claims hearing fixed under paragraph (2).

(4) The sheriff clerk must intimate to all claimants the date, time and place of any hearing fixed under paragraph (2).

(5) At the conclusion of the claims hearing or the further claims hearing fixed under paragraph (2), the sheriff may either pronounce his decision or reserve judgement in which case he must give his decision in writing within 28 days and the sheriff clerk must forthwith intimate it to the parties.

(6) In giving his decision under paragraph (5) the sheriff—

- (a) must dispose of the action;
- (b) may order the holder of the fund or subject *in medio*, or the sheriff clerk if it is consigned with him in terms of rule 27.12, to make it over to such claimants and in such quantity or amount as he may determine; and
- (c) must deal with all questions of expenses.

Advertisement

27.11. If it appears to the sheriff at any stage in the multiplepounding that there may be other potential claimants who are not parties to the action, he may order such advertisement or intimation of the order for claims as he thinks proper.

Consignation and discharge of holder

27.12.—(1) At any stage in an action of multiplepounding the sheriff may order that—

- (a) the fund or subject *in medio* be consigned in the hands of the sheriff clerk; or
- (b) any subject *in medio* be sold and the proceeds of sale consigned in the hands of the sheriff clerk.

(2) After such consignation the holder of the fund or subject may apply for his exoneration and discharge.

(3) The sheriff may allow the holder of the fund or subject, on his exoneration and discharge, his expenses out of the fund as a first charge on the fund.