



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2009

Country: UK-Scotland

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants

5168500

2) Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level (in €)

	Amount
State level	
Regional / entity level	559650000

3) Per capita GDP (in €)

20109

4) Average gross annual salary (in €)

25121

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2009

105

Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

1. General Register Office for Scotland (GROS)
2. Scottish Government. The Government Expenditure and Revenue (GERS) publication estimates a set of public sector accounts for Scotland in the absence of intra-regional UK fiscal accounts. All revenue and expenditure data are classified as UK national statistics.
3. Office of National Statistics
4. Office of National Statistics

1. 2. Budgetary data concerning judicial system

1. 2. 1. Budget (courts, public prosecution, legal aid, fees)

6) Total annual approved budget allocated to all courts (in €)

151940889

7) Please specify

This is the total annual budget for both revenue and capital for 2008-09 for:
Scottish Courts Service administration, e.g. court buildings, staff and technologies: £111M

Total expenditure on Courts is funded from Scottish Government Budget allocation plus fees, fines and other income retained by the Courts.

The total does not include budgets for the prosecution service or legal aid or for judicial salaries, travel and subsistence and other associated costs which are funded by the Scottish Government.

8) Does the approved budget of the courts include the following items? Please give for each item (or some of them) a specification of the amount concerned or indicate NA (not available) in case that the information cannot be supplied

Please provide comments to explain the data provided under question 8:

Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	82950000
Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	6244146
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	13528983
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	42668332
Annual public budget allocated to investments in new (court) buildings		NAP
Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	1040691
Other (please specify):	<input checked="" type="checkbox"/> Yes	14569674

Comment :

Gross salaries include the gross salary costs of Court administrative and operational staff.

Computerisation includes capital and revenue budgets.

Justice expenses covers operational expenses, including juror expenses; medical report, interpreters. etc. plus the costs of part-time judicial fees and travel and subsistence.

Court buildings includes both capital and revenue budgets, accommodation costs, etc.

There is no specific separate allocation for new court buildings. Refurbishment or replacement of existing buildings are met from within the above general court buildings budget.

Training expenditure includes both in-house and purchased spend on training for Court administrative staff within the Scottish Court Service budget.

Other expenses include costs of depreciation and impairment (£10m); plus expenditure on central administrative costs, supplies and services and various other smaller miscellaneous costs (£4m).

9) Has the annual public budget of the courts changed (increased or decreased) over the last five years?

Yes

No

If yes, please specify (i.e. provide an indication of the increase or decrease of the budget over the last five years:

The figures below show the agreed net Scottish Government annual Budget allocations – revenue and capital - for the Scottish Government Courts Group (covering judicial salaries, etc.) and Scottish Court Service (Court administrative staff, buildings and technology) approved by Parliament. The figures exclude income from fees and fines, etc. and are not, therefore, directly comparable with the gross figures in question 6-8.

2004-05

Scottish Court Service: £72M

2005-06

Scottish Court Service: £71M

2006-07

Scottish Court Service: £76M

2007-08

Scottish Court Service: £79M

2008-09

Scottish Court Service: £81M

2009-10 (Budget)*

Scottish Court Service: £95M

*Budget for 2009-10 includes an increase in capital funding of £9M for a major estate redevelopment project.

10) In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

for criminal cases?

for other than criminal cases?

If yes, are there exceptions? Please specify:

Fees payable for various applications to Court are set in a Statutory Instrument – the Fee Order – which is updated periodically by the Scottish Parliament, on the recommendation of Scottish Ministers, through a Fee Amendment Order. Details of the current fees are available on the Scottish Court Service web site:

<http://www.scotcourts.gov.uk/sheriff/fees/index.asp>

Various exemptions apply. For example people who qualify for legal aid for a civil case or those who are on certain means-tested benefits are exempt from fees. Details of the exemptions are also available through the above link.

11) If yes, please specify the annual income of court fees (or taxes) received by the State (in Euros)

24150000

12) Total annual approved budget allocated to the whole justice system (in €)

Please provide information concerning the budgetary elements that included in the whole justice system budget:

Amount 1785097305

Comment :

JUSTICE

Schedule 2 - Summary Proposed Portfolio Budget

Total Justice Budget 2008-09
 Operating Capital Total
 £m £m £m
 Community Justice Services 21.1 0.0 21.1
 Courts Group 15.9 0.0 15.9
 Criminal Injuries Compensation 28.5 0.0 28.5
 Fire Central Government 32.3 9.0 41.3
 Legal Aid 163.9 0.0 163.9
 Police Central Government 129.3 19.2 148.5
 Safer Communities 32.3 0.0 32.3
 Accountant in Bankruptcy 6.9 0.0 6.9
 Scottish Courts Service 71.0 10.3 81.3
 Scottish Prison Service 330.9 110.4 441.3
 Miscellaneous 33.0 0.0 33.0
 Central Government Grants to LAs 686.6 0.0 686.6
 Police loan charges 14.7 0.0 14.7

Total Portfolio Budget 1,566.4 148.9 1,715.3

13) Total annual approved public budget allocated to legal aid (in €)

Please provide comments to explain the figure provided under question 13:

. Amount 165800000

Comment :

The figure of €165.8m (£150.2m) is for expenditure on legal aid for the financial year 2008-09 (1 April 2008 – 31 March 2009).

Government funding for legal aid in Scotland is not cash limited. Therefore, there is no set budget as such. The Scottish Government does allocate an amount in their budgets based on projected expenditure. The Scottish Government also allocate Grant in Aid to the Scottish Legal Aid Board to meet the costs of the administration of the organisation.

14) If possible, please specify (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Annual public budget allocated to legal aid in criminal law cases	Annual public budget allocated to legal aid in non criminal law cases
Amount	108150000	49350000

Comment :

See comments on question 13 with regard to the budget for legal aid in Scotland.

Legal Assistance covers advice and assistance and full legal aid. Advice and assistance covers advice on any matter of Scottish law from a solicitor, but apart from a few exceptions, will not cover representation (putting the case in court). ABWOR (Advice by way of Representation) is a form of advice and assistance and is advice and assistance given to someone by taking on their behalf any step in instituting, conducting or defending certain proceedings.

Full civil or criminal legal aid is available for a wide range of court proceedings in Scotland and appeals to the Supreme Court in civil matters.

Summary criminal legal aid is available for summary criminal procedure cases. These are generally less serious crimes and are prosecuted in the sheriff before a sheriff and in district or justice of the peace courts before a justice of the peace (with a legally qualified clerk) or a stipendiary magistrate (legally qualified) (Glasgow only). In the vast majority of cases, it is the Scottish Legal Aid Board that takes the decision to grant summary

criminal legal aid.

