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The remit of the Delegated Powers and Law Reform Committee is to consider and report on—

a. any—
   i. subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;
   ii. [deleted]
   iii. pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

b. proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

c. general questions relating to powers to make subordinate legislation;

d. whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

e. any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act; and

f. proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject.

g. any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

h. any draft proposal for a Scottish Law Commission Bill as defined in that Rule.
Committee Membership

Convener
Nigel Don
Scottish National Party

Deputy Convener
John Mason
Scottish National Party

Margaret McCulloch
Scottish Labour

John Scott
Scottish Conservative and Unionist Party

Stewart Stevenson
Scottish National Party
Introduction

1. At its meeting on 23 June 2015, the Committee agreed to draw the attention of the Parliament to the following instruments—

   Scheduled Monuments (Appeals) (Scotland) Regulations 2015 (SSI 2015/231)

   Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations (SSI 2015/243)

   St Mary’s Music School (Aided Places) (Scotland) Regulations 2015 (SSI 2015/248)

   Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No.2) (Personal Injury and Remits) 2015 (SSI 2015/227)

   Act of Sederunt (Rules of the Court of Session 1994 Amendment) (No.3) (Courts Reform (Scotland) Act 2014) 2015 (SSI 2015/228)

2. The Committee’s recommendations in relation to the above instruments are set out below.

3. The Committee determined that it did not need to draw the Parliament’s attention to the instruments which are set out at the end of this report.
Points raised: instruments subject to negative procedure

Scheduled Monuments (Appeals) (Scotland) Regulations 2015 (SSI 2015/231) (Education and Culture)

4. This instrument sets out the detail of procedures to be followed for appeals (under the Ancient Monuments and Archaeological Areas Act 1979) against decisions made by Historic Environment Scotland in connection with scheduled monuments, and procedures for handling applications for scheduled monument consent which are called-in by the Scottish Ministers.

5. The types of appeal covered by the Regulations are:
   - appeals against inclusion of a monument in the Schedule of monuments, or amendment of entries in the Schedule in respect of monuments;
   - appeals against refusal of, or conditional consent to, applications for scheduled monument consent or against refusal of approval required by a condition;
   - appeals in default of decision on application for scheduled monument consent or of approval required by a condition; and
   - appeals against a scheduled monument enforcement notice.

6. In considering the instrument, the Committee asked the Scottish Government for an explanation of certain matters. The correspondence is reproduced at Annexe A.

7. The instrument contains three minor drafting errors, as set out below. The Scottish Government acknowledges these errors and intends to bring forward an amending instrument to correct them.

8. The Committee draws the attention of the Parliament to this instrument on the general reporting ground, as it contains the following minor drafting errors:
   - Regulation 6(4) contains an incorrect cross-reference to “paragraph (4)” of regulation 6. This should instead be a reference to “paragraph (3)” of regulation 6.
   - Regulation 16(4)(c) refers to “documents which.. were sent with the planning authority's response”. This should instead refer to “documents which.. were sent with Historic Environment Scotland’s response”.
   - Regulation 17(1) contains an incorrect cross-reference to “regulation 15”. This should instead be a reference to “regulation 16”.
9. The Committee notes that the Scottish Government intends to bring forward an amending instrument to correct these errors.
Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations (SSI 2015/243) (Education and Culture)

10. This instrument sets out the processes surrounding applications for listed building consent and conservation area consent. It is made using powers in the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (“the 1997 Act”).

11. In considering the instrument, the Committee wrote to the Scottish Government to check which paragraphs Regulation 19(1) should refer to. The correspondence is reproduced at Annexe B.

