

Secondary Legislation Work Tracker - **Paper 5.1**
(Background material is provided at the Annexes)

Legislation	Court	SCJC lead	Action	Key Dates
Policing and Crime Act 2009	Sheriff Court	SCJC	The Sheriff Court Rules Council cleared draft rules for the relevant provisions of the 2009 Act. No action required by the SCJC. Cleared rules to be brought to the SCJC's attention on 10 June 2013. [Paper 5.1, Annex A pp.1-4]	Relevant provisions to come into force on 1 October 2013
Ordinary Cause Personal Injury Actions - procedure for the recovery of documents and commission	Court of Session/Sheriff Court	Personal Injury Committee	The SCRC's Ordinary Cause Committee authorised instruction for further amendment of the draft rules to provide in cases where commission and diligence is followed for two sets of rules (i) for where there is no party litigant and the party requesting the documents should receive those documents, and (ii) for where there is a party litigant or confidentiality is claimed, where the sheriff clerk should receive those documents. The rules are still to be drafted. [Paper 5.1, Annex B pp.5-33] Consideration will also require to be given as to whether similar provision will require to be made in the summary cause and small claim rules.	To be considered by the PI Committee in due course.
The Children's Hearings (Scotland) Act 2011 – section 185(2)(a)(ed) (prescribing circumstances in which a party to proceedings under Part 10 or 15 of the 2011 Act may be prohibited from personally conducting the examination of witnesses)	Sheriff Court	Family Committee	SCRC Child Welfare Working Group considered section 185(2)(a)(ed) of the 2011 Act but due to the complexity of the procedure involved it was not included in the Act of Sederunt. [Paper 5.1, Annex C, pp.34-39]	To be considered by the Family Committee in due course.
Simplified Procedure for Parental Rights and Responsibilities	Sheriff Court	Family Committee	Proposal for a new simplified procedure for parental rights and responsibilities to be introduced into the Ordinary Cause Rules with application to be made by way of a Form in similar style to that used in Simplified Divorce and Simplified Dissolution of Civil Partnership Applications. The SCRC reached the view that although the proposal was well intentioned it could not be regarded as a simplified procedure given it involved the welfare of children and remitted the matter to the Scottish Civil Justice Council for consideration. [Paper 5.1, Annex D, pp.40-46]	To be considered by the Family Committee in due course.

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NJ and EH v The Lord Advocate and Others	Court of Session/Sheriff Court	Family Committee	Current rule 3.31(1) of the 1997 Act of Sederunt provides that on receipt of an application for a child protection order that the sheriff having considered the grounds of the application and the supporting evidence, should forthwith grant or refuse it. The case does however raise a question as to whether consideration should be given as to whether the current rule should make provision allowing the sheriff to order intimation of an application to relevant persons and affording them the opportunity to make representations prior to it being granted or refused. [Paper 5.1, Annex E, pp.47-66]	To be considered by the Family Committee in due course.
Lay representation	Sheriff Court/Court of Session	Access to Justice Committee	The SCRC recommended that the lay representation rules should be extended to other types of proceedings. They also recommended that the SCJC should conduct a review of all rules within the civil courts as part of its wider policy remit.	To be considered by the Access to Justice Committee
Act of Sederunt (Sheriff Court Bankruptcy Rules) 2008 (SSI 2008/119)	Sheriff Court	SCJC	The SCRC on 3 May considered a paper from the AiB and agreed to amendments being made to the Act of Sederunt (Sheriff Court Bankruptcy Rules) 2008 to amend Appendix 2 to include an additional section. Instructions were issued on 8 May.	The AiB aim to bring into force amended Protected Trust Deeds Regulations by 18 October 2013 and draft rules will be prepared to tie in with the amended regulations.
Caveats under the Land Registration etc (Scotland) Act 2012	Sheriff Court/Court of Session	SCJC	It is understood that the Act will commence in autumn 2014. Section 67 of the Act specifies certain civil proceedings in which a party to the proceedings may at any time while they are in dependence apply to the court for warrant to place a caveat on the title sheet of a plot of land to which the proceedings relate. The civil proceedings can relate to those raised in either the sheriff court or the Court of Session.	For the consideration of the SCJC. The Act will commence in Autumn 2014.
Reporting Restrictions	Sheriff Court/Court of Session	SCJC	See paper apart [Paper 5.2] for the Court of Session. If the rules are amended in this manner for the Court of Session similar amendments will require to be made to the sheriff court ordinary cause and summary application rules.	SCJC meeting of 10 June and thereafter consideration for the Sheriff Court.
Victims and Wnessness (Sc) Bill	Sheriff Court/Court of Session	SCJC	(1) Consequential changes to in relation to Court of Session and Sheriff Court Rules due to the age of a child witness being raised from under 16 to under 18 in civil cases. (2) The Victims and Witnesses (Scotland) Bill brings forward amendments to the vulnerable witness provisions contained in the Criminal Procedure (Scotland) Act 1995. The amendments provide a party given notice of an application for use of a special measure an opportunity to object to that notice, on receipt of which, a hearing in the matter will require to be fixed. It is understood that similar amendments in relation to civil proceedings will be brought as part of a separate Bill in due course. Once they are then the vulnerable witnesses rules contained in each of the ordinary cause, summary application, summary cause and small claims rules will require to be amended.	(1) to be prepared by Legal Secretariat (2) SG policy paper for the consideration of the Council. Legislation comes into force March 2014

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Judstice and Security Act	Court of Session	SCJC	Paper and draft rules for SCJC meeting of 10 June [Paper 5.3]	SCJC meeting of 10 June
Judicial Rate of Interest	Court of Session	SCJC	Paper for SCJC meeting 10 June [Paper 5.5]	SCJC meeting of 10 June
Civil Recovery Investigations	Court of Session	SCJC	New rules required for the implementation of new section 408A of the Proceeds of Crime Act 2002 when the relevant section of the amending legislation (Crime and Court Act 2013) comes into force later in the year.	To be made when new section in force
Postal Services Act 2011	Court of Session	SCJC	Prospect that rules may be required for the system of special administration under Part 4 of the Act	No action at present