Solemn criminal legal aid is available for solemn criminal procedure cases in the High Court on in the Sheriff Court (Sheriff and Jury). These are the more serious cases. At present, the courts decide whether an applicant should receive solemn legal aid, although the Board will take over this responsibility in early 2010.

Civil legal aid is available for representation by a solicitor and, where appropriate, by counsel in any proceedings covered by the Legal Aid (Scotland) Act 1986. It is available for categories such as contact/residence of children, divorce, reparation, judicial review.

Children's Legal Assistance covers cases under the Children (Scotland) Act 1995 which helps to make sure children are protected and supervised. It funds advice and assistance in relation to children's hearings and legal aid in associated court proceedings.

15) Is the public budget allocated to legal aid included in the court budget ?

Yes

No

16) Total annual approved public budget allocated to the public prosecution system (in €)

Please provide comments to explain the figure provided under question 16:

. Amount 129300000

Comment :

Revenue funding 116,535,824.42 and Capital Funding 6,599496.78

17) Is the budget allocated to the public prosecution included in the court budget?

Yes

No

18) Authorities formally responsible for the budget allocated to the courts:

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	Yes	Yes	No	Yes
Other ministry	No	No	No	No
Parliament	No	Yes	No	Yes
Supreme Court	No	No	No	No
Judicial Council	No	No	No	No
Courts	No	No	No	No
Inspection body	No	No	No	No
Other	Yes	No	Yes	Yes

19) If other Ministry and/or inspection body and/or other, please specify (in regards to question 18):

The overall budget for the Scottish Courts is set within the Scottish Government's Annual Budget which is submitted by Scottish Ministers to the Scottish Parliament for approval.

The Scottish Court Service Management Board makes representations to the Scottish Ministers about its budget requirements. Once the Budget is approved by Parliament, the Management Board has delegated

responsibility for the allocation of the total budget for the administrative costs of the Courts. Day to day management of expenditure lines is either managed centrally by the Court Service (e.g. for buildings/estates) or delegated to individual Courts.

The Scottish Court Service is responsible for the overseeing the efficient management of the overall administrative budget and reporting its financial performance within its Annual Report to Scottish Ministers and the Scottish Parliament. The Chief Executive has specific accountability to Parliament, as Accountable Officer, for ensuring the efficient and effective use of funds.

The Scottish Court Service Budget is subject to independent external audit by the Auditor General for Scotland.

The Budget for judicial salaries and certain other associated expenditure is managed separately by the Scottish Government.

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your budgetary system and the main reforms that have been implemented over the last two years
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process

Please indicate the sources for answering the questions 6, 8, 11, 12, 13, 14 and 16.

Information on Court costs is taken from the Scottish Government Budget documents and Scottish Court Service Annual Report / Audited Accounts.

2. Access to Justice and to all courts

2. 1. Legal aid

2. 1. 1. Principles

20) Does legal aid concerns:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	Yes	Yes
Other	No	No

21) If other, please specify (in regards to question 20):

22) Does legal aid foresee the covering or the exoneration of court fees?

- Yes
 No

If yes, please specify:

In civil cases, court fees, such as those for serving or lodging documents, are covered by legal aid. However the actual costs of the court are not.

23) Can legal aid be granted for the fees that are related to the execution of judicial decisions?

- Yes
 No

24) Number of cases granted with legal aid provided by (national, regional, local) public authorities (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Number
Total	308824
in criminal cases	193764
Other than criminal cases	115060

Comment :

Criminal cases: 193764 grants of criminal legal aid & ABWOR. This figure is made up of:

- 98217 grants of legal aid in summary cases (including ABWOR)
- 12410 grants of legal aid in solemn cases
- 1184 grants of automatic criminal legal aid
- 1783 grants of legal aid for an appeal
- 28785 grants of legal aid for Duty Solicitor (inc public defenders)

Other than crminal cases: 115060 grants of Civil Legal Aid – This figure is made up of:

- 10981 grants of civil legal aid
 - 4141 grants of ABWOR
- 89,571 grants of civil advice and assistance.

Children's Legal Aid: 4571 grants of legal aid & 4848 grants of advice and assistance

Contempt of Court: 597 grants of legal aid and 351 grants of advice and assistance and ABWOR.

Figures are at a National level. There are no regional or local legal aid authorities.

25) In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?

- Yes
 No

26) Does your country have an income and asset test for granting legal aid:

	Yes	Amount in €
for criminal cases	Yes	See below
for other than criminal cases?	Yes	See below

Comment :

The rules are different dependent on the type of legal assistance granted.

Advice and Assistance: A person's income and capital must be within the current financial limits. A person whose disposable capital exceeds the capital limit of €1809 (£1639) is not eligible for advice and assistance, whatever their disposable income or eligibility for state benefits. A person whose disposable income exceeds the limit of €258 (£234) a week is not eligible for advice and assistance, whatever their level of disposable capital, unless they are in receipt of certain state benefits - for example, income support. Disposable income is the total income an applicant and any partner has, from all sources, after deducting standard allowances. If the applicant's disposable income is between £101 and £234 per week, the applicant has to pay a contribution. It is the solicitor that grants advice and assistance and it is for the solicitor to decide whether they collect the contribution from the applicant.

Civil Legal Aid: To be eligible for civil legal aid, a person must have a disposable income of less than €27602 (£25000) a year. If the applicant has disposable income between £3356 and £25000, they will have a contribution to pay. A person must also have disposable capital of less than €13730 (£12439). If the applicant has disposable capital of between £7505 and £12439, they will have a contribution to pay.

Criminal Legal Aid: For summary criminal applications, an applicant's income and capital must be within the current financial limits. A person whose disposable capital exceeds the capital limit of €1809 (£1639) is not eligible for criminal legal aid. A person whose disposable income exceeds the limit of £211 a week is not eligible for criminal legal aid. However, after considering the financial circumstances of the accused person, the Board must be satisfied that the costs of the case cannot be met without undue hardship to him or his dependants. For solemn legal aid, there is one test. The court assesses whether, after consideration of the person's financial circumstances that the expenses of the case cannot be met without undue hardship to him or his dependants.

27) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?

- Yes
 No

Please provide comments to explain the answer under question 27:

Civil Legal Aid

As well as assessing a person’s financial means, the Board will also need to be satisfied that (a) it is reasonable to use public funds to support the case and (b) there is a legal basis to take forward the case. In considering whether it is reasonable to use public funds the Board will consider, for example:

- (i) The prospects of the person winning the case;
- (ii) Whether the right court is being used;
- (iii) Whether the person has fully considered other ways of sorting out the problem before seeking court action;
- (iv) Whether the proceedings are frivolous or vexatious.

