SCOTTISH GOVERNMENT RESPONSE TO THE REPORT OF THE SCOTTISH CIVIL COURTS REVIEW

A RESPONSE FROM THE ASSOCIATION OF PERSONAL INJURY LAWYERS (APIL) SCOTLAND

July 2011

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation formed by pursuers' lawyers who are dedicated to upholding the rights of people injured through no fault of their own.

APIL currently has over 160 members in Scotland. Membership comprises solicitors, advocates, legal executives and academics whose interest in personal injury work is predominantly on behalf of injured people.

The aims of the association are:

- To promote full and just compensation for all types of personal injury;
- To promote and develop expertise in the practice of personal injury law;
- To promote wider redress for personal injury in the legal system;
- To campaign for improvements in personal injury law;
- To promote safety and alert the public to hazards wherever they arise
- To provide a communication network for members

Our comments relate to personal injury cases (including medical negligence cases) only.

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Executive summary

- The sheriff court as presently constituted and operated is not always an adequate forum for personal injury claimants, and that fundamental reform is needed. Such reform must be delivered prior to the removal of some personal injury claims from the Court of Session.

- We support an increase in the privative jurisdiction of the sheriff court to £30,000 on the basis that reform is delivered.

- The Court of Session should be retained as a court of first instance with its personal injury workload reduced to around 20 to 33 per cent of its current level.

- The sheriff court system should be reformed with two specialist personal injury court centres in Edinburgh and Glasgow. Pursuers would have the right to jury trials in these courts.

- District judges should have no jurisdiction in personal injury cases.

- Injured people should retain the right to instruct counsel in the sheriff court.

- Clinical negligence and disease claims should still be dealt with under the Chapter 43 procedure in the Court of Session, regardless of value.

Introduction

The publication of the Scottish Civil Courts Review, and the political debate which followed it, clearly indicates a wide-ranging desire for reform of the civil justice system, and we welcome the opportunity to be involved in that discussion.

APIL acknowledges that the review represents an important, detailed and comprehensive study of the landscape of litigation and dispute resolution in Scotland. We also

acknowledge that the sheriff court as presently constituted and operated is not always an adequate forum for personal injury claimants, and that fundamental reform is needed. It is our strongly held belief that such reform must be delivered prior to the removal of some personal injury claims from the Court of Session. Once this is achieved, we could support a change to the jurisdiction limit which drives behavioural change whereby lower value cases are dealt with by the appropriate level of judiciary and providing that the Court of Session is retained as a court of first instance. It is essential that any reform is justified by empirical evidence. Further research and modelling work conducted by the Scottish Government is therefore essential.

Jurisdiction of the Court of Session

Research

The research published in the Scottish Civil Courts Review final report on which the proposal to increase the sheriff court limit to £150,000 is based is, in our view, inadequate and of limited value.

We note that part of the reasoning for the recommendation to increase the privative limit of the Court of Session is that the research produced in Lord Gill's final report showed that where the sum sued for was less than £150,000 the total cost of litigation was likely to be 100 per cent or more of the settlement value of the claim. It was also suggested by Lord Gill that an increase in the limit to this level would leave approximately 36 per cent of all personal injury cases in the Court of Session[1]. APIL agrees that cases need to be heard in the appropriate forum, and it is not, for example acceptable that a £5,000 whiplash claim can continue to be dealt with by the Court of Session[2].

The research on which Lord Gill relies[3] is weak or non-existent. It is derived from forecasts which have been made from the study of the sums sued for in signetted summonses over a two-week period and separately, information from a single insurer respondent database. The reality, however, is that where the court cannot award a sum greater than the sum

[1] Page 76 Report of the Scottish Civil Courts Review volume One, paragraph132.
[2] Agnes Campbell v Robert Downie [2010] CSOH 37 where an award of £5,000.00 was made
[3] Pages 70-71 Scottish Civil Courts Review Volume one

sued for, the sum sued for tends to bear little relation to the litigation or settlement value of each case- a point which the Government itself acknowledges. We also believe that the addition of the defenders' own expenses to the overall costs is not appropriate, because the reality is that the defenders have controlled the litigation from the outset. Unfortunately, pursuers are often forced to issue proceedings because defenders or their insurers do not make reasonable offers to settle cases. The cost of litigation to society should not include consideration of defenders' expenses when it is the defenders who have effectively caused litigation both to take place and also to be maintained. Lord Gill's own report comes with a caveat as to the reliability of the data collated[4].

APIL conducted a survey of members in early 2010 and has made two subsequent Freedom of Information requests. In our survey of members two sets of data were requested. The first was sought on all cases settled during January 2009 and March 2009. Data collected on 217 Court of Session cases settled during this period are appended at D. Preliminary findings suggest that where damages recovered were between £5,000 and £10,000 expenses were on average 107 per cent of damages recovered, suggesting that a settlement figure of £10,000 is closer to the 'break-even' point referred to by Lord Gill in his original report[5]. For cases in which damages were higher than £10,000 expenses were considerably lower and continued, in general, to fall the higher the damages paid. The second set of data collected related to cases settled during the month of February and showed that the vast majority, 81 per cent, of cases settled for below £10,000. This is appended at D. These findings suggest that the proposal to increase the sheriff court limit to £150,000 will effectively end the Court of Session's role as a court of first instance for personal injury cases, which would be a catastrophic development for the people of Scotland.

An alternative to the sheriff court jurisdiction limit proposed should be £30,000, taking together the combination of the results of the APIL Scotland research and the desire to drive the appropriate behaviours, whilst at the same time retaining the Court of Session as

[4] Ibid Page 70 footnote 19

[5] Lord Gill suggested that the breakeven point between sum sought and the total cost of litigation was £150,000 because at that point and number costs of litigation was likely to be 100% more than sum sought. Page 72 paragraph 113.

a court of first instance. Our support for such an increase would be on the proviso that it is guaranteed that there will be a move towards a specialised court and that there is provision for the exclusion of complex and important cases, as discussed below. Our research shows that around 85 per cent of cases settled for under £30,000. Our proposals would not remove 85 per cent because many of those cases will have been properly raised in the Court of Session on the *Coyle v Fairey*[6] principle, namely they will be cases that were realistically valued at over £30,000 when signetted but variable case factors mean that they have settled for less. It is impossible to be absolutely precise but we suggest it would leave 20 to 33 per cent properly in the Court of Session, which is the percentage presumption on which the Review proceeds. It is essential that the judiciary should retain the current *Coyle v Fairey*[7] discretion to allow Court of Session costs where an original assessment of value might reasonably indicate an award of £30,000 or more.

It must be emphasised, however, that our recommendation in relation to the jurisdiction limit is inextricably linked with the checks and balances recommended elsewhere in this paper.

We are confident that these figures are more accurate than those in the final report of the Review as they relate to the final settlement of damages rather than the sum sued for and are a clearer reflection of the expenses to damages ratio.

