

## SCHEDULE 5 MODIFICATIONS OF ENACTMENTS

### PART 2

#### SHERIFF APPEAL COURT

##### *Sheriff Courts and Legal Officers (Scotland) Act 1927*

10 In section 1 of the Sheriff Courts and Legal Officers (Scotland) Act 1927 (appointment of sheriff clerk and procurator fiscal), after subsection (5) insert—

“(6) For the purposes of subsection (3) above, the appointment of a sheriff clerk as Clerk of the Sheriff Appeal Court under section 59 of the Courts Reform (Scotland) Act 2014 is not a removal from office.”.

##### *Public Records (Scotland) Act 1937*

11 (1) The Public Records (Scotland) Act 1937 is amended in accordance with this paragraph.

(2) After section 1, insert—

#### **“1A Sheriff Appeal Court records**

(1) The records of the Sheriff Appeal Court are to be transmitted to the Keeper at such times, and subject to such conditions as may be prescribed—

- (a) in relation to records relating to criminal proceedings, by act of adjournal,
- (b) in relation to other records, by act of sederunt.

(2) An act of adjournal or act of sederunt under subsection (1) may—

- (a) fix different times and conditions of transmission for different descriptions or records,
- (b) make provision for—
  - (i) re-transmission of records to the High Court of Justiciary, the Court of Session or the Sheriff Appeal Court when such re-transmission is necessary for the purposes of proceedings in any of the Courts, and
  - (ii) the return to the Keeper of any records so re-transmitted as soon as they have ceased to be required for such a purpose.

(3) Before making an act of adjournal or act of sederunt under subsection (1), the High Court of Justiciary or, as the case may be, the Court of Session must consult the Keeper.”.

(3) In section 2(2) (re-transmission of sheriff court records from the Keeper to the courts)

- (a) after “Session” in the first place it occurs insert “, the Sheriff Appeal Court”,
- (b) after “Session” in the second place it occurs insert “, of an Appeal Sheriff”.

(4) In section 2A(3) (re-transmission of JP court records from the Keeper to the courts)—

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- (a) after “Session,” in the first place it occurs insert “the Sheriff Appeal Court,”
- (b) after “Session” in the second place it occurs insert “, of an Appeal Sheriff”.

- (5) In section 14(1) (interpretation), after the definition of “records of the Court of Session” and “records of the High Court of Justiciary” insert—  
 “the expression “records of the Sheriff Appeal Court” includes the registers, minute books, processes, writs or documents belonging to or in the custody of the Sheriff Appeal Court;”.

*Administration of Justice (Scotland) Act 1972*

- 12 (1) Section 1 of the Administration of Justice (Scotland) Act 1972 (powers of courts to order inspection of documents or other property etc.) is amended in accordance with this paragraph.
- (2) In subsection (1), after “Session” insert “, of the Sheriff Appeal Court”.
- (3) In subsection (1A), after “Session” insert “, of the Sheriff Appeal Court”.
- (4) In subsection (3), after “sheriff court” insert “and the Sheriff Appeal Court”.

*Civil Jurisdiction and Judgments Act 1982*

- 13 In section 50 of the Civil Jurisdiction and Judgments Act 1982 (interpretation), in the definition of “court of law”, in paragraph (c) after “Session” insert “, the Sheriff Appeal Court”.

*Legal Aid (Scotland) Act 1986*

- 14 (1) The Legal Aid (Scotland) Act 1986 is amended in accordance with this paragraph.
- (2) In section 21(1) (criminal legal aid), in paragraph (a), after sub-paragraph (i) insert—  
 “(ia) the Sheriff Appeal Court;”.
- (3) In section 25 (legal aid in appeals)—
- (a) in subsection (2)(b)—
    - (i) for “or 175(2)” substitute “, 175(2) or 194ZB(1)”,
    - (ii) after “leave” insert “or permission”,
  - (b) in subsection (2A), after “High Court” insert “or, in the case of an appeal to the Sheriff Appeal Court, that Court”,
  - (c) in subsection (2B), after “High Court” insert “or, in the case of an appeal to the Sheriff Appeal Court, that Court”,
  - (d) in subsection (5)—
    - (i) for “or 187” substitute “, 187, 194ZD or 194ZE”,
    - (ii) after “leave” in each place where it occurs insert “or permission”.
- (4) In Part 1 of Schedule 2 (courts in which civil legal aid is available), in paragraph 1, after the entry for the Scottish Land Court, insert—  
 “the Sheriff Appeal Court;”.