Children’s Legal Aid

With regard to grants for Legal Aid to appeal to the Sheriff Principal or Court of Session against any decision of a Sheriff, the Board must be satisfied that there are substantial grounds to either make or respond to the appeal in question and whether the appeal is reasonable. Substantial grounds will include the point of law in question and/or the irregularity in the conduct of the case. In cases where it is the sheriff that takes the decision to grant legal aid, the sheriff considers the best interests of the child.

28) If yes, is the decision for granting or refusing legal aid taken by:

- the court?
- an authority external to the court?
- a mixed decision-making authority (court and external)?

29) Is there a private system of legal expense insurance enabling individuals to finance court proceedings?

- Yes
- No

Please specify:

People may have rights to indemnity under an insurance policy (legal expenses insurance, home insurance, motor insurance) or membership of a professional association or trade union. Solicitors in Scotland also operate ‘no win, no fee’ payment arrangements.

30) Do judicial decisions have an impact on who bears the legal costs which are paid by the parties during the procedure in:

	Yes (the decision has an impact on who bears the legal costs)
criminal cases?	No
other than criminal cases?	Yes

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

Question 30: A grant of Civil Legal Aid covers the fees and outlays of the solicitor and counsel acting for the assisted person. If the court awards expenses against an assisted person, they are personally liable for these. An assisted person found liable in expenses can apply to the court making the award for an order restricting their liability. This will be to an amount the court considers reasonable in all the circumstances of the case, having regard to the means of the parties and their conduct in the dispute. In many cases, the court will assess the assisted person’s liability at “nil”.

Key characteristic of legal aid in Scotland: It should be noted that legal aid in Scotland continues to be not cash limited and is being demand-led.

Main reforms in 2008-09

- Summary Justice Reform and summary criminal legal aid reform – the criminal justice system in Scotland underwent the largest and most far reaching reforms in a generation. The Board developed changes to the legal aid system for criminal cases to support the wider justice system reforms, such as the use of alternatives to prosecution, early effective preparation, early resolution of cases where appropriate and the intention to bring cases to court more quickly. The new criminal legal assistance system is settling down and appears to be having the desired effect.
- Quality assurance for criminal legal assistance – The Board worked with the Law Society of Scotland to develop a system for criminal legal assistance, similar to that already in place for civil legal assistance. This will be implemented at the end of 2009.
- Public Defenders – The Board employs 14 solicitors in the Public Defence Solicitors' Office. There is a small network of 7 offices. Scottish Ministers made a report to Parliament which concluded that the PDSO has demonstrated that the provision of publicly funded criminal legal assistance, by solicitors directly employed by the Board, is feasible and will continue.
- Extension of eligibility for civil legal aid - The Scottish Government increased the upper limit for disposable income from £10,306 to £25,000 and introduced a system of tapered contributions – an assisted person may pay a contribution of up to 100% of the cost of a case. This change will help those with expensive cases who previously would not have qualified for civil legal aid. The Board estimates that around three quarters of the adult population are now potentially financially eligible for civil legal aid.
- Online services – Legal Aid online allows solicitors to submit legal aid applications through a secure website. Around 70% of advice and assistance applications are completed this way. Civil and Criminal Legal Aid Online went live this year and there has been a very positive level of take-up from solicitors. Next year the Board will develop the system further to allow applicants to submit financial information online. By the end of 2010-11, the Board expects virtually all legal aid business with solicitors to be online.
- Tackling the economic downturn – To combat the economic downturn, the Scottish Government made an additional cash-limited £3 million available through the Board, over the next two year, to help provide legal advice and representation for people facing repossession and other problems such as debt. The Board launched a grant funding programme and is funding 16 projects across the country. The Board now also funds In-Court Advisers who are based in local courts and provide advice and mixture of lay and solicitor representation for those who cannot get help elsewhere. The Board has also response to unmet need for legal advice in particular areas of the country by employing civil solicitors to work directly for the Board.

Please indicate the sources for answering the questions 24 and 26

24. Scottish Legal Aid Board Annual Report 2008-2009 – available at www.slab.org.uk

26. Legal Aid Keycard – 7 April 2009 – available at www.slab.org.uk

2. 2. Users of the courts and victims

2. 2. 1. Rights of the users and victims

31) Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for the following, which the general public may have free of charge access to:

- | | | |
|--|---|---|
| <input type="checkbox"/> legal texts (e.g. codes, laws, regulations, etc.)?
Internet address(es): | <input checked="" type="checkbox"/> Yes | http://www.scotcourts.gov.uk/library/rules/index.asp
This only provides information on a selection of most used Rules of Court. It does not provide complete coverage of all Rules of Court |
| <input type="checkbox"/> case-law of the higher court/s? Internet address(es): | <input checked="" type="checkbox"/> Yes | http://www.scotcourts.gov.uk/opinionsApp/index.asp?txt=False |
| <input type="checkbox"/> other documents (for examples forms)? Internet address(es): | <input checked="" type="checkbox"/> Yes | http://www.scotcourts.gov.uk/library/rules/index.asp
This only provides information on a selection of most used Court Forms. It does not provide complete coverage of all Court forms |

32) Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?

Yes No

If yes, please specify:

33) Is there a public and free-of-charge specific information system to inform and to help victims of crimes? Yes No

If yes, please specify:

Victim Support Scotland provides free and confidential emotional support, practical help and essential information to victims, witnesses and others affected by crime.

The Victim Information and Advice Service of the Crown Office and Procurator Fiscal Service provides victims and witnesses of certain types of crime with a service as set out in <http://www.copfs.gov.uk/Resource/Doc/13545/0000086>.

The Scottish Government's Victims of Crime in Scotland website gives information about the criminal justice system as well as how to access help and advice and contains downloadable information for victims of crime.
<http://www.victimsofcrimeinscotland.org.uk/>

34) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

	Information mechanism	Hearing modalities	Procedural rights	Other
Victims of rape	No	No	No	No
Victims of terrorism	No	No	No	No
Children/Witnesses/Victims	Yes	No	Yes	No
Victims of domestic violence	No	No	No	No
Ethnic minorities	Yes	No	No	Yes
Disabled persons	Yes	Yes	No	Yes
Juvenile offenders	No	No	No	No
Other	No	No	No	No

Comment :

COPFS provides interpreting, translation and or transcription services to victims and witnesses who have limited or no English, who use sign language or who speak English as a second language but require assistance understanding legal procedures or terms used in court.

35) Does your country have a compensation procedure for victims of crimes? Yes No**36) If yes, does this compensation procedure consist in:** a public fund? a court decision? a private fund?

If yes, which kind of cases does this procedure concern?