Value of the Court of Session

Time and again over the past 60 years, UK law in the field of reparation has originated from Scotland, with the availability of the Court of Session being a major factor. Attached at Appendix A is an extract from the APIL Guide to Accidents at Work, which points out that "time and time again the law of the United Kingdom comes from Scotland. If it was not for the efforts of solicitors and advocates in Scotland workers, in particular, might well be much less well protected under the law."[8]

[6] Coyle v William Fairey Installations Ltd 1991 SC 16 at p 19

[7] Coyle v William Fairey Installations Ltd 1991 SC 16

[8] Guide to Accidents at Work, Nigel Tomkins, Michael Humphreys, Matthew Stockwell, published by Jordan Publishing Limited, Chapter 2. See Appendix A.

Also attached at Appendix B is an extract from the UK-wide publication "Encyclopaedia of Health and Safety at Work" by way of further example. The reference pages relate to sections of the Provision and Use of Work Equipment Regulations 1998 and its interpretation. These regulations are central to both the prevention of injury at work, and the proper disposal of compensation claims as a result of injuries. The Scottish case law is highlighted.[9] What is clear is that in this area Scots law carries formidable influence and authority.

Legal theorists have held that the settlement of cases takes place 'in the shadow of the law'. Practitioners settle most cases without litigation at all and almost all cases without formal adjudication. This is against the background of a mutually predicted outcome, based on high level judicial precedent and case law. The significance of maintaining the influence of the Court of Session for the benefit of the workplaces and the communities of Scotland cannot be over-stated. The value of Court of Session judgments extends far beyond the needs and requirements of particular parties involved in a case. It is no exaggeration to say that this is a legal jewel of great price which, at least for personal injury, the current proposals will discard.

In addition, the proposed appeal procedure to the sheriff principals' bench will make it extremely difficult to gain access to the Inner House of the Court of Session for appeal purposes. We do not believe that the Government or the authors of the original Review intend that the case law and the tradition of the Court of Session should be abandoned, but our preliminary research work suggests that this would be the inevitable outcome of proposals to raise the jurisdiction limit to £150,000. The Government has made it clear that further remodelling work is being undertaken to establish the impact of this limit on the number of cases which will be removed from the Court of Session and we hope APIL's research findings at Appendix C will be persuasive.

The high level of settlement within the Court of Session is a clear consequence of the effect of the Coulsfield procedure and the specialised advice available to both pursuers

[9] Encyclopedia of Health and Safety at Work: Law and Practice, general editor MJ Goodman, editor Rachel Moore. See Appendix B.

and defenders. It should be reiterated here, however, that it is critical that any movement at all in the jurisdiction level must be part of a final package of measures to protect the rights of injured people.

The Freedom of Information requests at Appendix D have also confirmed that the court fees received in personal injury cases in the Court of Session account for just under 50 per cent of the Court's total income by way of fees. In 2009, personal injury cases generated £1.8m. In the same year, over 3000 personal injury actions were signetted, while only 20 cases went to proof. More recent figures indicate that the Court of Session receives around £180,000 per month in court fees from personal injury actions. It would appear that the income from personal injury cases is of some significance in the funding of the Court of Session.

Exemptions

We note and welcome the Government's recognition that monetary value of a claim is not the sole determination of its importance and that it will consider grounds for cases below the privative limit to be referred to the Court of Session. APIL has consistently argued that personal injury cases are very different from most other types of civil case, as pursuers are clearly not simply damaged commodities: they are individuals, with different sets of circumstances and injuries which make each one unique. This naturally increases the level of complexity in many reparation cases. The Cabinet Secretary for Justice effectively acknowledged this in September 2007 when he removed personal injury cases from the small claims court, saying at the time: "This will mean that anyone pursuing such a claim will be able to obtain the necessary medical evidence and legal representation required".

Current Chapter 43 rules acknowledge that it is inappropriate for complex clinical negligence actions to proceed under a simplified procedure, and allows for their removal where reasoned arguments are made to a judge at the time the summons is presented for signetting. We believe this rule should be extended to all personal injury claims. We also believe that cases such as occupational disease claims, which involve additional complexity in law or in quantification, should be raised as Court of Session actions where judges are familiar with the issues raised. In disease cases even where a defender or

insurer admits a breach of duty it is commonplace for causation to be disputed. For instance, in an asthma case, an employer or its insurer may admit that they have wrongly exposed an employee to potentially harmful dust of fumes. However, they may dispute whether that dust or those fumes had any effect on the claimant and dispute whether the asthma that they suffer from is occupational or simply constitutional. Similar arguments can be raised in every disease case. Longtail disease cases can involve the further complexity of apportioning blame between a number of employers which adds to the cases complexity. There is also the additional benefit that judgments from the highly respected Court of Session could have very positive implications for health and safety, thereby helping to avoid needless injury and disease.

Such a move would also ensure that no personal injury claim which is complex but of modest value is denied a hearing in the Court of Session.

Specialisation

APIL considers the issue of specialisation to be the core principle of reform to the sheriff court.

In particular, the specialisation of sheriffs and a specialist PI court really could make a significant difference in helping injured people to receive justice in a timely way. We also strongly believe that having specialist personal injury sheriffs would help to save costs in personal injury litigation. A dedicated personal injury judiciary would quickly develop the expertise necessary to ensure effective case flow management and for the occasional interlocutory and procedural hearing which might be necessary. Practitioners on both sides of the bar will quickly learn and adapt to the procedural expectations. At present in the Court of Session cases can proceed from start to finish without any judicial involvement and we would expect that to be replicated in the specialist sheriff court. As an aside we would wish the Court of Session e-motion procedure to be adopted.

For a system of specialised sheriffs to work effectively, however, it is imperative that there are enough of them. Particularly in view of the proposal to increase the number of cases to be allocated to the sheriff court from the Court of Session. There will have to be significant

investment in training and administrative resources if the system is not to descend into chaos. According to a recent article in Scots Law Times[10] the outlook is not encouraging. When the Coulsfield rules were introduced recently in the sheriff court administrative staff were not given sufficient training. This has resulted in local interpretation of the rules, e.g Hamilton sheriff court refuses to grant a warrant for specification for recovery of documents pre-service, unless on cause shown.

Lord Gill recommended that the office of district judge should be introduced to hear cases that fall into the summary cause rules, namely personal injury cases under £5,000[11], with the additional suggestion that a simplified procedure for all civil cases under £5,000 is developed in due course. We also note at paragraph 134 of the Government's response the suggestion that there should be opportunities to develop specialisation at district judge level, although personal injury is not included in the categories listed. Scotland has already tried a simplified procedure for low value personal injury actions, namely the Small Claims court. The compelling research of Elaine Samuel, "In the Shadow of the Small Claims Court" showed the experiment to have been a complete failure and it has been abandoned . Simplification of the procedure meant inadequate preparation, presentation and representation, with claimants disadvantaged at all stages. The new summary cause rules are effectively 'Coulsfield-lite' procedures, and should require little by way of judicial resources. The APIL research indicates that 58 per cent of cases are settled for £5,000 and under, therefore such reforms will affect over half of all cases. These should be dealt with by the specialist sheriffs in a specialist personal injury sheriff court.

