

# Courts Reform (Scotland) Bill

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## 1st Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 43	Schedule 1
Sections 44 to 112	Schedule 2
Sections 113 to 120	Schedule 3
Section 121	Schedule 4
Sections 122 to 128	Long Title

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 26

**Liam McArthur**

**Supported by: Tavish Scott, Alison McInnes**

- 22 Leave out section 26

### Section 39

**Kenny MacAskill**

- 1 In section 39, page 20, line 21, leave out <an order of value is> and insert <one or more orders of value are>

**Roderick Campbell**

- 38 In section 39, page 20, line 21, after <is> insert <the only remedy>

**Kenny MacAskill**

- 2 In section 39, page 20, line 22, leave out <value of the order> and insert <aggregate total value of all such orders sought>

**Roderick Campbell**

- 39 In section 39, page 20, line 22, leave out <exceed £150,000.> and insert <—  
(A) where the proceedings include a claim for damages in respect of personal injuries, exceed £150,000, and  
(B) in all other cases, exceed £100,000.  
(1A) In subsection (1)(b)(ii)(A), “personal injuries” means personal injuries to the pursuer or any other person, and includes disease, impairment of physical or mental condition, and death.>

**Sandra White**

- 24 In section 39, page 20, line 23, leave out <£150,000> and insert <£100,000>

**Alison McInnes**

- 40 In section 39, page 20, line 23, leave out <£150,000> and insert <£50,000>

**Elaine Murray**

- 23 In section 39, page 20, line 23, leave out <£150,000> and insert <£30,000>

**John Pentland**

- 25 In section 39, page 20, line 27, at end insert—  
<( ) This section does not apply to proceedings in which damages claimed consist of or include damages in respect of personal injuries caused by exposure to asbestos.>

**Kenny MacAskill**

- 3 In section 39, page 20, line 32, leave out <section> and insert <Act>

**Kenny MacAskill**

- 4 In section 39, page 20, line 35, leave out subsection (7) and insert—  
<(7) Provision may be made by the Court of Session by act of sederunt for determining, for the purposes of this Act—  
(a) the value of an order,  
(b) the aggregate total value of all the orders of value sought in any proceedings.>

**Schedule 1**

**Alison McInnes**

- 41 In schedule 1, page 73, leave out lines 16 to 22

**Alison McInnes**

- 42 In schedule 1, page 73, leave out lines 25 to 29

**Section 46**

**Kenny MacAskill**

- 5 In section 46, page 24, line 6, after <by> insert <one or more of>

**Section 49**

**Margaret Mitchell**

- 26 Leave out section 49

**Section 50**

**Margaret Mitchell**

- 27 In section 50, page 25, line 23, leave out from <sections> to <49(7)> in line 24 and insert <section 48(2)>

**Margaret Mitchell**

- 28 In section 50, page 25, line 26, leave out <(other than for the purposes of section 49)>

**Kenny MacAskill**

- 6 In section 50, page 25, line 38, at end insert—
- <(7) An individual appointed under subsection (1) is to be paid such remuneration as the Scottish Ministers may determine.
  - (8) The Scottish Ministers may determine different amounts of remuneration for—
    - (a) different individuals so appointed, or
    - (b) different descriptions of individuals so appointed.
  - (9) Remuneration under subsection (7) is to be paid by the Scottish Courts and Tribunals Service.>

**After section 51**

**Kenny MacAskill**

- 7 After section 51, insert—
- <Temporary provision**
- Schedule (*Appeal Sheriffs: temporary provision*) (which makes further provision, for a temporary period, in relation to Appeal Sheriffs) has effect.>

**Kenny MacAskill**

- 8 After schedule 1, insert—

**<SCHEDULE**

*(introduced by section (Temporary provision))*

**APPEAL SHERIFFS: TEMPORARY PROVISION**

*The transitional period*

- 1 In this schedule, “the transitional period” means the period of 3 years beginning with the day on which section 45 comes into force.

*Appointment of Senators of the College of Justice to act as Appeal Sheriffs*

- 2 (1) The Lord President of the Court of Session may appoint persons holding the office of Senator of the College of Justice to act as Appeal Sheriffs for the transitional period.
- (2) The Lord President may appoint as many persons under sub-paragraph (1) as the Lord President considers necessary for the purposes of the Sheriff Appeal Court during the transitional period.
- (3) A person may be appointed under sub-paragraph (1) only if the person has held office as a Senator of the College of Justice for at least one year.

- (4) The appointment of a Senator of the College of Justice to act as an Appeal Sheriff does not affect the Senator's appointment as a Senator and the Senator may accordingly continue to act in that capacity.
- (5) A person appointed under sub-paragraph (1) is to be treated for all purposes (other than for the purposes of the enactments specified in sub-paragraph (6)) as an Appeal Sheriff and may exercise the jurisdiction and powers that attach to the office of Appeal Sheriff.
- (6) The enactments referred to in sub-paragraph (5) are—
  - (a) sections 49 and 50,
  - (b) section 304(2)(c)(zi) of the Criminal Procedure (Scotland) Act 1995.

#### *Tenure*

- 3 (1) A person's appointment under paragraph 2(1) ceases—
  - (a) if the person ceases to hold office as a Senator of the College of Justice,
  - (b) on the expiry of the transitional period.
- (2) If a person appointed under paragraph 2(1) is suspended from office as a Senator of the College of Justice for any period, the person's appointment under paragraph 2(1) is also suspended for the same period.
- (3) The Lord President may, after consulting the President of the Sheriff Appeal Court, recall a person's appointment under paragraph 2(1).
- (4) The recall of a person's appointment under sub-paragraph (3) does not affect the person's appointment as a Senator of the College of Justice.

