

**MEETING OF THE SCOTTISH CIVIL JUSTICE COUNCIL**  
**RULES REWRITE COMMITTEE**  
**TUESDAY 3 JULY 2018 AT 4.15PM**  
**JUDGES CONFERENCE ROOM, LEVEL +2 PARLIAMENT HOUSE**  
**MINUTES**

**Members Present:** Lord President (Chair)  
Kenneth Campbell QC  
Ian Dickson  
Walter Drummond-Murray  
Jaqueline Harris  
Lord Menzies  
Ian Shanks  
Sheriff Thornton  
Sheriff Principal Turnbull  
Lady Wolffe

**In attendance:** Yvonne Anderson (Offices of Court of Session)

**Support:** Roddy Flinn (Secretary, Scottish Civil Justice Council)  
Karen Stewart (Business and Policy Manager, Scottish Civil Justice Council)

**Apologies:** Nicola Anderson (Legislation Implementation Team, SCTS)  
Joel Conn  
Kenneth Forrest

**Item 1: Welcome, apologies and agreement of private papers**

1. The Chair welcomed the members present and noted the apologies received.
2. **The Committee agreed to not publish the following papers: 2.2; 3.2; 4.1; 5.1; 5.1A; 5.1B; 6.1; 6.1A, 6.1B**

**Item 2: Previous meeting**

*Item 2.1 – Minutes of previous meeting (Paper 2.1)*

**3. The minutes were approved. There were no matters arising.**

*Item 2.2 – Progress of actions from previous meetings (Paper 2.2)*

**4. The Committee noted progress that had been made on actions since the last meeting and the committee activity report provided in Paper 2.2.**

### **Item 3: Work Programme**

*Item 3.1 – Update from the Scottish Government on legislative developments\_(Oral)*

5. Walter Drummond-Murray updated the Committee on legislative developments; in particular, the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act has recently received Royal Assent and talks are underway with the Lord President's Private Office and the Council's Secretariat on the implications for rules of court; the Prescription (Scotland) Bill is about to commence stage 2 of its passage through Parliament, though it is unlikely that there will be significant rules requirements arising; the Damages (Investment Returns and Periodical Payments) (Scotland) Bill has now been introduced and may have some rules implications in respect of periodical payment orders. He also advised that the Scottish Government is considering the way forward regarding the judicial rate of interest and is seeking views from the UK Government.

*Item 3.2 – Court Reform Tracker (Paper 3.2)*

**6. The Committee noted the content of Paper 3.2.**

### **Item 4: Justice System Reform: Rules Rewrite Project**

*Item 4.1 – Rules Rewrite Project update (Paper 4.1)*

7. **The Committee noted the content of Paper 4.1**, which provided a summary of progress with the work streams under Phase 2 of the project; in particular that the working groups under work streams 1 to 5 have had regular meetings to take forward development of the procedural narratives and that it is anticipated that work under work stream 6 on expenses and taxation will commence after the Costs and Funding Committee has concluded its current work on the civil taxation rules.

### **Item 5: Proposals for rules: policy development**

*Item 5.1 – Civil jury precepts (Papers 5.1, 5.1A, 51B)*

8. Roddy Flinn spoke on these papers. **Paper 5.1**, invited the Committee to consider draft rules at **Paper 5.1A** which were previously instructed following a rules request from SCTS. The request at **Paper 5.1B** sought changes to Rule 37.2(1) and (2) of the Rules of the Court of Session to require a pursuer to request the issue of a jury precept further in advance of the diet for jury trial than is currently required.

9. **The Committee considered and approved the draft rules for submission to the Sheriff Court Rules Council for consideration and approval.**

## **Item 6: Rules Review**

### *Item 6.1 – Review of Sheriff Appeal Court Rules (Papers 6.1, 6.1A, 6.1B)*

10. **Paper 6.1** provided an update on progress with the review of the Sheriff Appeal Court Rules. **Paper 6.1A** provided draft rules incorporating proposed amendments and **Paper 6.1B** provided a summary of the proposed amendments previously agreed by the Committee at its meeting on 27 March 2018.

11. The Committee previously instructed the Secretariat to consult with the Sheriff's Association, the Faculty of Advocates and the Law Society of Scotland on the proposed amendments with a view to obtaining feedback on the proposals. The Committee noted that the draft rules were also shared with the sheriffs principal, the Sheriff Appeal Court clerks and the Deputy Principal Clerk of Session for comment.

12. The Committee noted that some feedback has been obtained and the Secretariat anticipates that further responses will be received shortly. It also noted that the Sheriffs Principal have requested an opportunity to consider the amended rules in light of the responses received.

13. **The Committee noted Paper 6.1 and agreed that all feedback received should be collated and analysed with a view to being considered at the next appropriate meeting.**

14. **The Committee agreed that the Sheriffs Principal be provided with copies of the collated responses in order that they may consider these alongside the draft rules and provide any further comments.**

## **Item 7: A.O.C.B.**

15. No other business was raised.

## **Item 8: Dates of future meetings**

16. Members noted the next meeting of the Committee:

- Tuesday 9 October 2018 at 4.15pm

**Scottish Civil Justice Council Secretariat  
July 2018**