12. Regulation 19 contains a minor drafting error. In regulation 19(1), the first reference to “paragraph (2)” should be a reference to “paragraph (3)”. The Scottish Government has acknowledged that the instrument contains an error, but does not propose to amend it. The Committee recognises that the error is minor in nature however as a matter of good drafting practice, it considers that the error should be corrected when a suitable opportunity next arises. The Committee draws the instrument to the Parliament’s attention on the general reporting ground. Regulation 19(1) provides that “subject to paragraph (2), the provisions specified in paragraph (2) are revoked”. The first reference to “paragraph (2)” should be to “paragraph (3)”. The Committee calls on the Scottish Government to amend this error at a suitable opportunity in the future.
St Mary’s Music School (Aided Places) (Scotland) Regulations 2015 (SSI 2015/248) (Education and Culture)

14. This instrument consolidates, with amendments, the St. Mary’s Music School (Aided Places) (Scotland) Regulations 2001 (“the 2001 Regulations”) and nine subsequent amending regulations.

15. The purpose of the Regulations is to provide for the payment of allowances to St. Mary’s Music School, Edinburgh (“the School”) to reimburse it for fees and grants in connection with the operation of the School’s means tested aided places scheme (“the Scheme”).

16. The Regulations restate the legislative framework for the administration of the Scheme and make amendments to modernise and clarify the original provisions of the 2001 Regulations.

17. Various substantive changes have also been made to the Scheme. The headline change is to uprate all monetary values including the qualifying parental income levels for aided places and related grants. These changes give effect to a 2.3% increase for the school session 2015-2016 in line with inflation.

18. Other changes include:

- Amended and new definitions to ensure that the Regulations cover the children of civil partnerships and same sex marriages, and to require the income of cohabitees to be factored into means testing from 1 August 2016.

- Amendments in respect of claims, allowances and supply of information.

- Amendments in respect of eligibility for aided places.

- Restated and amended rules as to computation of parental income for the purposes of the Scheme.

19. The Regulations are subject to the negative procedure and were laid before Parliament on 5 June 2015 before coming into force on 1 August 2015. The Scottish Government has provided a letter to the Presiding Officer, to explain the failure to comply with the “28 day rule”, as set out in section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010. The correspondence is reproduced at Annexe C.

20. In considering the instrument, the Committee asked the Scottish Government to explain why the coming into force date of 1 August 2015 was selected given the breach of the 28 day rule. The correspondence is reproduced at Annexe D.

21. The letter to the Presiding Officer explains that the Appendix to the 2001 Regulations concerning computation of parental income (which is restated as Part 4 of Schedule 1 to the Regulations) required substantial updating to correct out of date references, which in turn generated substantial work to ensure parallel effect. The letter
explains that this process brought to light unanticipated policy issues which required further consultation and which resulted in slippage in the timescales for laying the instrument before the Parliament.

22. The Scottish Government’s response to the Committee’s question as to why the coming into force date of 1 August 2015 was selected explains that the policy is to ensure that the consolidated Regulations are in force prior to the commencement of the 2015/2016 academic year. Since the start of the academic year varies across Scotland and between institutions, it is standard practice in instruments dealing with education to choose a commencement date of 1 August.

23. The date set for the commencement of the 2015/2016 academic year at St. Mary’s is in fact 1 September 2015. However, even if the latest possible commencement date had been chosen (31 August or 1 September) the “28 day rule” would still have been breached. On this basis, it was decided that the standard practice of commencing such instruments on 1 August should be followed.

24. The Committee draws the instrument to the Parliament’s attention on reporting ground (j), as there has been a failure to observe the requirements of section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010. The instrument was laid before the Parliament on 5 June 2015 and will come into force on 1 August 2015, meaning that the requirement to leave a minimum of 28 days (discounting recess periods) between laying and coming into force has not been complied with.

25. The Committee accepts the Scottish Government’s explanation as to why the instrument could not in the circumstances have been laid earlier than 5 June 2015. The Committee accepts the Scottish Government’s explanation as to why the commencement date of 1 August 2015 was chosen, in light of the start of the academic year.
Points raised: instruments not subject to any parliamentary procedure

**Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No.2) (Personal Injury and Remits) 2015 (SSI 2015/227) (Justice)**

26. This instrument amends the Rules of the Court of Session 1994, the Ordinary Cause Rules 1993 and the Summary Cause Rules 2002, in respect of the technical rules for the transfer and remit of civil proceedings and personal injury actions (cases). These amendments to the Court Rules are in consequence of the coming into force of the Courts Reform (Scotland) Act 2014, as well as other amendments to the procedures for personal injury actions. Several of the amendments are a consequence of the establishment of the Sheriff Personal Injury Court in accordance with the 2014 Act (otherwise called the “all-Scotland sheriff court”).