Currently district judges in other domestic jurisdictions deal with wide ranging legal issues, from contractual disputes, to personal injury, to neighbour disputes. District judges are also often put under immense pressure from listing departments to deal with cases in the shortest amount of time, as reported by Dame Hazel Genn in her Hamlyn Lecture of 2008, *Judging Civil Justice*. An indication of their workload can be seen from this Day in the Life Extract[12], where Genn writes:

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[10] Scots Law Times 15 April 2011 *The Government's response to the recommendations of the Scottish civil Courts Review D Sandison.*

[11] Paragraph194 Report of the Scottish Civil Courts Review.

[12] The Hamlyn Lectures 2008, Hazel Genn, Judging Civil Justice, page 177

> The length of time for each case is very variable depending on the type of list. In a possession list last Friday I had forty-two cases listed all at the same time with a time allocation of five minutes. I find that even if people don't turn up, it takes more than five minutes to look at something meaningfully. People now turn up more frequently to protect their home. Then it takes much longer and it's very stressful. Often it doesn't really justify re-listing because there is no real defence, but of course the person wants to tell you all about it. It is a real struggle in those situations not to say, 'Look, I've got five minutes and there are twenty–five others waiting outside'. Instead you try and listen to a bit of what they have to say and gently point out what is and is not relevant: the tension between doing justice/being seen to be fair and the nature/ length of the lists is just terrible.

In examining the role of district judges in England, she writes:

> The full range of DJ work includes all manner of civil disputes from small claims and disputes about poor workmanship/repair e.g. fitting kitchens/bathrooms etc etc to consumer credit complaints, personal injury, insolvency, enforcement of debts/orders, bankruptcy, housing, landlord and tenant, disputes between neighbours, family cases involving money (ancillary relief), children, divorce, domestic violence... the list goes on and on. They range from pretty straightforward contractual disputes or low-level personal injury to very complex contractual disputes, serious money on ancillary relief. It is difficult to know how complicated until you get right into the case because often they will be poorly pleaded by people without the benefit of advice.[13]

It is difficult to see how, in the current economic climate, additional resources would be available in Scotland to alleviate these problems. Personal injury cases, even those of a lower value, are not necessarily legally straightforward as they often involve complex arguments on apportionment or causation, and medical evidence can often involve

[13] The Hamlyn Lectures 2008, Hazel Genn, Judging Civil Justice, page 176

exacerbation injuries or pre-existing conditions. As we noted in the introduction to this paper, the complexities of personal injury cases have already been recognised by the Cabinet Secretary for Justice when he removed these cases from the small claims court.

Furthermore, APIL has grave concerns about the practicalities involved. We understand that the aim is for district judges to be assimilated into the system on a piecemeal basis, following the retirement of sheriffs. It is difficult to see how this can be properly managed to maintain an even and uniform approach across Scotland.

Any increase in the sheriff court jurisdiction limit will obviously need to be offset by other reforms to ensure proper protection for injured people, including the proposal for a specialist court. We suggest that the specialist court should not be limited to Edinburgh. Given that our research suggests that at least two thirds of all cases will be heard in the specialist court we believe it would be sensible for there to be specialist sheriffs in both Edinburgh and Glasgow to deal with jury trials and the volume of personal injury work anticipated.

Such an arrangement, combined with procedural changes, would need to be set in place before the introduction of any increase in the sheriff court jurisdiction limit.

Availability of counsel; the advocacy deficit

Another key aspect of the issue of specialisation is the availability of counsel. It is clear from our members' experience of the Chapter 43 procedure in the Court of Session and the high settlement rate, that the use of counsel brings added value to many cases. Equally it is our members' experience that cases currently in the sheriff court are more likely to run to proof. In the event that the privative limit is increased, the availability of counsel would be an important asset in facilitating early settlement. It would seem fair and reasonable that sanction for the instruction of counsel should be sought at the outset of an action, where appropriate. In the new specialist court readily available sanction for counsel, determined at the outset of a case, would ensure that injured people retain the right to access an independent advocate. Further discussion could take place on establishing uniform and predictable criteria for allowing the sanction for counsel.

Defenders and insurers are uniformly represented by "repeat player" firms with specialist solicitors and inhouse solicitor advocates. Whilst there are some specialist firms in Scotland virtually none could run existing cases loads without the assistance of the Bar. The Bar brings the benefits of years of experience in case preparation, case pleading and presentation, and case advocacy which levels the playing field with defenders. We have no doubt that the availability of the specialist Bar to claimants significantly improves the prospects of recovery. It would be extremely disappointing if one of the unintended consequences of reform was to remove access to the Bar for claimants. Further discussion could take place on establishing uniform and predictable criteria for allowing counsel. Clearly there would be no need for sanction in straightforward, low value cases, but in cases where damages may be expected to exceed £10,000, or there was particular complexity, sanction should be granted.

Training and recruitment

To have the confidence of the public it serves, the selection criteria and process for the appointment of specialist sheriffs must be open and transparent, and fit for 21st century access to justice and we welcome the assurances in paragraphs 125 and 126 of the Government's response that the Government will work with the Judicial Appointments Board, the Lord President and the Judicial Studies Committee in relation to this. Furthermore, we believe that the criteria adopted for the selection of sheriffs should be set and defined. Furthermore, the criteria should be published, tested publicly as to whether they are deemed to be appropriate, and systems should be established which allow scrutiny as to whether the criteria have been applied and assessed objectively.

APIL firmly believes that appropriate training should also be provided to all those appointed to judicial positions. Training and performance monitoring should be conducted on a continuing basis during service to ensure the specialist's skills and experiences remain relevant. We believe there should be initial and ongoing training for sheriffs and this should be endorsed by the introduction of a "ticketing" system, whereby sheriffs who have undertaken such specialised training are granted the right to hear cases

which reflect their specialisms. This system is already in place within family law and criminal law in England and Wales and we believe it should be extended to personal injury in Scotland. In Scotland a case flow procedure has been successfully developed in personal injury which allows for little use of judicial resources but allows for early settlement of cases. Statistics shows that over 99 per cent of cases settle without the need for trial or proof in the Court of Session.

Conclusion

In summary, APIL can agree with some of the concerns raised about the operation of the sheriff court. We can also understand the desire to ensure that cases are heard in the Court of Session which reflect the seniority of its judges.

At the same time, however, it must be recognised that personal injury cases are very different from commercial cases, for example, and that each injury comes with a different set of complexities and personal circumstances which cannot, and should not , be handled as a mere set of commodities. We support a change to the sheriff court jurisdiction limit to £30,000 provided improvements are made to the sheriff court system along the lines suggested above, and before any change to the limit is made. Such an approach will help to address the deficiencies of the current system, while leaving its virtues intact.