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*Criminal Procedure (Scotland) Act 1995*

- 15 In section 304 of the Criminal Procedure (Scotland) Act 1995 (Criminal Courts Rules Council), in subsection (2)(c), before sub-paragraph (i) insert—  
“(zi) one Appeal Sheriff.”.

*Judiciary and Courts (Scotland) Act 2008*

- 16 (1) The Judiciary and Courts (Scotland) Act 2008 is amended in accordance with this paragraph.
- (2) In section 2 (Head of the Scottish Judiciary)—
- (a) after subsection (2) insert—
- “(2A) If, in carrying out the responsibility mentioned in subsection (2)(a), the Lord President gives a direction of an administrative character to the President of the Sheriff Appeal Court, the President must comply with the direction.”.
- (b) in subsection (6), after paragraph (e) insert—
- “(ea) the Sheriff Appeal Court.”.
- (3) In subsection (2) of section 43 (meaning of “judicial office holder”), after paragraph (c) insert—
- “(ca) the office of Appeal Sheriff.”.
- (4) In section 62 (Scottish Court Service to provide administrative support for other persons), in subsection (1), after paragraph (b) insert—
- “(ba) the President of the Sheriff Appeal Court in the carrying out of functions under section 56 of the Courts Reform (Scotland) Act 2014.”.

*Criminal Justice and Licensing (Scotland) Act 2010*

- 17 (1) The Criminal Justice and Licensing (Scotland) Act 2010 is amended in accordance with this paragraph.
- (2) In section 6 (effect of sentencing guidelines)—
- (a) for subsection (4), substitute—
- “(4) Subsection (5) applies where, on an appeal in any case—
- (a) the High Court of Justiciary passes another sentence under one of the following provisions of the 1995 Act—
- (i) section 118(3),
- (ii) section 118(4)(b),
- (iii) section 118(4A)(b),
- (iv) section 118(4A)(c)(ii), or
- (b) the Sheriff Appeal Court or the High Court passes another sentence under section 189(1)(b) of that Act.”.
- (b) in subsection (5), after “Court” insert “or, as the case may be, the Sheriff Appeal Court”.
- (3) After section 8, insert—

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**“8A Sheriff Appeal Court’s power to require preparation or review of sentencing guidelines**

- (1) Where the Sheriff Appeal Court pronounces an opinion under section 189(7) of the 1995 Act, the Court may require the Council to—
  - (a) prepare, for the approval of the High Court of Justiciary, sentencing guidelines on any matter, or
  - (b) review any sentencing guidelines published by the Council on any matter.
- (2) On making a requirement under subsection (1), the Sheriff Appeal Court must state its reasons for doing so.
- (3) The Council must comply with a requirement made under subsection (1) and, in doing so, must have regard to the Sheriff Appeal Court’s reasons for making the requirement.”.
- (4) In section 9 (publication of High Court guideline judgments)—
  - (a) in subsection (1), for “or 189(7) of the 1995 Act” substitute “of the 1995 Act and opinions of the Sheriff Appeal Court or the High Court pronounced under section 189(7) of that Act”,
  - (b) in subsection (2), after “High Court” insert “or the Sheriff Appeal Court”,
  - (c) the title of the section becomes “**Publication of High Court and Sheriff Appeal Court guideline judgments**”.
- (5) In section 13 (annual report of the Scottish Sentencing Council), in subsection (3)—
  - (a) the word “and” immediately following paragraph (d) is repealed,
  - (b) after paragraph (e) insert “, and
  - (f) requirements made by the Sheriff Appeal Court under section 8A and of the Council’s response to them.”.

*Scottish Civil Justice Council and Criminal Legal Assistance Act 2013*

- 18 In section 2 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (functions of the Scottish Civil Justice Council)—
- (a) in subsection (1)(b), after “in” where it fourth occurs insert “the Sheriff Appeal Court or”,
  - (b) in subsection (6)—
    - (i) the word “and” immediately following paragraph (a) is repealed,
    - (ii) after that paragraph insert—
      - “(aa) the Sheriff Appeal Court, and”.