POLICY NOTE

ACT OF SEDERUNT (SIMPLE PROCEDURE AMENDMENT) (MISCELLANEOUS) (NO. 2) 2022

S.S.I. 2022/295

Background

1. Act of Sederunt (Simple Procedure Amendment) (Miscellaneous) (No.2) 2022 makes a single, short, change to the coming into force date of the **Act of Sederunt (Simple Procedure Amendment) (Miscellaneous) 2022/211** ("the Rules"), which was made on 16 June 2022 and was due to come into force on 28 November 2022.

Simple Procedure Rules Review

2. The Rules were developed following an operational review of the Simple Procedure Rules 2016 conducted by the Scottish Civil Justice Council's Access to Justice Committee. The aim of the review was to obtain feedback on the operation of the rules, forms and standard orders in order to implement any necessary changes prior to the introduction of new rules for simple procedure 'special claims'.

3. Comprehensive feedback on all these aspects was obtained via:
- a public consultation which ran from 27 February to 31 May 2018;
- research commissioned from the University of Glasgow into the experiences of party litigants using Simple Procedure; and
- a report from the Scottish Courts and Tribunals Service (SCTS) on the operation of simple procedure from the courts' perspective.

4. This feedback assisted the Committee in identifying relevant changes that could make Simple Procedure more operationally efficient for all court users.

5. The main changes made by the Rules are:
- amendments to the Simple Procedure Rules to clarify the circumstances in which the sheriff clerk may formally serve the claim form;
- clarifying the sheriff's powers to ensure the effective management of cases;
- new provisions which facilitate a claim form or response form being served electronically;
- amendments clarifying the procedures for the issue of a decision form/alternative decision form, the recall of a decision and for hearings on expenses; and
- improved procedures for lodging documents and other evidence with the court before a hearing.

6. Forms and standard orders have been revised and the content streamlined to take account of the consultation feedback and to align with the overall procedural rule changes made throughout the instrument. The forms have also been reformatted to improve accessibility. Those changes will apply to all new simple procedure claims lodged from the date of commencement. Existing claims will be unaffected by the changes.

7. The breadth of changes is significant and because Simple Procedure was designed to be an online as well as a paper procedure, every rule change requires IT work to adjust the online mode for progressing claims.

Policy Objectives

Change of Commencement Date

8. When S.S.I 2022/81 was laid before the Scottish Parliament in June 2022 a lead-in time of 6 months was anticipated to be adequate for the IT and business change necessary to implement the required changes. The work was scheduled and agreed with suppliers at quarterly Programme Increment Planning events.

9. It was identified in the analysis phase of this work, where more detail of the technical design is known, that the development and testing effort required was greater than previously estimated.

10. Immediate re-planning was undertaken with the suppliers and a new commencement date of 31 May 2023 agreed.

11. Act of Sederunt (Simple Procedure Amendment) (Miscellaneous) (No.2) 2022 therefore changes the commencement date to support and align with the new delivery timetable.

12. The new commencement date will ensure that the services delivered are in line with DSSS standards, utilise modern technical infrastructure and development methods, improve usability and enable development to align with the SCTS Digital Strategy. The Rules present an opportunity to improve these services, based on user feedback, which cannot be delivered on the existing Civil Online system which is the externally facing service for court users that enables the online submission of case documentation.

Conclusion

13. Careful and detailed consideration of how to implement the Rules has been undertaken by the Change & Digital Innovation directorate in SCTS.

14. The effect of a commencement date prior to digital services being available would result in a significant decrease in user services, likely reputational damage to SCTS and an inability to comply with legislation. Implementation in November 2022 would not be in the best interests of court users and would deliver no fiscal value given the need to update and improve Civil Online to a more modern, scalable infrastructure which reduces costs long term.

Impact Assessments

15. An Equality Impact Assessment was undertaken for Civil Online and is attached for information. It is not considered necessary to undertake a separate EQIA for this instrument.

Financial Effects

16. It is not considered necessary to undertake a separate BRIA for this instrument. Changes are supported from SCTS core funding.

Civil Reform Lab|Scottish Courts and Tribunals Service
September 2022