The Criminal Injuries Compensation Scheme which is administered by the Criminal Injuries Compensation Authority, provides compensation for victims who have been physically or mentally injured as the result of a violent crime. www.cica.gov.uk

37) Are there studies to evaluate the recovery rate of the compensation awarded by courts to victims?

Yes

No

If yes, please specify:

The Scottish Court Service collects data on payment of Compensation Orders as part of its data on fines and publishes it quarterly. However this does not separate out the data on Compensation Orders from other court fines etc. More detail can be found at

<http://www.scotcourts.gov.uk/payyourfine/index.asp>

The most recent research into the use of compensation orders can be found at

<http://www.scotland.gov.uk/Publications/1998/12/7009834c-71d0-42b0-859f-d8bedd723a88>

38) Is there a specific role for the public prosecutor with respect to the (protection of the position and assistance of) victims?

Yes

No

If yes, please specify:

The Victim Information and Advice service, within the Crown Office and Procurator Fiscal Service provides information about case process and outcome of the case to the following:

- Victims or nearest relatives in all cases where the nature of the charge is indicative of solemn proceedings.
- The nearest relatives in cases involving deaths which are reported for consideration of criminal proceedings or where a Fatal Accident Inquiry is mandatory or where the Procurator Fiscal otherwise thinks it appropriate.
- Victims in cases of domestic assault.
- Victims in cases with a racial or religious aggravation and cases where it is known to the Procurator Fiscal that the victim perceived the offence to be motivated by racial or religious prejudice.
- All child victims and/or witnesses.
- Victims in cases involving sexual offences.

Any other victim or witness where the Procurator Fiscal and VIA agree that because of particular vulnerability the provisions of services would be beneficial

39) Do victims of crimes have the right to contest to a decision of the public prosecution to discontinue a case?

Yes

No

If yes, please specify:

2. 2. 2. Confidence of citizens in their justice system

40) Is there a system for compensating users in the following circumstances:

- excessive length of proceedings?
 non execution of court decisions?
 wrongful arrest?
 wrongful condemnation?

If yes, please specify (fund, daily tariff):

No - There is no formal process for compensating in the above circumstances, though claims may emanate from formal written complaints submitted to the relevant agency. There is no established daily tariff for such settlements. Liability and quantum are likely to be determined by legal advisors. Excessive length or delays in proceedings may also constitute an ECHR challenge.

41) Does your country have surveys aimed at users or legal professionals (judges, lawyers, officials, etc.) to measure their trust and/or satisfaction (with the services delivered by the judiciary system)?

- (Satisfaction) surveys aimed at judges
 (Satisfaction) surveys aimed at court staff
 (Satisfaction) surveys aimed at public prosecutors
 (Satisfaction) surveys aimed at lawyers
 (Satisfaction) surveys aimed at citizens (visitors of the court)
 (Satisfaction) surveys aimed at other clients of the courts

If possible, please specify their titles, how to find these surveys, etc:

Scottish Court Service Users Survey - annual

SCJS - covers victims of crimes, some of whom will be users and also general questions on perception of justice system. Scottish Court Service Users Survey – annual.

SCJS – covers victims of crimes, some of whom will be users and also general questions on perception of justice system. 08/09 results have been published and are available at: <http://www.scotland.gov.uk/Publications/2009/10/26114015/0>. The survey for 09/10 is in the field and will report in October 2010. A decision on future surveys has not been taken.

Scottish Legal Aid Board (Satisfaction) surveys aimed at lawyers National survey at a regular interval: every 2/3 years. 2009 survey currently ongoing and will be published in 2010.

Scottish Legal Aid Board (Satisfaction) aimed at citizens . National Survey at a regular interval: 2-3 years. 2009 Civil Applicant Survey will be published in November at: http://www.slab.org.uk/about_us/research/Stakeholderengagement.htm

Scottish Legal Aid Board and Consumer Focus Scotland 2009 Survey and interviews of Civil Sheriff Court Users. Not annual.
See: http://www.slab.org.uk/about_us/research/Stakeholderengagement.htm

42) If possible, please specify:

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	Yes	No
Surveys at court level	Yes	No

43) Is there a national or local procedure for making complaints about the functioning (for example the treatment of a case by a judge or the duration of a proceeding) of the judicial system?

Yes No**44) If yes, please specify:****Please give elements of information concerning the efficiency of this complaint procedure:**

	Time limit to respond (Yes)	Time limit for dealing with the complaint (Yes)
Court concerned	No	Yes
Higher court	No	Yes
Ministry of Justice	No	No
High Council of the Judiciary	No	No
Other external organisations (e.g. Ombudsman)	No	No

Comment :

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

45) Number of courts considered as legal entities (administrative structures) and geographic locations (please, complete the table. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation.

	Total number
First instance courts of general jurisdiction	72
Specialised first instance Courts (legal entities)	NA
All the Courts (geographic locations) * (this includes Supreme Courts and/or High Courts)	76

46) Please specify the different areas of specialisation (and, if possible, the number of courts concerned):

As regards locations of courts, the High Court (criminal) also sits in various Sheriff court buildings on circuit at various times of the year.

47) Is there a change in the structure in the courts foreseen (for example a reduction of the number of courts (geographic locations) or a change in the powers of courts)?

Yes

No

If yes, please specify:

The number of JP courts will increase, as two further sheriffdoms are due to unify existing District courts into JP courts, administered by the Scottish Court Service, early in 2010. District courts were previously managed by local authorities.

48) Number of first instance courts competent for a case concerning (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Number
a debt collection for small claims	49
a dismissal	NA
a robbery	50

Please specify what is meant by small claims in your country (answer only if the definition has been changed since the previous evaluation cycle):

In Scotland, a small claim is an action for payment of up to £3000 in value. The courts however do not enforce the decrees or collect the debts.

Please indicate the sources for answering the questions 45 and 48:

Scottish Court Service.

3. 1. 2. Judges, courts staff

49) Number of professional judges sitting in courts

(please give the information in full time equivalent and for permanent posts; if there is no data please indicate this with NA)

Please provide comments to explain the answer under question 49:

Number 181

Comment :

141 Sheriffs

34 Senators of the College of Justice

6 Sheriffs Principals

50) Number of professional judges sitting in courts on an occasional basis and who are paid as such:

	Number
gross figure	103
if possible, in full time equivalent	

51) Please provide comments to explain the answer under question 50:

78 Part-time Sheriffs

17 Temp Senators

8 Retired/Re-employed Senators

52) Is there in the legal system non-professional judges (including lay judges and excluding jurees) who are not remunerated but who can possibly receive a simple defrayal of costs? (Please indicate NA if no figures are available).