27. In particular, the Ordinary Cause Rules of the Sheriff Court are amended to add new Chapters on motions intimated and lodged by email (Chapter 15A), on case management procedures for personal injury actions (Chapter 36A) and jury trials in the new Sheriff Personal Injury Court (Chapter 36B).

28. The Act of Sederunt is laid, but not subject to further procedure. It comes into force on 22 September 2015. This is the date when various provisions of the 2014 Act are brought into force by the Courts Reform (Scotland) Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2015.

29. In considering the instrument, the Committee asked the Lord President’s Private Office about Rule 15A.2 which had been duplicated. The correspondence is reproduced at Annexe E.

30. The Lord President’s Private Office has acknowledged in the correspondence that there is a minor drafting error in the instrument, as explained in the following paragraph.

31. The Committee draws the attention of the Parliament to the instrument on the general reporting ground, as it contains a minor drafting error. Paragraph 8(5) inserts a new Chapter 15A of the Rules of the Court of Session 1994 (motions intimated and lodged by email). There are two paragraphs (2) of Rule 15A.

32. The Committee notes that the Lord President's Private Office has undertaken to lay an amending instrument to correct this error, and errors identified in the Act of Sederunt (Rules of the Court of Session 1994 Amendment) (No. 3) (Courts Reform (Scotland) Act 2014) 2015 (SSI 2015/228).
**Act of Sederunt (Rules of the Court of Session 1994 Amendment) (No.3) (Courts Reform (Scotland) Act 2014) 2015 (SSI 2015/228) (Justice)**

33. This Act of Sederunt makes some substantial amendments to the Rules of the Court of Session 1994 (“the Rules”), in consequence of the coming into force of various provisions of the Courts Reform (Scotland) Act 2014 (“the 2014 Act”), on 22 September 2015. The amendments include the following provisions.

34. Paragraph 2 of the instrument inserts a new Chapter (14B) into the Rules. This contains provision for the purpose of determining the value of an order sought in proceedings in the Court of Session. In turn, this is for the purpose of determining under section 39 of the 2014 Act whether the value of an order or orders sought exceeds £100,000. Section 39 applies to civil proceedings which a sheriff has exclusive competence to deal with, and in which one or more orders of value are sought, the aggregate total value of which must not exceed £100,000.

35. Paragraph 3 of the instrument replaces Chapter 58 (applications for judicial review) of the Rules with new procedural rules for judicial review. It also makes amendments to various other provisions of the Rules and the Court forms in the Appendix, as a result of the changes to the judicial review process.

36. Paragraph 5 of the instrument inserts a new Chapter (41A) into the Rules, in consequence of amendments to the Court of Session Act 1988 made by the 2014 Act. Previously, appeals from decisions of the Inner House of the Court of Session could be made to the Supreme Court under section 40 of the 1988 Act, without any requirement to seek prior permission to appeal from the Inner House. A new section 40, substituted by the 2014 Act, provides that permission to appeal must be granted by the Inner House or, if the Inner House refuses permission, by the Supreme Court.

37. The instrument is laid before Parliament, but not subject to further procedure. It comes into force on 22nd September 2015.

38. In considering the instrument, the Committee asked the Lord President’s Private Office for an explanation of certain matters. The correspondence is reproduced at Annexe F.

39. The Lord President’s Private Office has acknowledged in the correspondence that there are a couple of drafting errors in the instrument, as follows.

40. The Committee draws the attention of the Parliament to the instrument on the general reporting ground, as it contains a couple of minor drafting errors.

41. Firstly, there is an error in the new rule 58.15 of the Rules of the Court of Session 1994, which is inserted by paragraph 3(3) of the instrument. The paragraph numbering within the rule is (1), (4) and (5).
42. Secondly, in the Form of Petition for Judicial Review in Schedule 1, the heading with the new numbering of the form (58.3) is omitted. The new rule 58.3(3) refers to a petition for judicial review to be made in Form 58.3, but the form in Schedule 1 is not so numbered.

