

LIST OF PROCEDURES

Purpose:

1. To provide an indicative list of the range of “procedures” to be kept under review.

Terminology

2. The following terms are relevant:

Term	Meaning
Originating Instrument	The enactment that first established a specific ‘procedure’.
Page Count	A <i>count</i> – of the total number of pages in a PDF print of the “originating instrument” when extracted from the legislation.gov.uk website. That figure provides one indicator of the likely complexity of a procedure relative to other rules instruments, although it does exclude the page counts for any subsequent amending orders made.
SSI	An <i>acronym</i> - for a Scottish Statutory Instrument (SSI)
UKSI	An <i>acronym</i> - for a United Kingdom Statutory Instrument (UKSI). The presence of that acronym is an indicator of an Act of Sederunt promulgated prior to the establishment of the Scottish Parliament.
“the 2013 Act”	An <i>abbreviation</i> - for the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 https://www.legislation.gov.uk/asp/2013/3/contents

Background

3. The statutory functions of the Council are specified in [section 2](#) of the 2013 Act, with the duty to review procedures narrated under subsection 2 (1) (b):

Section 2- Functions of the Council

(1) The functions of the Council are—

(a) ...

(b) **to review the practice and procedure followed in proceedings** in the Court of Session and in civil proceedings in the Sheriff Appeal Court or the sheriff court,

(bb) **to review the practice and procedure followed in inquiry proceedings** under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016,]

4. If that “review” highlights opportunities for change then this Council holds the power to propose changes under [subsection 2 \(1\) \(c\)](#):

Section 2- Functions of the Council

(1) The functions of the Council are—

...(c) **to prepare and submit to the Court of Session—**

(i) **draft civil procedure rules,**

(ia) **draft fees rules,**

(ib) **draft inquiry procedure rules,**

The estimated size of the current rule book

5. The tables in Annexes 1 to 3 provide indicative lists¹ to convey the range of “procedures” that are to be kept under review by this Council:

• ANNEX 1 - COURT RULES	<i>26 instruments</i>	<i>(2,455 pages)</i>
• ANNEX 2 - FEES RULES	<i>6 instruments</i>	<i>(122 pages)</i>
• ANNEX 3 - INQUIRY RULES	<u><i>1 instrument</i></u>	<u><i>(80 pages)</i></u>
	<i>33 Instruments</i>	<i>2,657 pages</i>

Summary

6. In summary:

- The current procedures have been set out across 33 originating instruments;
- A total of 2,657 pages were needed to narrate those procedures when first enacted; and
- The actual page count will be significantly higher given the number of subsequent ‘amending orders’ made to each originating instrument.

7. In due course that range of 33 instruments / 2,657pages will be expanded to include “rule-making” for the tribunals. Annex 4 provides an indicative list of the procedures expected to be part of that future transfer.

Recommendation

8. **It is recommended that Members note the range of procedures to be kept under review by this Council.**

**Secretariat to the Scottish Civil Justice Council
March 2025**

¹ These lists were compiled from a check on the procedures published online via the rules pages of the SCTS website, supplemented by a search of all Acts of Sederunt made from 2010 to 2025.

ANNEX 1 - COURT RULES:

Under subsection 2 (1) (c) (i) of the 2013 Act the Council can prepare and submit “**draft civil procedure rules**” to the Court of Session for:

TABLE 1.1 - MAIN PROCEDURAL CODES (as enacted by the Court of Session)	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Rules of the Court of Session 1994 (RCS)	UKSI 1994/1443	1	1,009
Sheriff Appeal Court Rules 2021 (SACR)	SSI 2021/468	1	125
Ordinary Cause Rules 1993 (OCR)	UKSI 1993/1956	1	198
Simple Procedure 2016 (SPR)	SSI 2016/200	1	223
Summary Applications, Statutory Applications and Appeals etc. Rules 1999	UKSI 1999/929	1	73
Summary Cause Rules 2002	SSI 2002/132	1	142
Small Claims Rules 2002	SSI 2002/133	1	77
		7	1,847
<i>Note</i> 1. The summary cause rules & small claims rules are to be revoked at some future point (commencement of the Simple Procedure Special Claims (SPSC) rules).			

TABLE 1.2 - STAND ALONE PROCEDURAL CODES	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Adoption Rules 2009	SSI 2009/284	1	77
Childcare and Maintenance Rules 1997	UKSI 1997/291	1	160
Child Support Rules 1993	UKSI 1993/920	1	9
Civil Legal Aid Rules 1987	UKSI 1987/492	1	5
Jurisdiction in Respect of Parental Responsibility and Measures for the Protection of Children Rules) 2011	SSI 2011/192	1	8
Jurisdiction, Recognition and Enforcement of Judgments in Matrimonial Matters and Matters of Parental Responsibility Rules 2006	SSI 2006/397	1	9
Messengers-at-Arms and Sheriff Officers Rules 1991	UKSI 1991/1397	1	23
Proceedings for determination of Compatibility Questions Rules 2024	SSI 2024/197	1	8
Sheriff Court Bankruptcy Rules 2008	SSI 2008/119	1	50
Sheriff Court Company Insolvency Rules 1986	UKSI 1986/2297	1	16
Sheriff Court European Small Claims Procedure Rules 2008	SSI 2008/435	1	9
Sheriff Court European Order for Payment Procedure Rules 2008	SSI 2008/436	1	8
		12	382

ANNEX 1 - COURT RULES...continued

TABLE 1.3 - DILIGENCE PROCEDURES	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Proceedings in the Sheriff Court under the Debtors (S) Act 1987 1988	UKSI 1988/2013	1	129
Debt Arrangement and Attachment (Scotland) Act 2002 2002	SSI 2002/560	1	69
Money Attachment Rules 2009	SSI 2009/382	1	6
		3	204
<i>Notes</i> 1. The 1988 rules cover Arrestment. 2. The 2002 rules cover Attachment. 3. The 2009 rules cover Money Attachment.			