Appendix A – Extract from *APIL Guide to Accidents at Work*, *chapter 2*, by Tomkins, Humphreys, Stockwell.

apil

Guide to Accidents at Work

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CHAPTER 2

GENERAL PRINCIPLES OF NEGLIGENCE

2.1 BASIC DUTIES

As well as obligations under statute and regulations, employers continue to have a common law duty of care to their employees. Failure to fulfill that duty is negligence. For example, employers owe a specific duty to their employees to provide them with safe premises, independently of any duty they may owe to them under the health and safety legislation.

It was not until 1937, with the decision of the House of Lords in England in *Wilson and Clyde Coal Co Ltd v English*,[1] that the modern duty of care owed by an employer to an employee was established. It is worth noting that this is a Scottish case. Time and time again the law of the United Kingdom comes from Scotland. If it was not for the efforts of solicitors and advocates in Scotland workers, in particular, might well be much less well protected under the law.

On 27 March 1933 English was employed underground in a mine. At the end of the day shift, he was on one of the main haulage roads when the haulage plant was turned on and, before he could get out, he was crushed. It seems inconceivable today that these facts could lead to a contested action at all, let alone one that went all the way to the House of Lords.

Lord Macmillan held that the provision of a safe system of working was an obligation on the employer. He went on to say:

> 'He cannot divest himself of this duty, though he may —and, if it involves technical management and he is not himself technically qualified, must perform it through the agency of an employee. It remains the [employer's] obligation and the agent whom the [employer] appoints to perform it, performs it on the [employer's] behalf. The [employer] remains vicariously responsible for the negligence of the person whom he has appointed to perform his obligation for him, and cannot escape liability by merely proving that he has appointed a competent agent. If the [employer's] duty has not been performed, no matter how competent the agent selected by the [employer] to perform it for him, the owner is responsible.'

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1 [1937] 3 All ER 628.

Appendix B – Extract, *Encyclopaedia of Health & Safety at Work: Law and Practice*, General editor MJ Goodman; editor Rachel Moore.

Encyclopedia of HEALTH AND SAFETY AT WORK

Law and Practice

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"specified operation" means an operation in which the ship's work equipment is used—

(a) by persons other than the master and crew; or

(b) where persons other than the master and crew are liable to be exposed to a risk to their heath or safety from its use.

Commentary

H2–13787 *Para.1(b)*

The 1995 Order is SI 1995/263 and is set out at paras H2–12401 *et seq.*, above.

Para.(2)

The equipment can include a passenger lift in the lobby of a multi-office building. An office employee injured while entering it is still in the course of employment and can sue the employer for her injuries—*PRP Architects v Reid* [2007] I.C.R.78, CA.

Paras (3)(b) and (4)

For an example of "control", see *Ball v Street*, February 4, *The Times*, December 22, 2006, HL (Scot.).

Para.(5)

The exemption in this paragraph does not apply to a mere hiring or lending of equipment: *Ball v Street* (above).

Para.(11)

The Merchant Shipping Act 1995 (not in this Encyclopedia) is 1995, c.21. The two sets of 1988 Regulations (not in this Encyclopedia) are SI 1988/1636 and SI 1988/1639, both as amended by SI 1988/2274.

PART II

GENERAL

Suitability of work equipment

H2–13788 **4.**—(1) Every employer shall ensure that work equipment is so constructed or adapted as to be suitable for the purpose for which it is used or provided.

(2) In selecting work equipment, every employer shall have regard to the working conditions and to the risks to the health and safety of persons which exist in the premises or undertaking in which that work equipment is to be used and any additional risk posed by the use of that work equipment.

(3) Every employer shall ensure that work equipment is used only for operations for which, and under conditions for which, it is suitable.

[(4) In this regulation "suitable"—

(a) subject to sub-paragraph (b), means suitable in any respect which it is reasonably foreseeable will affect the health or safety of any person;

(b) in relation to—

(i) an offensive weapon within the meaning of section 1(4) of the Prevention of Crime Act 1953 provided for use as self-defence or as deterrent equipment; and

(ii) work equipment provided for use for arrest or restraint, by a person who holds the office of constable or an appointment

as police cadet, means suitable in any respect which it is reasonably foreseeable will affect the health or safety of such person.]

Commentary

Para.(1)

"Employer"—this term must be construed purposively. Where a worker has been supplied by an employment agency, both the agency and the person to whom the worker has been supplied may be liable as "employer"—*Lyell v Sun Microsystems Scotland BV*, 2005 SCLR 786, OH (Scot.). **H2–13788/**

The duty of the employer does not extend to the state of premises over which he has no control—*Smith v Northamptonshire County Council* [2008] EWCA Civ 181, CA (11.3.08)—employer not liable for defective house ramp which injured care worker pushing patient in wheel-chair.

"Suitable for the purpose..."—this extends only to such hazards as are reasonably foreseeable: *Horton v Taplin Contracts Ltd, The Times*, 25 November 2002, CA (employer not liable for scaffold tower toppled by deliberate act of fellow-employee); *Reid v Sundolitt Ltd.* [2007 Rep L.R.90 (IH—Scot.)—employee injured by toppling of bin in which he wrongfully stood to compress scraps of plastic—employer not liable despite use of "ensure" in reg.4(3); see also *Robb v Salamis Ltd* [2007] 2 All E.R.97, HL—employer must anticipate risks of injury, e.g. that ladder to sleeping bunk might be moved and not properly replaced. But if the equipment fails to work efficiently or is not in good repair then there is strict liability under reg.5 below and absence of foreseeability is no defence: *Ball v Street*, 4 February 2005, CA.

For there to be liability under this regulation (but see reg.5 below) it may not be enough to show reasonable foreseeability of injury—the degree of risk must also be considered. The regulation does "not require complete and absolute protection". *Yorkshire Traction Co Ltd v Searby*, 19 December 2003, CA (employer not liable for assault on bus-driver, where no protective screen installed: *Marks and Spencer Plc v Palmer* (2001) EWCA Civ 1528, cited). *Cf.* a barrowbuff machine, held to be in breach of paras.(1) and (2) of this regulation, in *McFarlane v Corus Construction and Industrial* 2006 S.L.T. 375, (Scot.–OH).

The greater cost of alternative equipment does not of itself make cheaper equipment "suitable": *Skinner v Scottish Ambulance Service*, 2004 SLT 834, Ex Div (Scot.).

Para.(3)

See *Wharf v Bildwell Insulations Ltd* [1999] CLY 2047 (ladder at 58 degrees from horizontal unsuitable for carpenter carrying tools from roof space to floor level); *Crane v Premier Prison Services Ltd* [2001] CLY 3298 (prison van not safe for custody officer, as no safety chains to prevent falling); *MacKie v Dundee City Council*, 2001 Rep. LR 62, Sh Ct (Scot.)—moveable table in dining hall was "work equipment" and being broken was unsuitable); and *Watson v Warwickshire C.C.* [2001] CLY 3302 (industrial vacuum cleaner unsuitable for short female cleaner) *Drinnan v Bone Group Ltd* 2005 SLT (Sh.Ct)–Scot. (crowbar unsuitable for prising out a bearing stuck in machine) and *Slessor v Vetco Gray UK Ltd* 2007 SLT 400—Scot. (employer liability for fall of module from crane, even though module supplied by third party).