43. The Committee notes that the Lord President's Private Office has undertaken to lay an amending instrument to correct the errors, and an error identified in the Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No.2) (Personal Injury and Remits) 2015 (SSI 2015/227). The amendment is intended to come into force by 22nd September 2015, being the commencement date of this instrument.
No points raised

44. At its meeting on 23 June 2015, the Committee considered the following instruments. The Committee determined that it did not need to draw the attention of the Parliament to any of the instruments on any grounds within its remit:

**Education and Culture**

- Scheduled Monuments (Notification and Publication) (Scotland) Regulations 2015 (SSI 2015/230);


**Justice**

- Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Scotland) Regulations 2015 [draft];

- Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 [draft].

- Act of Sederunt (Rules of the Court of Session 1994 and Fees of Solicitors in the Sheriff Court Amendment) (Courts Reform (Scotland) Act 2014) 2015 (SSI 2015/246);

- Courts Reform (Scotland) Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2015 (SSI 2015/247 (C.35)).

**Local Government and Regeneration**

Annexe A

Scheduled Monuments (Appeals) (Scotland) Regulations 2015 (SSI 2015/231)

On 12 June 2015, the Scottish Government was asked:

1. Regulation 6(4) states that “the Scottish Ministers are to send a copy of any representations received under paragraph (4) to the appellant and to HES.”. Should this instead refer to paragraph (3) (under which an interested party may make representations to the Scottish Ministers)?

2. Regulation 16(4)(c) states that HES must make copies of “documents which accompanied the notice of appeal or which were sent with the planning authority’s response” available for inspection. The term “planning authority’s response” is not defined either in the Regulations or in the Act. Does the Scottish Government consider the use of this term to be sufficiently clear, or is a definition required?

3. Regulation 17(1) states that HES “must not later than 14 days following notification of the appeal under regulation 15 give notice of the appeal to each person.”. Should this instead refer to regulation 16 (under which the appellant is required to give a copy of the notice of appeal to HES)?

The Scottish Government responded as follows:

1 to 3. The Scottish Government are grateful to the Committee for drawing these points to their attention. The Scottish Government agree that the reference in regulation 6(4) should be to paragraph (3), that regulation 16(4)(c) should refer to Historic Environment Scotland’s response and that regulation 17(1) should refer to regulation 16. The Scottish Government intend to bring forward an amending instrument to make these changes.
Annexe B

Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations (SSI 2015/243)

On 12 June 2015, the Scottish Government was asked:

Regulation 19(1) provides that “subject to paragraph (2), the provisions specified in paragraph (2) are repealed”. Is it agreed that the first reference to “paragraph (2)” should be to “paragraph (3)”\(^{}\)? If so, would the Scottish Government propose to take corrective action?

The Scottish Government responded as follows:

The Scottish Government agree that the first reference in regulation 19(1) to “paragraph (2)” should be to paragraph (3) and are grateful to the Committee for drawing this to their attention. The Scottish Government, however, consider that in the context of regulation 19 there is no ambiguity as to the meaning or effect of regulation 19(1) or (3) and that therefore it is not proposed to amend the Regulations at this time.
Annexe C

St Mary’s Music School (Aided Places) (Scotland) Regulations 2015 (SSI 2015/248)

Breach of laying requirements: letter to Presiding Officer:

The St Mary’s Music School (Aided Places) (Scotland) Regulations 2015 (“the 2015 Regulations”) were made by the Scottish Ministers under sections 73(f) and 74(1) of the Education (Scotland) Act 1980 on 4 June 2015. They are being laid before the Scottish Parliament today, and come into force on 1 August 2015.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 has not been complied with. To meet the requirements of section 31(3) of that Act, this letter explains why.

The policy objective of the 2015 Regulations is to consolidate, with amendments, the St Mary’s Music School (Aided Places) (Scotland) Regulations 2001 (“the 2001 Regulations”) and its nine subsequent amending regulations. The 2001 Regulations provide the legislative framework for the administration of the aided places scheme by St Mary’s Music School, Edinburgh. The 2015 Regulations largely restate that framework along with a number of substantive changes which include changes to the definition of “total income” in Schedule 1 and a new Part 4 of Schedule 1 (computation of income) to set out how the school must compute a person’s “total income” in determining the relevant income of an applicant whose child is awarded an aided place. Equivalent provisions were previously located in an appendix to the 2001 Regulations.