TABLE 1.4 - OTHER UMRELLA INSTRUMENTS	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Challenges to Validity of EU Instruments (EU Exit) in the Sheriff Appeal Court and Sheriff Court	SSI 2019/329	1	8
Contempt of Court in Civil Proceedings 2011	SSI 2011/388	1	5
Electronic Authentication	SSI 2016/306	1	3
Lay Representation for Non-natural Persons	SSI 2016/243	1	6
		4	22

ANNEX 2 - FEES RULES:

Under subsection 2 (1) (c) (ia) of the 2013 Act the Council can prepare and submit “**draft fees rules**” to the Court of Session for:

TABLE 2.1 – JUDICIAL EXPENSES	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Fees of Solicitors in the Sheriff Appeal Court 2015	SSI 2015/397	1	10
Fees of Solicitors in the Sheriff Court) (Amendment and Further Provisions) 1993	UKSI 1993/3080	1	29
Taxation of Judicial Expenses Rules 2019	SSI 2019/75	1	49
		3	88
<u>Notes</u> 1. The heading “Fees of Solicitors” is a misnomer as those SSI only define what is reasonably recoverable within any “award of expenses” that may be made by the court (hence the name change to Taxation of Judicial Expenses). 2. The “Fees of Solicitors” in the Court of Session are in the RCS Rules 1994, rather than a stand-alone procedural code.			

TABLE 2.2 – FEES OF CERTAIN OFFICE HOLDERS	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Fees of Messengers at Arms (No. 2) 2002	SSI 2002/566	1	13
Fees of Sheriff Officers (No. 2) 2002	SSI 2002/567	1	15
Fees of Witnesses and Shorthand Writers in the Sheriff Court	UKSI 1992/1878	1	6
		3	34
<u>Notes</u> 1. This statutory function for fees is limited to the provision of a service that is subject to “regulated fees”:			

ANNEX 3 - INQUIRY RULES:

Under section 2 (1) (c) (ib) of the 2013 Act the council can prepare and submit “**draft inquiry procedure rules**” to the Court of Session for FAI's:

TABLE 3.1 - INQUIRY RULES	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Fatal Accident Inquiry Rules 2017	SSI 2017/103	1	80
<u>Notes:</u> 1. Providing procedure for all other types of inquiries remains a function reserved to the Scottish Ministers.			

ANNEX 4 – THE FUTURE TRIBUNAL RULES TRANSFER

At some future point a ‘transfer of function’ order will be used to shift the tribunal rule making function to the SCJC by commencing section 81 of the Tribunals (Scotland) Act 2014 (*which enacts the amendments listed within paragraph 11 of schedule 9*).

The timing of that transfer is reserved to the Scottish Ministers and is likely to be at least 2 years away. The current estimate of the “procedures” that would transfer is:

- FIRST TIER TRIBUNAL 9 instruments (275 pages)
- UPPER TRIBUNAL 4 instruments (67 pages)
- 13 instruments (342 pages)

First Tier Tribunal for Scotland

TABLE 4.1 – GENERAL REGULATORY CHAMBER	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Charity Appeals Procedure	SSI 2017 / 364	1	14
Parking and Bus Lanes Appeal Procedure	SSI 2020 / 98	1	14
Police Appeals Tribunal	Not yet transferred	1	13
		3	41
1. Police Appeals Tribunals - existing rules are in SSI 2013/63 . The SG target for the transfer is October 2025			

TABLE 4.2 – HEALTH AND EDUCATION CHAMBER	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Health and Education Chamber Procedure	SSI 2017 / 366	1	45

TABLE 4.3 – HOUSING AND PROPERTY CHAMBER	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Housing and Property Chamber Procedure	SSI 2017 / 328	1	60

TABLE 4.4 – MENTAL HEALTH CHAMBER	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Mental Health Chamber Procedure	Not yet transferred	1	42 (estimate)
1. The existing MHTS rules are in SSI 2005 / 519 . SG have not yet set a target transfer date.			

TABLE 4.5 – LOCAL TAXATION CHAMBER	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Taxation Chamber Procedure	SSI 2022 / 364	1	43

TABLE 4.6 – SOCIAL SECURITY CHAMBER	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Social Security Chamber Procedure	SSI 2018 / 273	1	26

ANNEX 4 – FUTURE TRIBUNAL RULES TRANSFER...continued

TABLE 4.7 – TAX CHAMBER	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Tax Chamber Procedure	SSI 2017 / 69	1	18

Upper Tribunal for Scotland

TABLE 4.8 – UPPER TRIBUNAL RULES	ORIGINATING INSTRUMENT	COUNT	PAGE COUNT (for a PDF of the originating SSI)
Upper Tribunal - Rules of Procedure	SSI 2016 / 232	1	15
<i>Onwards appeal - from a tribunal chamber</i>			
• Upper Tribunal – Social Security Rules of Procedure	SSI 2018 / 274	1	17
• Upper Tribunal – Local Taxation Rules of Procedure	SSI 2022 / 365	1	18
•			
<i>Onwards appeal - from a specific tribunal</i>			
• Bus Registration Appeals Rules of Procedure	SSI 2024 / 249	1	17
		4	67

Other Notes:

1. *Pension Appeals Tribunal* – as this is a reserved tribunal it will not transfer into Scotland's two tier tribunal structure. When first enacted in 1981 the rules for that tribunal contained 21 pages.