Please provide comments to explain the answer under question 52:

	Yes	Number
Do you have non-professional judges?	Yes	450

Comment :

We have the Office of Justices of the Peace which has existed for 400 years. Justices are lay members of the judiciary who sit in the JP courts and hear low level summary cases (e.g. road traffic offences) with a fairly limited range of disposals. Justices are not paid, however they do receive expenses. Justices must sit 12 times per year. The source of the above figures is the Scottish Government - Justices are appointed by Ministers.

53) Does your judicial system include trial by jury with the participation of citizens?

Yes

No

If yes, for which type of case(s)?

Juries are used in both the High Court and Sheriff Courts to hear evidence in cases involving serious criminal offences. In the High Court, this will include offences of murder, rape and serious assault.

Juries may also be empanelled in the Court of Session to determine awards in civil damages and defamation cases.

54) If possible, indicate the number of citizens who were involved in such juries for the year of reference?

NA

55) Number of non-judge staff who are working in courts (in full time equivalent and for permanent posts). Please indicate NA if no figures are available.

Please provide comments to explain the answer under question 55:

Number . 1329

Comment :

The total includes court staff in the High Court of Justiciary (criminal), Court of Session (civil), Sheriff Courts and Justice of the Peace Courts.

56) If possible, could you distribute this staff according to the 4 following categories. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).

- non-judge staff (Rechtspfleger or similar bodies), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal NA
- non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars NA
- staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management) NA
- technical staff NA

Comment :

57) If there are Rechtspfleger (or similar bodies) in your judicial system, please describe briefly their status and functions:

NA

[3. 1. 3. Prosecutors](#)

58) Number of public prosecutors (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).

Number . 440

Comment :

59) Do any other persons have similar duties as public prosecutors?

- Yes
 No

If yes, please specify:

60) Number of staff (non prosecutors) attached to the public prosecution service (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).

Please provide comments to explain the answer under question 60:

Number . 1092

Comment :

3. 1. 4. Court budget and new technologies

61) Who is entrusted with the individual court budget?

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	Yes	Yes	No	No
Court President	No	No	No	No
Court administrative director	No	No	Yes	No
Head of the court clerk office	No	No	Yes	No
Other	Yes	Yes	No	Yes

62) You can indicate below:

- any useful comments for interpreting the data mentioned above

- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process in the court

The overall budget for the Scottish Courts is set within the Scottish Government's annual budget, which is subject to approval by the Scottish Parliament.

Once the budget is approved, the Scottish Court Service Management Board has delegated responsibility for the allocation of the total budget for the administrative costs of the courts. Day to day management of expenditure is either managed centrally by the Scottish Court Service or delegated to individual courts.

The Scottish Court Service is responsible for overseeing the efficient management of the overall admin budget as well as reporting its financial performance within an annual report to the Scottish Ministers and the Scottish Parliament. As Accountable Officer, the Chief Executive has specific accountability to Parliament, for ensuring the efficient and effective use of funds.

The Scottish Court Service Budget is subject to independent external audit by the Auditor General for Scotland.

The budget for judicial salaries and certain other associated expenditure is managed separately by the Scottish Government.

63) For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Word processing	Yes	No	No	No
Electronic data base of jurisprudence	Yes	No	No	No
Electronic files	Yes	No	No	No
E-mail	Yes	No	No	No
Internet connection	Yes	No	No	No

64) For administration and management, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Case registration system	Yes	No	No	No
Court management information system	Yes	No	No	No
Financial information system	Yes	No	No	No

65) For the communication between the court and the parties, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic web forms	Yes	No	No	No
Special Website	Yes	No	No	No
Other electronic communication facilities	Yes	No	No	No

66) Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

Yes

No

If yes, please specify the name and the address of this institution:

The Scottish Court Service
 Management Information Team
 Saughton House
 Broomhouse Drive
 Edinburgh
 EH11 3XD

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your judicial system and the main reforms that has been implemented over the last two years

3. 2. Monitoring and evaluation

3. 2. 1. Monitoring and evaluation

67) Are the courts required to prepare an annual activity report?

Yes

No

68) Do you have a regular monitoring system of court activities concerning the

- number of incoming cases?
- number of decisions?
- number of postponed cases?
- length of proceedings (timeframes)?
- other?

Please specify:

Regular management information is collected and compiled on a monthly basis from all courts.

The information is collected using two centralised computer systems. One for civil statistics and one for criminal statistics.

69) Do you have a regular system to evaluate the performance of each court?

Yes

No

Please specify:

The Scottish Court Services Performance Framework is set out in its current 3 year Corporate Plan (2008-2011) and annual Business Plans. These can be accessed through the Court Service web site:

<http://www.scotcourts.gov.uk/docs/report/SCS%20Business%20Plan%202009-10.pdf>

The Performance Framework includes both Court Performance Indicators for different types of courts and specific Service Delivery Targets for specific procedures:

Court Performance Indicators

- Waiting period for criminal appeals to the High Court
- Waiting period for civil appeals to the Court of Session
- Waiting period for hearing civil cases in Sheriff Courts
- Waiting period for personal injury cases in the Court of Session
- High Court case progress:
 - average no. of preliminary hearings per case
 - % of cases with time bar extensions
 - average no. of trial adjournments
- Summary Justice Reform
- effectiveness of fines enforcement
- Court contribution Justice system target for % of criminal cases dealt with within 26 weeks

Service Delivery Targets

- Prepare 95% of final decrees pursuer undefended in ordinary actions and simplified divorce actions in the Sheriff Courts within 1 day.
- Process 95% of ordinary divorce cases within 5 days.
- Process 95% of civil actions to the Court of Session within 1 day.
- Issue 95% of extract decrees within 3 days.
- Complete 95% of post-court procedures in Sheriff Court criminal cases within 1 working day.
- Pay 95% of juror expenses claims within 2 working days of claim acceptance.
- Issue confirmation within 3 working days of acceptance of competent commissary inventories in 95% of cases.
- Process 95% of applications for Power of Attorney within 12 working days of receipt.

70) Concerning court activities, have you defined performance indicators (if no, go to question 72)?

Yes

No

71) Please select the 4 main performance and quality indicators that is used for a proper functioning of courts:

- incoming cases
- length of proceedings (timeframes)
- closed cases
- pending cases and backlogs

- productivity of judges and court staff
- percentage of cases that are treated by a single sitting judge
- enforcement of penal decisions
- satisfaction of employees of the courts
- satisfaction of clients (regarding the services delivered by the courts)
- judicial quality and organisational quality of the courts
- costs of the judicial procedures
- other:

Please specify:

In addition to the Scottish Court Service Performance Framework, the organisation also undertakes regular Employee Satisfaction and Court User Satisfaction surveys. Links to the most recent publications are available on the Scottish Court Service web site:
Court User Satisfaction Survey 2008

<http://www.scotcourts.gov.uk/docs/report/ExternalVersionofHRAnnualScorecardTemplateasat31March.pdf>

72) Are there performance targets defined for individual judges (if no go to question 74) ?

