The Association of British Insurers (ABI) is the voice of the insurance and investment industry. Its members constitute over 90 per cent of the insurance market in the UK and 20 per cent across the EU. Employing more than 300,000 people in the UK alone, it is an important contributor to the UK economy and manages investments of £1.8 trillion, over 26% of the UK’s total net worth.

1. The increase in the privative jurisdiction of the Sheriff Court from £5,000 to £150,000

1.1. The ABI agrees that increasing the privative jurisdiction of the Court to £150,000 will help to ensure the Scottish court system makes effective and efficient use of its resources. Additionally, it will ensure that claims are dealt with efficiently and at proportionate cost. This will redress the previous imbalance between pursuer costs and the amount of compensation claimed.

1.2. The increase in the privative jurisdiction will mean that a significant volume of cases currently raised in the Court of Session will be required to be heard in the sheriff court. This will increase the efficiency of the Court of Session, in that it will be able to deal with complex, high value cases with expediency.

1.3. The increase in efficiency and decrease in costs will be of benefit to both the premium paying public, who ultimately foot the bill for pursuer costs, and the insurance industry. It is fundamental if this increase is to be realised that there are an adequate number of summary sheriffs in post at the outset.

2. The creation of a new judicial office of ‘summary sheriff’ to cover a more restricted range of civil and criminal matters

2.1. The ABI supports the creation of the office of ‘summary sheriff’. It is important, however, that the creation of the office is not considered a ‘downgrading of justice’. Those appointed should have experience of the cases that will fall within their competence; we consider that this will be essential to the success of this new judicial tier.

2.2. Through the appointment of individuals with relevant experience, we anticipate that cases will be dealt with more effectively and efficiently. Additionally we believe that there will be greater consistency in decisions made. Increased certainty will lead to improved outcomes for both defenders and pursuers.
3. The establishment of a specialist Scotland-wide court, expected to deal with personal injury cases

3.1. The ABI is in agreement with Lord Gill that personal injury matters are likely to be resolved more quickly if litigated in a specialist personal injury court with claims processes tailored to this specialist area. Increasing the exclusive jurisdiction of the sheriff court without introducing specialisation will not achieve the desired results.

3.2. The ABI suggests that in order to deliver increased efficiencies, and therefore a reduction in costs, the personal injury court would need to be based at a specific location as opposed to sheriffs dedicating sitting days to hearing personal injury litigation in the various sheriffdoms. If the latter was implemented, this will not achieve the desired effect of the reforms, to ensure consistency in the Scottish courts’ approach to personal injury claims.

4. Judicial specialisation

4.1. Judicial specialisation encourages the aims as set out above, which are a greater emphasis on efficiency and effectiveness. Cases dealt with by specialist sheriffs will encourage greater proportionality and consistency; facets that are important to both the pursuer and defender communities.

5. The creation of a new Sheriff Appeal Court with the aim of reducing the number of criminal and civil appeals which require to be dealt with in the High Court and Inner House

5.1. The ABI agrees that there should be a centralised national appeal court for civil claims and agrees with the Scottish Government that appeals are likely to be dealt with more efficiently if an appeal court was based in a single central location with specialised appeal sheriffs.

5.2. The ABI notes that respondents to the SCCR considered that sheriffs might be reluctant to sit on appeals from their own sheriffdom and agree that Sheriff Principals should hear appeals from the lower courts.

5.3. The Sheriff Appeal Court should comprise sheriffs with at least five years’ experience and we suggest that this experience should have been in handling civil claims. The ABI is conscious that sheriffs will currently have only dealt with claims up to a value of £5,000 and all will need guidance on dealing with claims of a higher value.
6. Changes to the way in which petitions for judicial review should be brought

6.1. The ABI supports the three month time limit for judicial review claims and the measures to extend this subject to the exercise of the court’s discretion in exceptional circumstances. The introduction of leave to proceed will aid in filtering out unmeritorious cases.

6.2. The proposals will not diminish access to justice as long as appellants are provided with clear guidance as to the criteria they must satisfy in order to successfully obtain leave to make an application for judicial review.

6.3. The new procedures will ensure that applications for judicial review are dealt with quickly and effectively. Unmeritorious applications should not proceed thus avoiding unnecessary expense. This reduction in costs, combined with other measures will lead to a reduction in costs to the premium paying public.

7. Creation of a new single set of rules for cases of £5,000 or less to be called ‘simple procedure’ and to be dealt with mainly by summary sheriffs

7.1. The ABI supports the creation of a new single set of rules for these cases. The ABI notes that Sheriffs have a wealth of experience dealing with such claims and we anticipate that under a new single set of rules cases will be dealt with more effectively and efficiently.

8. New procedures in relation to criminal and civil appeals

8.1. [no comments]

9. Transfer of the Tribunal Service into the Scottish Court Service to form one body – the Scottish Courts and Tribunals Service.

9.1. [no comments]

Association of British Insurers
18 March 2014