Para.(4)

The words in square brackets, was substituted by the Police (Health and Safety) Regulations 1999 (SI 1999/860) below.

[THE NEXT PARAGRAPH IS H2–13789.]

Maintenance

H2–13789 5.—(1) Every employer shall ensure that work equipment is maintained in an efficient state, in efficient working order and in good repair.

(2) Every employer shall ensure that where any machinery has a maintenance log, the log is kept up to date.

Commentary

Para.(1)

H2–13789/1 The duty imposed by this paragraph should not be interpreted narrowly but in accordance with the principles of the relevant EC Directives. Thus it includes the requirement that the machine should be suitable, not only for working, but also for being cleaned: *English v North Lanarkshire Council*, 1999 SCLR 310, OH—Scot. The duty is strict, as the UK, a Member State, was free to adopt a stricter approach than that of the relevant EC Directive (89/655): *Stark v Post Office, The Times*, 29 March 2000, CA (post office strictly liable for postman's defective cycle); *Cadger v Vauxhall Motors Ltd* [2000] CLY 2972 (employer could not defend on ground of having reasonable system of inspection or maintenance); *Ball v Street*, 4 February 2005, CA (type of injury not reasonably foreseeable—nevertheless liability); *Hislop v Lynx Express Parcels, The Times*, 17 April 2003, Ct of Sess (Scot.): injured employee does not have to identify a defect in work equipment—sufficient to show that it has failed. Cf. *Jakto Transport Ltd v Hall* [2005] EWCA Civ 1327, CA—wrench presumed defective. "Work equipment" includes a steel cabinet in a nursery area: *Duncanson v South Ayrshire Council*, 1999 SLT 519, OH (Scot.).

[THE NEXT PARAGRAPH IS H2–13790.]

Inspection

H2–13790 6.—(1) Every employer shall ensure that, where the safety of work equipment depends on the installation conditions, it is inspected—

(a) after installation and before being put into service for the first time; or

(b) after assembly at a new site or in a new location,

to ensure that it has been installed correctly and is safe to operate.

(2) Every employer shall ensure that work equipment exposed to conditions causing deterioration which is liable to result in dangerous situations is inspected—

(a) at suitable intervals; and

(b) each time that exceptional circumstances which are liable to jeopardise the safety of the work equipment have occurred, to ensure that health and safety conditions are maintained and that any deterioration can be detected and remedied in good time.

(3) Every employer shall ensure that the result of an inspection made under this regulation is recorded and kept until the next inspection under this regulation is recorded.

(4) Every employer shall ensure that no work equipment—

(a) leaves his undertaking; or

(b) if obtained from the undertaking of another person, is used in his undertaking,

unless it is accompanied by physical evidence that the last inspection required to be carried out under this regulation has been carried out.

(5) This regulation does not apply to—

(a) a power press to which regulations 32 to 35 apply;

(b) a guard or protection device for the tools of such power press;

(c) work equipment for lifting loads including persons;
(d) winding apparatus to which the Mines (Shafts and Winding) Regulations 1993 apply;
(e) work equipment required to be inspected by [regulations 31(4) or 32(2) of the Construction (Design and Management) Regulations 2007].
[(f) work equipment to which regulation 12 of the Work at Height Regulations 2005 applies].

Commentary

Para.5(e)
This was added by the 2007 Regulations (SI 2007/320) below.

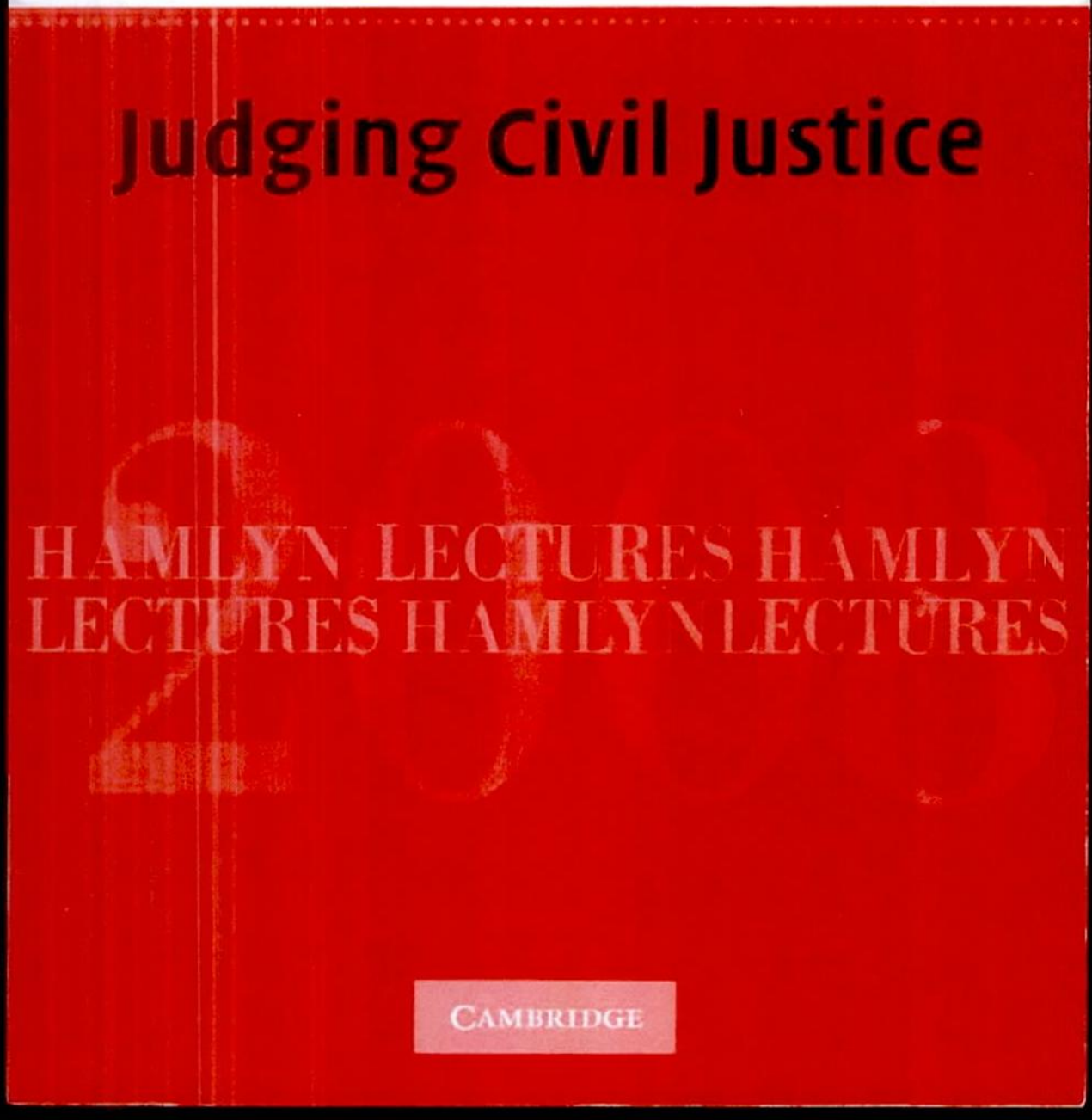
Para. (5)(f).
This was added by reg.17 of the Work at Height Regulations 2005 (SI 2005/735) below.