- Yes
- No

73) Please specify who is responsible for setting the targets:

- executive power (for example the ministry of Justice)?
- legislative power
- judicial power (for example a High Judicial Council or a Higher Court
- other

If other, please specify:

NAP

74) Are there performance targets defined at the level of the courts (if no go to question 77)?

- Yes
- No

75) Please specify who is responsible for setting the targets:

- executive power (for example the ministry of Justice)?
- legislative power
- judicial power (for example a High Judicial Council or a Higher Court)
- other

If other, please specify:

Performance targets and indicators within the Scottish Court Service Performance Framework are currently determined by the Management Board and agreed with the judiciary and then approved formally by Scottish Ministers.

76) Please specify the main targets applied

Targets are set out in the Scottish Court Service Performance Framework

77) Which authority is responsible for the evaluation of the performances of the courts:

- High Council of judiciary
- Ministry of justice
- inspection authority
- Supreme Court
- external audit body
- other

If other, Please specify:

The Lord President of the Court of Session and Sheriffs Principal oversee the efficient operation of the Courts.

The Scottish Court Service Board is responsible for the day to day monitoring and evaluation of the administrative performance of the Court Service and for reporting that performance in its Annual Report to Scottish Ministers and to the Scottish Parliament.

78) Are there quality standards (organisational quality and/or judicial quality policy) formulated for the courts (existence of a quality system for the judiciary)?

- Yes
- No

If yes, please specify:

Two Rules Councils (Sheriff Courts, Court of Session) prepare rules designed to regulate and prescribe procedures and practices of the civil courts. The draft rules must be approved by the Court of Session. There is a separate Rules Council for Criminal Courts.

Quality standards for the administration of the Courts are set out in the Scottish Court Service Performance Framework (see question 69).

79) Do you have specialised court staff which is entrusted with quality policy and/or quality systems for the judiciary?

- Yes
- No

80) Is there a system which measures the backlogs and which detects the cases not processed within a reasonable timeframe for:

- civil cases?
- criminal cases?
- administrative cases?

81) Do you have a way of analysing waiting time during court procedures?

- Yes
- No

If yes, please specify:

82) Is there a system to evaluate the functioning of courts on the basis of an evaluation plan (timetable for visits) agreed a priori?

Yes

No

Please specify (including an indication of the frequency of the evaluation):

83) Is there a system for monitoring and evaluating the functioning of the prosecution services?

Yes

No

If yes, please specify:

The Inspectorate of Prosecution in Scotland (IPS) is the independent inspectorate for the Crown Office and Procurator Fiscal Service, which is the sole prosecuting authority in Scotland and also responsible for investigating sudden deaths and complaints against the Police, which are of a criminal nature

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your court monitoring and evaluation system**

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

84) What is the percentage of judgements in first instance criminal cases in which the suspect is not attending in person or not represented by a legal professional (i.e. lawyer) during a court session (in absentia judgements)? If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).

NA

85) Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?

- Yes
 No

If possible, number of successful challenges (in a year):

86) Please give the following data concerning the number of cases regarding Article 6 of the European Convention of Human Rights (on duration and non-execution), for the year of reference. If there is no data available, please indicate it (NA).

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	NA	NA	NA	NA
Civil proceedings - Article 6§1 (non-execution)	NA	NA	NA	NA
Criminal proceedings - Article 6§1 (duration)	NA	NA	NA	NA

4. 2. Timeframes of proceedings

4. 2. 1. General information

87) Are there specific procedures for urgent matters as regards:

- civil cases?
 criminal cases?
 administrative cases?

Please specify:

Procedures exist to enable a judge to make an interim order e.g. decision on the care for a child or where an order is sought to prevent some action taking place (interdict). The period of notice for intimation can be reduced in certain circumstances to enable cases to call before the court at an earlier stage.

Procedures also exist to enable urgent applications for child protection orders to be considered by the court outwith normal working hours.

88) Are there simplified procedures for:

- civil cases (small claims)?
 criminal cases (petty offences)?
 administrative cases?

Please specify (for example if you have introduced a new law on simplified procedures):
 For some years there have been provisions for simplified processes in relation to Small Claim and Summary Cause civil actions. This enables actions to be raised by litigants without the involvement of legal agents. Court staff provide advice and assistance in relation to procedural aspects.
 There are also simplified procedures for non-litigious divorce actions where ancillary matters are agreed between parties. Court staff provide procedural advice and intimation services.
 Since 2008 prosecutors have enhanced powers to offer financial penalties including compensation and unpaid work orders as alternatives to prosecution and court proceedings. Accused persons can opt out of this process and have their day in court.

89) Do courts and lawyers have the possibility to conclude agreements on the modalities for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?

Yes

No

If yes, please specify:

Generally speaking court procedure is set down either by legislation and Rules or determined by the court itself in consultation with the parties to the action.
 A few courts in Scotland conduct commercial courts for actions of a commercial nature between companies in which procedures can be less formal and processes and timelines etc. agreed with the judge by way of email or telephone call.

4. 2. 2. Penal, civil and administrative law cases

90) Total number of cases in the first instance courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non litigious)*	NA	165500	NA	NA
1 Civil (and commercial) litigious cases*	NA	NA	NA	NA
2 Civil (and commercial) non-litigious cases*	NA	NA	NA	NA
3 Enforcement cases	NA	NA	NA	NA
4 Land registry cases**	NA	NA	NA	NA
5 Business register cases**	NA	NA	NA	NA
6 Administrative law cases	NA	NA	NA	NA
7 Other	NA	NA	NA	NA
Total criminal cases (8+9)	NA	112804	133076	NA
8 Criminal cases (severe criminal offences)	NA	6130	46785	NA
9 Misdemeanour and / or minor offences cases	NA	106674	86291	NA

91) Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases - definition of misdemeanour cases, minor offences and severe criminal cases):

Severe criminal count is those cases raised on indictment in solemn proceedings – e.g. murder, rape, serious fraud, serious assault and serious drug offences.

The remainder under section 9 are less serious assaults, theft, drug offences, road traffic, minor breaches of the peace and other lesser statutory contraventions.

92) Total number of cases in the second instance (appeal) courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations).

*** Please indicate (in the comments below) which types of cases are included in the total figures of civil, commercial and administrative law cases.**

**** if applicable**

Please check the consistency of data as mentioned under question 91.

Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases and possibly the existence of appeal rates for some case categories):

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non-litigious)*	NA	215	130	NA
1 Civil (and commercial) litigious cases*	NA	215	130	NA
2 Civil (and commercial) non-litigious cases*	NSP	NAP	NAP	NAP
3 Enforcement cases	NA	NA	NA	NA
4 Land registry cases**	NAP	NAP	NAP	NAP
5 Business register cases**	NAP	NAP	NAP	NAP
6 Administrative law cases	NA	NA	NA	NA
7 Other	NAP	NAP	NAP	NAP
Total criminal cases (8+9)	NA	2347	2254	NA
8 Criminal cases (Severe criminal offences)	NA	786	1397	NA
9 Misdemeanour and/or minor offences cases	NA	1561	834	NA

Comment :

Civil appeal cases include appeals from the local sheriff courts, tribunals and a range of statutory appeals e.g. asylum & immigration, planning etc

93) Total number of cases in the highest instance courts (litigious and non-litigious): please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

*** Please indicate (in the comments below) which types of cases are included in the total figures of civil, commercial and administrative law cases.**

**** if applicable**

Please check the consistency of data as mentioned under question 88.

Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and on possible limitations to the appeal to the highest instance court):

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases* (litigious and non-litigious)	NA	3904	3385	NA
1 Civil (and commercial) litigious cases*	NA	3904	3385	NA
2 Civil (and commercial) non-	NAP	NAP	NAP	NAP

litigious cases*				
3 Enforcement cases	NAP	NAP	NAP	NAP
4 Land registry cases**	NAP	NAP	NAP	NAP
5 Business register cases**	NAP	NAP	NAP	NAP
6 Administrative law cases	NA	2058	2214	NA
7 Other	NAP	NAP	NAP	NAP
Total criminal cases (8+9)	NA	951	804	NA
8 Criminal cases (severe criminal offences)	NA	NA	NA	NA
9 Misdemeanour cases (minor offences)	NA	NA	NA	NA

Comment :

Administrative law cases include judicial review, company insolvency, trusts, enforcement of foreign judgments etc. Civil and commercial cases include family, commercial, personal injury and other ordinary disputes.

94) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by first instance courts: please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Jan. '08
Litigious divorce cases*	NA	5427	NA	NA
Employment dismissal cases*	NA	NA	NA	NA
Robbery cases	NA	NA	539	NA
Intentional homicide	NA	NA	129	NA

95) Average length of proceeding (from the date of lodging of court proceedings) in days, number of pending cases more than 3 years and percentage of cases subject to appeal: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 92:

	% of decisions subject to appeal	% pending cases more than 3 years	1st instance (average length)	2d instance (average length)	Total procedure (average total length)
Litigious divorce cases*	NA	NA	NA	NA	NA
Employment dismissal cases*	NA	NA	NA	NA	NA
Robbery cases	NA	NA	NA	NA	NA
Intentional homicide	NA	NA	NA	NA	NA

Comment :

NAP

96) Where appropriate, please specify the specific procedure as regards (litigious and non-litigious) divorce:

NAP

97) How is the length of proceedings calculated for the four case categories? Please give a description of the calculation method.

NAP

98) Please describe the role and powers of the prosecutor in the criminal procedure (multiple options are possible):

- to conduct or supervise police investigation
- to conduct investigation
- when necessary, to demand investigation measures from the judge
- to charge
- to present the case in the court
- to propose a sentence to the judge
- to appeal
- to supervise enforcement procedure
- to end the case by dropping it without the need for a judicial decision
- to end the case by imposing or negotiating a penalty without a judicial decision
- other significant powers

Please specify:

99) Does the prosecutor also have a role in civil and/or administrative cases?

- Yes
- No

Please specify:

The Crown Office and Procurator Fiscal Service (COPFS) is responsible for the prosecution of crime in Scotland, the investigation of sudden or suspicious deaths, and the investigation of complaints against the police. Some of the case load deals with civil recovery of the proceeds of crime.

In Scots law, ownerless goods fall to the Crown, whose representative in Scotland is the Queen's & Lords Treasurers Rememberancer. The expression is applied within the QLTR Unit to the assets of dissolved companies, the assets of missing persons and lost or abandoned property. The realised value of such assets is paid by the QLTR into the Scottish Consolidated Fund for use of the Scottish Executive on behalf of the people of Scotland.

The Crown has a right to Treasure Trove. It is exercised by the QLTR whose local representative for this purpose is the Procurator Fiscal. There is no statutory definition of Treasure Trove, but it may be described as a "portable antiquity" - and can cover virtually anything (stone, wood, metal, woven material) which has been taken out of the ground and which is thought, on the basis of its age or rarity, worth preserving for the nation.

Where a person dies intestate (ie does not leave a Will) and either has no blood relative or none who can be easily traced, the estate both moveable and heritable (i.e. cash, shares, pension etc and land or buildings), is claimed for the Crown by the QLTR as ultimus haeres (ultimate heir). Those assets are ingathered by the QLTR Unit and, after the deceased person's debts including the funeral account have been paid, the remainder falls to the QLTR. As explained below, however, heirs often do later appear and, provided they prove relationship, the net assets of the estate can be paid to them.

100) Functions of the public prosecutor in relation to criminal cases – please complete this table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 100 and indicate in particular if the data given include traffic offences:

	Received by the public prosecutor	Discontinued by the public prosecutor	Discontinued by the public prosecutor	Discontinued by the public prosecutor	Concluded by a penalty, imposed or	Charged by the public prosecutor
--	-----------------------------------	---------------------------------------	---------------------------------------	---------------------------------------	------------------------------------	----------------------------------

		because the offender could not be identified	due to the lack of an established offence or a specific legal situation	for reason of opportunity	negotiated by the public prosecutor	before the courts
Total number of 1st instance criminal cases	284859	NAP	3603 Note 1	NAP	61451 Note 2	NAP

Comment :

Note 1: This relates to the number of cases closed as “Not a Crime” ie where the facts provable by sufficient admissible and reliable evidence do not disclose a crime known to the law of Scotland.

Note 2: This relates to the number of cases closed as a paid Fiscal Fine or Conditional Offer (Road Traffic etc offence) - ie no co-accused in the case was subject of court proceedings of any kind.

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years**

Please indicate the sources for answering the questions 90 to 95 and 100:

Crown Office and Procurator Fiscal Service

5. Career of judges and prosecutors

5. 1. Appointment and training

5. 1. 1. Recruitment, nomination and promotion

101) How are judges recruited?

- Through a competitive exam (for instance after a law degree)?
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

Other, please specify:

102) Are judges initially/at the beginning of their carrier recruited and nominated by:

- An authority composed of judges only?
- An authority composed of non-judges only?
- An authority composed of judges and non-judges?