#### *Savings*

- 4 Despite the ending by virtue of paragraph 3(1)(b) of a person's appointment under paragraph 2(1)—
  - (a) the person may continue to deal with, give judgment in or deal with an ancillary matter relating to, a case begun before the person while acting under that appointment,
  - (b) so far as necessary for that purpose, and for the purpose of any subsequent proceedings arising out of the case or matter, the person is to be treated as acting, or having acted, under that appointment.>

#### **After section 54**

#### **Elaine Murray**

- 29 After section 54, insert—

#### **<Constitution of the Sheriff Appeal Court**

In carrying out the responsibility imposed by section 54(3), the President of the Sheriff Appeal Court must ensure that an appeal is heard at a sitting of the Court constituted by not fewer than 3 Appeal Sheriffs including—

- (a) an Appeal Sheriff holding office by virtue of section 48, and

- (b) an Appeal Sheriff who appears to the President to be a specialist in a category of case that is relevant to the appeal.>

## **Section 56**

### **Kenny MacAskill**

- 9 In section 56, page 28, line 8, leave out <, the Appeal Sheriffs constituting the Court>

### **Kenny MacAskill**

- 10 In section 56, page 28, line 9, at beginning insert <the Appeal Sheriff or Appeal Sheriffs constituting the Court>

### **Elaine Murray**

- 30 In section 56, page 28, line 9, leave out from second <or> to end of line 10

### **Kenny MacAskill**

- 11 In section 56, page 28, line 10, at beginning insert <where the Court is constituted by more than one Appeal Sheriff, they>

### **Kenny MacAskill**

- 12 In section 56, page 28, line 11, after <The> insert <Appeal Sheriff or>

## **Section 60**

### **Kenny MacAskill**

- 13 In section 60, page 29, line 34, at end insert—
- <( ) The Sheriff Appeal Court may keep (and produce) records in electronic form.
  - ( ) For the purposes of this section, a reference to a record or a copy of a record being signed or, as the case may be, certified, includes a reference to the record or copy being authenticated by means of—
    - (a) an electronic signature, or
    - (b) such other means of authentication as may be specified for that purpose by an act of sederunt under section 97(1).>

### **Kenny MacAskill**

- 14 In section 60, page 29, line 37, at end insert—
- <“electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000, but includes a version of an electronic signature which is reproduced on a paper document,>

## **Section 67**

### **Kenny MacAskill**

- 15 In section 67, page 32, line 36, leave out <unanimously>

**Kenny MacAskill**

- 16 In section 67, page 33, line 6, at end insert—

<( ) In a case where the Court is constituted by more than one Appeal Sheriff, the opinion referred to in subsection (6)(b) must be the opinion of all of them.>

**Section 68**

**Kenny MacAskill**

- 17 In section 68, page 33, line 28, after <67(1)> insert <, where the Sheriff Appeal Court is constituted by more than one Appeal Sheriff>

**Kenny MacAskill**

- 18 In section 68, page 33, line 29, leave out <Sheriff Appeal>

**Section 70**

**Alison McInnes**

- 43 In section 70, page 34, line 21, at end insert <except where the proceedings include a claim for damages in respect of personal injuries,>

**John Pentland**

- 31 In section 70, page 34, line 33, at end insert—

<( ) Subsection (3)(a) does not apply to proceedings in which damages consist of or include damages in respect of personal injuries caused by exposure to asbestos.>

**Alison McInnes**

- 44 In section 70, page 35, line 5, at end insert—

<( ) In subsection (3)(a), “personal injuries” means personal injuries to the pursuer or any other person, and includes disease, impairment of physical or mental condition, and death.>

**Section 85**

**Margaret Mitchell**

- 32 In section 85, page 40, line 18, at beginning insert <Subject to subsection (1A),>

**Margaret Mitchell**

- 33 In section 85, page 40, line 23, at end insert—

<(1A) An application to the supervisory jurisdiction of the Court relating to a decision under the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) must be made—

(a) in accordance with subsection (1) where the application is made by or on behalf of—

(i) an individual,

(ii) a body whose sole or primary purpose is the promotion of environmental protection, or

- (iii) a community body within the meaning given by section 75D of the 1997 Act, or
- (b) in all other cases within the period of 6 weeks beginning with the date on which the grounds giving rise to the application first arise.>

## **Section 89**

### **Kenny MacAskill**

- 20 In section 89, page 43, line 34, leave out <despite the value of any order sought,>

### **Kenny MacAskill**

- 19 In section 89, page 43, line 34, leave out from third <the> to <less> in line 35 and insert <it is unlikely that the aggregate total value of all the orders of value granted in the proceedings, exclusive of interest and expenses, will be greater>

## **Section 97**

### **Kenny MacAskill**

- 21 In section 97, page 51, line 2, after <sittings> insert <where the Court is constituted by more than one Appeal Sheriff>

## **Schedule 2**

### **Elaine Murray**

- 34 In schedule 2, page 75, line 5, leave out from <amended> to end of line 12 and insert <repealed.>

## **Schedule 4**

### **Liam McArthur**

**Supported by: Tavish Scott, Alison McInnes**

- 35 In schedule 4, page 82, leave out line 10

## **Section 122**

### **Liam McArthur**

**Supported by: Tavish Scott, Alison McInnes**

- 36 In section 122, page 69, line 16, at end insert <, or  
(c) an order under section 127(2) appointing a day for section 26 to come into force.>

### **Liam McArthur**

**Supported by: Tavish Scott, Alison McInnes**

- 37 In section 122, page 69, line 19, after <127(2)> insert <, except an order referred to in subsection (2)(c)>





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