The Appendix contained numerous out of date references to the Income and Corporation Taxes Act 1988 which has been substantially repealed and restated by a number of different pieces of tax legislation. As such, the Appendix required substantial redrafting to ensure parallel effect with the computation in the 2001 Regulations. This task was extremely challenging and required extensive discussions with colleagues in the Office of the Advocate General and in Whitehall.

The aided places scheme currently provides financial assistance to 51 pupils at St Mary’s Music School. As such, the 2015 Regulations affect a relatively small number of persons (the school and current and prospective aided pupils), however, we have taken every step to ensure that the modernisation of the language and structure of the 2001 Regulations in the 2015 Regulations does not inadvertently change their effect and have consulted the school regularly throughout the drafting process since it is the school that operates the aided places scheme.

The process of updating the Appendix in conjunction with UK Government colleagues, brought to light unanticipated policy issues about how the school must compute “total income”. These issues required further consultation with the school at a late stage in the drafting process to ensure that the school is content with the changes and that the impact on parents is minimal. We can confirm that the school has been fully consulted about the terms of the 2015 Regulations as laid (subject to minor stylistic changes) and is content.
The updating of the Appendix resulted in a slippage of one week in the timescale for
laying the St Mary’s Music School (Aided Places) (Scotland) Regulations 2015 and the
subsequent breach of the laying requirements.
Annexe D

St Mary’s Music School (Aided Places) (Scotland) Regulations 2015 (SSI 2015/248)

On 12 June 2015, the Scottish Government was asked:

In relation to the breach of section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 and the contents of the letter from the Learning Directorate to the Presiding Officer of 5 June, could you provide this further information to assist the Committee:

The letter explains that the process of updating the Appendix brought to light unanticipated issues, consultation on which resulted in slippage of one week in the timescale for laying the instrument and subsequent breach of the requirements. Please clarify why it was appropriate to choose the precise date of 1 August for the coming into force of the instrument (given the breach of section 28(2)).

The Scottish Government responded as follows:

The policy is to ensure that the consolidated Regulations are in force prior to the commencement of the 2015/2016 academic year. Term dates are not specified by law in Scotland. Rather, education authorities and independent schools set their own term dates within a basic legislative framework. As such, the academic year in Scotland tends to start in August but does not have a set date. Although the academic year usually begins in the third week of August, this varies between education authorities and independent schools so it is standard practice in instruments dealing with education to choose a commencement date of 1 August; indeed, all of the previous St Mary’s Music School Regulations (both principal and amending regulations) have had a commencement date of 1 August.

As an independent school, St Mary’s sets its own term dates independently from the dates set by the City of Edinburgh Council. The date set for the commencement of the 2015/2016 academic year at St Mary’s is 1 September 2015. Given the breach of section 28(2), we did consider a later commencement date, however, even if these Regulations had been commenced on 31 August or 1 September, section 28(2) would still have been breached. At the point these Regulations were laid (5 June), the earliest they could have been commenced without breaching the 28 day rule would have been 8 September.

We concluded that notice to the school could not have been improved by commencing later as the school have been consulted throughout the drafting of the Regulations and there would also be no advantage to applicants or pupils as an updated application form and accompanying notes to explain the basic effect of the Regulations will be available to applicants before the end of the current term (23 June).

On balance, we concluded that the standard practice of commencing education related instruments on 1 August should be adhered to.
Annexe E

Act of Sederunt (Rules of the Court of Session 1994 and Sheriff Court Rules Amendment) (No.2) (Personal Injury and Remits) 2015 (SSI 2015/227)

On 9 June 2015, the Lord President's Private Office was asked:

In relation to the inserted Chapter 15A of the Rules of the Court of Session 1994 (on pages 12 and 13), there is an error as the new Rule 15A.2 is duplicated (and which affects the numbering of the remaining paragraphs, 15A.3 to 12). Would corrective action be proposed?