[THE NEXT PARAGRAPH IS H2–13791.]

THE HAMLYN LECTURES 2008

HAZEL GENN

Judging Civil Justice



CAMBRIDGE

is an account of the challenges of life on the bench given by a Deputy District Judge:

> The full range of DJ work includes all manner of civil disputes from small claims and disputes about poor workmanship/repair, e.g. fitting kitchens/bathrooms etc. etc., to consumer credit complaints, personal injury, insolvency, enforcement of debts/orders, bankruptcy, housing, landlord and tenant, disputes between neighbours, family cases involving money (ancillary relief), children, divorce, domestic violence … the list goes on and on. They range from pretty straightforward contractual disputes or low-level personal injury to very complex contractual disputes, serious money on ancillary relief. It is difficult to know how complicated until you get right into the case because often they will be poorly pleaded by people without the benefit of advice.

Although one might argue that our normative expectations of the judiciary in terms of competence, independence, impartiality and fairness apply to judges at all levels in the hierarchy, how in practice do they translate in the real world of the lower courts? For example, in conversation recently a distinguished QC remarked on his admiration for District Judges. Having attended a Judicial Studies Board training course, he was dumbstruck at the complexity of property issues that District Judges face and have to resolve under extreme time pressures. He felt that District Judges in the county courts regularly grapple with issues that in the Chancery Division would be considered worthy of three days of legal argument. Nonetheless, because they

affect the affairs of those on low incomes, the issues must be sorted out quickly.

The reality of the pressures on the judiciary in the lower courts is well described by the recent appointee talking about her approach to managing her lists:

> The length of time for each case is very variable depending on the type of list. In a possession list last Friday I had forty-two cases listed all at the same time with a time allocation of five minutes. I find that even if people don't turn up, it takes more than five minutes to look at something meaningfully. People now turn up more frequently to protect their home. Then it takes much longer and it's very stressful. Often it doesn't really justify re-listing because there is no real defence, but of course the person wants to tell you all about it. It is a real struggle in those situations not to say, 'Look, I've got five minutes and there are twenty-five others waiting outside.' Instead you try and listen to a bit of what they have to say and gently point out what is and is not relevant: the tension between doing justice/being seen to be fair and the nature/length of the lists is often just terrible.

What, then, are the expectations in terms of standards of fairness and expertise at this level? How do they differ from what we expect in the High Court? And what impact does judicial behaviour in the high volume of cases at the lowest end of the judicial system have on public confidence in the judiciary and the legitimacy of the judiciary as an institution? At the lower levels with fewer obvious constraints and audiences, is there a need for a greater emphasis on self-aware, reflective judges with significant self-discipline? It is here that

Appendix C

- Total damages and expenses recovered in all cases: data collected for a three month period 1 January to 31 March 2009.
- Number of litigated cases and pre-litigated cases settled in month of February 2009.

Appendix- APIL member's research

Total damages and expenses recovered in all cases

Data collected for a three month period 1 January to 31 March 2009

Individual settlement value	Number of cases	Total damages recovered £	Total expenses recovered £	Expenses as % of damages
0 – 5,000	50	204,300	418,056.81	205%
5,001 – 10,000	77	595,649.76	638,894.41	107%
10,001 – 20,000	43	632,799.27	470,877.91	74%
20,001 – 30,000	14	357,417.29	221,130	62%
30,001 – 40,000	9	323,250	127,840	40%
40,001 – 50,000	7	330,600	94,110	28%
50,001 – 60,000	6	332,708.18	151,406.32	46%
60,001 – 70,000	4	262,120.70	80,595	31%
70,001 – 80,000	2	150,000	22,380	15%
80,001 – 90,000	1	81,205	16,780	21%
90,001 – 100,000	1	100,000	12,700	13%
100,001 – 110,000	0	0	0	0
110,001 – 120,000	1	120,000	16,750	14%
120,001 – 130,000	0	0	0	0
130,001 – 140,000	2	268,000	41,390	15%
140,001 – 150,000	0	0	0	0
Total	217	3,758,050.20	2,312,910.45	62%

Number of litigated cases and pre-litigated cases settled in Month of February 2009

Settlement Value	Number of Litigated Cases Settled	Number of Cases Settled Pre-Litigation
0-5,000	39	143
5,001-10,000	41	33
10,001-20,000	17	10
20,001-30,000	10	2
30,001-40,000	4	2
40,001-50,000	3	2
50,001-60,000	4	0
60,001-70,000	0	0
70,001-80,000	1	0
80,001-90,000	1	0
90,001-100,000	1	0
10,001-110,000	0	0
110,001-120,000	0	0
120,001-130,000	0	0
120,001-140,000	0	0
140,001-150,000	2	0

Appendix D

- Freedom of Information Request August 2010.
- Freedom of Information Request April 2011.

Court of Session from Jan 2009 Dec 2009 (Fee Amount Totals)

FEE TOTAL	ACTION TYPE	
COURT	PERSONAL DAMAGES	Grand Total
Court of Session Fees Charged	1802659	1802659
Grand Total	1802659	1802659

Sheriff Court Fees Charged from Jan 2009 Dec 2009 (Fee Amount Totals)

FEE TOTAL	ACTION TYPE	
COURT	PERSONAL DAMAGES	Grand Total
Aberdeen Sheriff Court	27655	27655
Airdrie Sheriff Court	26530	26530
Alloa Sheriff Court	2475	2475
Arbroath Sheriff Court	5455	5455
Ayr Sheriff Court	19915	19915
Banff Sheriff Court	2260	2260
Cupar Sheriff Court	6533	6533
Dingwall Sheriff Court	1200	1200
Dornoch Sheriff Court	775	775
Dumbarton Sheriff Court	16870	16870
Dumfries Sheriff Court	880	880
Dundee Sheriff Court	19416	19416
Dunfermline Sheriff Court	16454	16454
Dunoon Sheriff Court	2765	2765
Duns Sheriff Court	535	535
Edinburgh Sheriff Court	59265	59265
Elgin Sheriff Court	2645	2645
Falkirk Sheriff Court	23011	23011
Forfar Sheriff Court	1555	1555
Fort William Sheriff Court	2855	2855
Glasgow Sheriff Court	268230	268230
Greenock Sheriff Court	11540	11540
Haddington Sheriff Court	8005	8005
Hamilton Sheriff Court	44640	44640
Inverness Sheriff Court	9635	9635
Jedburgh Sheriff Court	1535	1535
Kilmarnock Sheriff Court	20160	20160
Kirkcaldy Sheriff Court	19933	19933
Kirkcudbright Sheriff Court	770	770
Kirkwall Sheriff Court	440	440
Lanark Sheriff Court	4165	4165
Lerwick Sheriff Court	1460	1460
Livingston Sheriff Court	14805	14805
Oban Sheriff Court	475	475
Paisley Sheriff Court	25185	25185
Peebles Sheriff Court	320	320
Perth Sheriff Court	15411	15411
Peterhead Sheriff Court	3740	3740
Portree Sheriff Court	470	470
Rothesay Sheriff Court	80	80
Selkirk Sheriff Court	2435	2435
Stirling Sheriff Court	13119	13119
Stonehaven Sheriff Court	2580	2580
Stornoway Sheriff Court	280	280
Stranraer Sheriff Court	2695	2695
Tain Sheriff Court	1230	1230
Wick Sheriff Court	1550	1550
Grand Total	713937	713937