The Lord President's Private Office responded as follows:

We are grateful to the committee and its legal advisors for identifying that the new Rule 15A.2 is duplicated and for bringing the matter to our attention. We agree that this is an error and a corrective instrument will be prepared at the earliest opportunity.
Annexe F

Act of Sederunt (Rules of the Court of Session 1994 Amendment) (No.3) (Courts Reform (Scotland) Act 2014) 2015 (SSI 2015/228)

On 10 June 2015, the Lord President’s Private Office was asked:

1. In the new Rule 58.15 of the Rules of the Court of Session 1994 (inserted by paragraph 3(3) of the instrument, on page 8)), there appears to be an error in the numbering of the paragraphs of the Rule, as (4) and (5) follow (1). Are any paragraphs omitted, and would corrective action be proposed?

2. Paragraph 3(5) of the instrument provides that in the Appendix to the Rules of the Court of Session, the Forms in Schedule 1 to the instrument are substituted for Forms 58.6 and 58.8A.

(a) Would you agree there is an error, as Schedule 1 contains 3 Forms- the Form of Petition for Judicial Review, the Form of Request for Review and the Form of Minute of Intervention? Would corrective action be proposed?

(b) Supplemental to that, is it agreed that “Form 58.6” is omitted before “Form of Petition for Judicial Review” in the Schedule; that there appears to be an error as paragraph 3(5) substitutes Form 58.8A, but the Schedule refers to Form 58.8 as the Form of Request for Review; and that paragraph 3(5) omits reference to the fact that the Form of Minute of Intervention has become Form 58.18 by virtue of the instrument?

The Lord President’s Private Office responded as follows:

1. In the new Rule 58.15 of the Rules of the Court of Session 1994 there are no paragraphs omitted and we agree that there is an error in the numbering of the paragraphs of the Rule. We are grateful to the committee and its legal advisers for drawing this to our attention. This error will be corrected at the earliest opportunity.

2. We are grateful to the committee and its legal advisers for drawing to our attention the missing heading on Form 58.3 (Form of Petition for Judicial Review). This error will be corrected at the earliest opportunity.

We do not agree that the manner in which the forms have been substituted is in error. The existing chapter 58 requires only two forms. As forms in the Rules of the Court of Session take their numbering from the rule which introduces them, these are numbered 58.6 and 58.8A. The replacement chapter 58, introduced by this instrument, requires three forms. Because the rules have been restructured, these three forms take different numbers: 58.3 (Form of Petition for Judicial Review), 58.8 (Form of Request for Review), and 58.18 (Form of Minute of Intervention). There is no requirement in the Schedule containing the forms for the numbering to run serially (for example, the Form immediately before current Form 58.6 is numbered 53.2), as long as it runs in numerical order and the convention that the Forms take their number from the relevant rule is maintained.
We understand the effect of textual amendment by substitution to be the omission of the substituted parts of the instrument for the new, replacement parts of the instrument. We do not understand there to be a requirement that the structure or numbering of the provision being substituted should be the same as the newly inserted provision. It is competent to substitute multiple sections for a single section (for an example from primary legislation see section 117 of the Courts Reform (Scotland) Act 2014, which replaces existing section 40 of the Court of Session Act 1988 with two new sections, 40 and 40A).

If the restructuring of a chapter of Court of Session Rules requires (as it often will) a change in the number or numbering of forms, it is inevitable that the substitution will involve more than exactly substituting like for like. This technique is the standard way of achieving this effect when amending court rules: for example, in S.S.I. 2011/303, which substituted a new Chapter 41 of the Rules of the Court of Session. Paragraph 3(d) of that instrument substitutes the six forms in the Schedule for five existing, differently numbered forms.

The textual amendment in paragraph 3(5), in our view, correctly identifies the provision to be replaced, and the replacement provision, and locates that replacement in the correct place in the amended instrument.

We intend to lay an instrument correcting the errors identified above and the error identified in S.S.I. 2015/227 at the earliest opportunity, to come into force by 22nd September 2015.