Court of Session from Jan 2010 Jun 2010 (Fee Amount Totals)

FEE TOTAL	ACTION TYPE								
COURT	CAVEAT	COMMERCIAL ACTIONS	FAMILY	INNER HOUSE APPEALS	MISCELLANEOUS	ORDINARY	PERSONAL DAMAGES	PETITIONS	Grand Total
Court of Session Fees Charged	146970	161840	29770	90865	27470	331207	1094435	269415	2151972
Grand Total	146970	161840	29770	90865	27470	331207	1094435	269415	2151972

Sheriff Court Fees Charged from Jan 2010 Jun 2010 (Fee Amount Totals)

FEE TOTAL	ACTION TYPE	
COURT	PERSONAL DAMAGES	Grand Total
Aberdeen Sheriff Court	22002	22002
Airdrie Sheriff Court	19689	19689
Alloa Sheriff Court	2470	2470
Arbroath Sheriff Court	4206	4206
Ayr Sheriff Court	13731	13731
Banff Sheriff Court	1050	1050
Campbeltown Sheriff Court	770	770
Cupar Sheriff Court	5121	5121
Dingwall Sheriff Court	2955	2955
Dornoch Sheriff Court	670	670
Dumbarton Sheriff Court	11965	11965
Dumfries Sheriff Court	5580	5580
Dundee Sheriff Court	15066	15066
Dunfermline Sheriff Court	14344	14344
Dunoon Sheriff Court	2290	2290
Duns Sheriff Court	1540	1540
Edinburgh Sheriff Court	38735	38735
Elgin Sheriff Court	4220	4220
Falkirk Sheriff Court	13800	13800
Forfar Sheriff Court	2555	2555
Fort William Sheriff Court	3280	3280
Glasgow Sheriff Court	78315	78315
Greenock Sheriff Court	8186	8186
Haddington Sheriff Court	5191	5191
Hamilton Sheriff Court	34020	34020
Inverness Sheriff Court	7550	7550
Jedburgh Sheriff Court	1775	1775
Kilmarnock Sheriff Court	17505	17505
Kirkcaldy Sheriff Court	12635	12635
Kirkcudbright Sheriff Court	1365	1365
Kirkwall Sheriff Court	80	80
Lanark Sheriff Court	2915	2915
Lerwick Sheriff Court	755	755
Livingston Sheriff Court	11756	11756
Lochmaddy Sheriff Court	200	200
Oban Sheriff Court	1045	1045
Paisley Sheriff Court	21836	21836
Peebles Sheriff Court	975	975
Perth Sheriff Court	9290	9290
Peterhead Sheriff Court	2356	2356
Portree Sheriff Court	855	855
Rothesay Sheriff Court	40	40
Selkirk Sheriff Court	2175	2175
Stirling Sheriff Court	8820	8820
Stonehaven Sheriff Court	3995	3995
Stornoway Sheriff Court	960	960
Stranraer Sheriff Court	1160	1160
Tain Sheriff Court	1016	1016
Wick Sheriff Court	980	980
Grand Total	423790	423790

Court of Session from Jan 2009 Oct 2009 (Fee Amount Totals)

FEE TOTAL	ACTION TYPE	
COURT	PERSONAL DAMAGES	Grand Total
Court of Session Exemptions	17731	17731
Court of Session Fees Charged	1456364	1456364
Grand Total	1474095	1474095

Sheriff Court Fees Charged from Jan 2009 Oct 2009 (Fee Amount Totals)

FEE TOTAL	ACTION TYPE	
COURT	PERSONAL DAMAGES	Grand Total
Aberdeen Sheriff Court	21515	21515
Airdrie Sheriff Court	22330	22330
Alloa Sheriff Court	1955	1955
Arbroath Sheriff Court	4440	4440
Ayr Sheriff Court	14310	14310
Banff Sheriff Court	2045	2045
Cupar Sheriff Court	5703	5703
Dingwall Sheriff Court	865	865
Dornoch Sheriff Court	495	495
Dumbarton Sheriff Court	13020	13020
Dundee Sheriff Court	15476	15476
Dunfermline Sheriff Court	13754	13754
Dunoon Sheriff Court	2110	2110
Duns Sheriff Court	455	455
Edinburgh Sheriff Court	49960	49960
Elgin Sheriff Court	1615	1615
Falkirk Sheriff Court	17780	17780
Forfar Sheriff Court	1195	1195
Fort William Sheriff Court	2375	2375
Glasgow Sheriff Court	228495	228495
Greenock Sheriff Court	9310	9310
Haddington Sheriff Court	6435	6435
Hamilton Sheriff Court	35955	35955
Inverness Sheriff Court	8355	8355
Jedburgh Sheriff Court	1095	1095
Kilmarnock Sheriff Court	15945	15945
Kirkcaldy Sheriff Court	16528	16528
Kirkcudbright Sheriff Court	675	675
Kirkwall Sheriff Court	440	440
Lanark Sheriff Court	3445	3445
Lerwick Sheriff Court	1260	1260
Livingston Sheriff Court	11955	11955
Oban Sheriff Court	115	115
Paisley Sheriff Court	20410	20410
Peebles Sheriff Court	200	200
Perth Sheriff Court	12581	12581
Peterhead Sheriff Court	3205	3205
Portree Sheriff Court	470	470
Rothesay Sheriff Court	80	80
Selkirk Sheriff Court	1845	1845
Stirling Sheriff Court	11424	11424
Stonehaven Sheriff Court	2300	2300
Stornoway Sheriff Court	80	80
Stranraer Sheriff Court	2280	2280
Tain Sheriff Court	815	815
Wick Sheriff Court	1390	1390
Grand Total	588486	588486

Court of Session from Nov 2009 Jun 2010 (Fee Amount Totals)

FEE TOTAL	ACTION TYPE	
COURT	PERSONAL DAMAGES	Grand Total
Court of Session Fees Charged	1440730	1440730
Grand Total	1440730	1440730

Sheriff Court Fees Charged from Nov 2009 Jun 2010 (Fee Amount Totals)

FEE TOTAL	ACTION TYPE	
COURT	PERSONAL DAMAGES	Grand Total
Aberdeen Sheriff Court	28142	28142
Airdrie Sheriff Court	23889	23889
Alloa Sheriff Court	2990	2990
Arbroath Sheriff Court	5221	5221
Ayr Sheriff Court	19336	19336
Banff Sheriff Court	1265	1265
Campbeltown Sheriff Court	770	770
Cupar Sheriff Court	5951	5951
Dingwall Sheriff Court	3290	3290
Dornoch Sheriff Court	950	950
Dumbarton Sheriff Court	15815	15815
Dumfries Sheriff Court	6460	6460
Dundee Sheriff Court	19006	19006
Dunfermline Sheriff Court	17044	17044
Dunoon Sheriff Court	2945	2945
Duns Sheriff Court	1620	1620
Edinburgh Sheriff Court	48040	48040
Elgin Sheriff Court	5250	5250
Falkirk Sheriff Court	19031	19031
Forfar Sheriff Court	2915	2915
Fort William Sheriff Court	3760	3760
Glasgow Sheriff Court	118050	118050
Greenock Sheriff Court	10416	10416
Haddington Sheriff Court	6761	6761
Hamilton Sheriff Court	42705	42705
Inverness Sheriff Court	8830	8830
Jedburgh Sheriff Court	2215	2215
Kilmarnock Sheriff Court	21720	21720
Kirkcaldy Sheriff Court	16040	16040
Kirkcudbright Sheriff Court	1460	1460
Kirkwall Sheriff Court	80	80
Lanark Sheriff Court	3635	3635
Lerwick Sheriff Court	955	955
Livingston Sheriff Court	14606	14606
Lochmaddy Sheriff Court	200	200
Oban Sheriff Court	1405	1405
Paisley Sheriff Court	26611	26611
Peebles Sheriff Court	1095	1095
Perth Sheriff Court	12120	12120
Peterhead Sheriff Court	2891	2891
Portree Sheriff Court	855	855
Rothesay Sheriff Court	40	40
Selkirk Sheriff Court	2765	2765
Stirling Sheriff Court	10515	10515
Stonehaven Sheriff Court	4275	4275
Stornoway Sheriff Court	1160	1160
Stranraer Sheriff Court	1575	1575
Tain Sheriff Court	1431	1431
Wick Sheriff Court	1140	1140
Grand Total	549241	549241

Sheriff Court Fees Charged from Nov 2009 Feb 2011 (Fee Amount Totals)

FEE TOTAL	ACTION TYPE	
COURT	PERSONAL DAMAGES	Grand Total
Aberdeen Sheriff Court	55,980	55,980
Airdrie Sheriff Court	53,587	53,587
Alloa Sheriff Court	6,106	6,106
Arbroath Sheriff Court	10,262	10,262
Ayr Sheriff Court	37,453	37,453
Banff Sheriff Court	2,820	2,820
Campbeltown Sheriff Court	1,721	1,721
Cupar Sheriff Court	11,866	11,866
Dingwall Sheriff Court	7,140	7,140
Dornoch Sheriff Court	2,125	2,125
Dumbarton Sheriff Court	29,095	29,095
Dumfries Sheriff Court	16,145	16,145
Dundee Sheriff Court	35,449	35,449
Dunfermline Sheriff Court	32,354	32,354
Dunoon Sheriff Court	4,325	4,325
Duns Sheriff Court	3,135	3,135
Edinburgh Sheriff Court	100,615	100,615
Elgin Sheriff Court	9,661	9,661
Falkirk Sheriff Court	33,749	33,749
Forfar Sheriff Court	7,156	7,156
Fort William Sheriff Court	5,050	5,050
Glasgow Sheriff Court	226,240	226,240
Greenock Sheriff Court	18,914	18,914
Haddington Sheriff Court	13,513	13,513
Hamilton Sheriff Court	86,370	86,370
Inverness Sheriff Court	19,416	19,416
Jedburgh Sheriff Court	4,692	4,692
Kilmarnock Sheriff Court	41,380	41,380
Kirkcaldy Sheriff Court	36,498	36,498
Kirkcudbright Sheriff Court	3,470	3,470
Kirkwall Sheriff Court	280	280
Lanark Sheriff Court	7,770	7,770
Lerwick Sheriff Court	2,205	2,205
Livingston Sheriff Court	32,780	32,780
Lochmaddy Sheriff Court	605	605
Oban Sheriff Court	3,902	3,902
Paisley Sheriff Court	53,696	53,696
Peebles Sheriff Court	2,715	2,715
Perth Sheriff Court	24,851	24,851
Peterhead Sheriff Court	6,256	6,256
Portree Sheriff Court	1,095	1,095
Rothesay Sheriff Court	240	240
Selkirk Sheriff Court	5,810	5,810
Stirling Sheriff Court	25,104	25,104
Stonehaven Sheriff Court	8,225	8,225
Stornoway Sheriff Court	2,800	2,800
Stranraer Sheriff Court	4,815	4,815
Tain Sheriff Court	3,076	3,076
Wick Sheriff Court	2,035	2,035
Grand Total	1,104,546	1,104,546

Personal Injury Cases Registered in Sheriff Courts in Scotland

	1 Nov 2009 - 28 Feb 2011
Aberdeen	181
Airdrie	179
Alloa	26
Ayr	125
Arbroath	36
Banff	9
Campbeltown	7
Cupar	41
Dingwall	26
Dornoch	8
Dumbarton	94
Dumfries	71
Dundee	125
Dunfermline	105
Dunoon	13
Duns	12
Edinburgh	339
Elgin	33
Falkirk	111
Forfar	25
Fort William	18
Glasgow	781
Greenock	64
Haddington	41
Hamilton	285
Inverness	67
Jedburgh	20
Kilmarnock	136
Kirkcaldy	116
Kirkcudbright	9
Kirkwall	2
Lanark	29
Lerwick	4
Linlithgow/ Livingston	1
Lochmaddy	115
Oban	16
Paisley	186
Peebles	10
Perth	84
Peterhead	22
Portree	4
Rothesay	1
Selkirk	17
Stirling	89
Stonehaven	26
Stornoway	16
Stranraer	19
Tain	11
Wick	7
National	**3,762**

Notes:

1. The figures given include personal injury cases registered under Ordinary and Summary Cause procedure.

2. The data are management information statistics directly obtained from operational case management systems held by the Scottish Court Service, and are not subjected to the same quality assurance standards as statistics produced by the Government Statistical Service.

3. Criminal and civil data are held in separate case management systems and there are specific concerns surrounding the accuracy of some of the data contained in the civil system. Therefore, the civil data should be used with caution and it should be appreciated that firm conclusions cannot be drawn from the data provided.

4. Please bear in mind the quality concerns described above when using the data and please ensure that anyone else who may see or use the data is also made aware of these issues.