103) Is the same authority competent for the promotion of judges?

- Yes
- No

If no, please specify which authority is competent for the promotion of judges:
Senators who move from the Outer House to the Inner House are selected by the Lord President. All other elevations are dealt with by the Judicial Appointments Board as a normal recruitment exercise.

104) Which procedures and criteria are used for promoting judges? Please specify.

Normally done by seniority date

105) How are prosecutors recruited?

- Through a competitive exam? (for example after a law degree)
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

Other, please specify:

106) Are prosecutors initially/at the beginning of their carrier recruited and nominated by:

- An authority composed of prosecutors only?
- An authority composed of non-prosecutors only?
- An authority composed of prosecutors and non-prosecutors?

107) Is the same authority formally responsible for the promotion of prosecutors?

- Yes
- No

If no, please specify which authority is competent for promoting prosecutors:

108) Which procedures and criteria are used for promoting prosecutors? Please specify:

Competency based assessment of suitability to perform at the higher level

109) Is the mandate given for an undetermined period for judges?

- Yes
- No

Are there exceptions? Please specify:

110) Is there a probation period for judges? If yes, how long is this period?

	Yes	Duration of the probation period (in years)
Probation period for judges	NAP	NAP

111) Is the mandate given for an undetermined period for prosecutors?

- Yes
- No

Are there exceptions? Please specify:

112) Is there a probation period for prosecutors? If yes, how long is this period?

	Yes	Duration of the probation period (in years)
Probation period for prosecutors	Yes	12 Months

113) If the mandate for judges/prosecutors is not for an undetermined period, what is the length of the mandate? Is it renewable?

Please specify the length

- for judges? Yes
- for prosecutors? Yes

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of the selection and nomination procedure of judges and prosecutors and the main reforms that have been implemented over the last two years

5. 1. 2. Training

114) Nature of the training of judges. Is it compulsory?

- Initial training
- General in-service training
- In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)
- In-service training for management functions of the court (e.g. court president)
- In-service training for the use of computer facilities in the court)

115) Frequency of the training of judges

	Annual	Regular	Occasional
Initial training	No	Yes	No
General in-service training	No	Yes	No
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	No	Yes	No
In-service training for management functions of the court (e.g. court president)	No	Yes	No
In-service training for the use of computer facilities in the court	No	Yes	No

116) Nature of the training of prosecutors. Is it compulsory?

- Initial training
- General in-service training
- Specialised in-service training (specialised public prosecutor)
- In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)
- In-service training for the use of computer facilities in the public prosecution service)

117) Frequency of the training of prosecutors

	Annual	Regular	Occasional
Initial training	No	Yes	No
General in-service training	No	Yes	No
Specialised in-service training (specialised public prosecutor)	No	Yes	No
In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)	No	Yes	No
In-service training for the use of computer facilities in the public prosecution service)	No	Yes	No

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- comments regarding the attention given in the curricula to the European Convention on Human Rights and the case law of the Court
- the characteristics of your training system for judges and prosecutors and the main reforms that has been implemented over the last two years

In respect of training, the services' learning and development, have a calendar of training which is available to staff covering mandatory training for new legal staff in the core legal courses and in Diversity Awareness for all staff. The majority of management and legal training is elective and attendance of participants is role dependant. For specific legal training in respect of specialised areas of legal practice such as Human Rights and Case Law, again this would be elective. For changes in legislation or legal practice, staff would be identified to undertake mandatory programmes of training, again the level of intervention would be role dependant.

5. 2. Practice of the profession

5. 2. 1. Salaries

118) Salaries of judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 118:

	Gross annual salary (€)	Net annual salary (€)
First instance professional judge at the beginning of his/her career	128296	
Judge of the Supreme Court or the Highest Appellate Court	214165	
Public prosecutor at the beginning of his/her career	28665	
Public prosecutor of the Supreme Court or the Highest Appellate Instance	88845	

Comment :

Sheriff - 128,296 gross

Sheriff Principal - 138,548 gross

Outer House Senator - 172,753 gross

Inner House Senator - 196,707 gross

Lord Justice Clerk - 206,857 gross

Lord President - 214,165 gross

119) Do judges and public prosecutors have additional benefits?

	Judges	Public prosecutors
Reduced taxation	No	No
Special pension	Yes	No
Housing	No	No
Other financial benefit	No	No

120) If other financial benefit, please specify:

NAP

121) Can judges combine their work with any of the following other functions ?

	Yes with remuneration	Yes without remuneration	No
Teaching	No	No	Yes
Research and publication	Yes	No	No
Arbitrator			

	No	Yes	No
Consultant	No	No	Yes
Cultural function	No	No	Yes
Other function	No	No	Yes

122) If other function, please specify:

123) Can prosecutors combine their work with any of the following other functions ?

	Yes with remuneration	Yes without remuneration	No
Teaching	No	Yes	No
Research and publication	Yes	No	No
Arbitrator	No	No	No
Consultant	No	No	Yes
Cultural function	No	No	Yes
Other function	No	No	Yes

124) If other function, please specify:

125) Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?

Yes

No

If yes, please specify:

Please indicate the source for answering the question 118

5. 2. 2. Disciplinary procedures

126) Which authority is authorized to initiate disciplinary proceedings against judges and/or prosecutors? Please specify:

Judges - The First Minister

Prosecutors - Crown Office and Procurator Fiscal Servie or the Law Society of Scotland

127) Which authority has the disciplinary power on judges and prosecutors? Please specify:

Judges - The Lord President

Prosecutors - Crown Office and Procurator Fiscal Servie or the Law Society of Scotland

128) Number of disciplinary proceedings initiated against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 128:

	Judges	Prosecutors
--	--------	-------------

Total number (1+2+3+4)		2
1. Breach of professional ethics	NA	NA
2. Professional inadequacy	NA	1
3. Criminal offence	NA	1
4. Other	NA	NA

Comment :

Number of disciplinary proceedings against Judges - this data is not available at this time.

129) Number of sanctions pronounced against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 129

	Judges	Prosecutors
Total number (total 1 to 9)		6
1. Reprimand	NA	5
2. Suspension	NA	1
3. Withdrawal of cases	NA	NA
4. Fine	NA	NA
5. Temporary reduction of salary	NA	NA
6. Degradation of post	NA	NA
7. Transfer to another geographical (court) location	NA	NA
8. Dismissal	NA	NA
9. Other	NA	

Comment :

Number of sanctions against Judges - this data is not available at this time.

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system concerning disciplinary procedures for judges and prosecutors and the main reforms that have been implemented over the last two years

Internal investigation would be conducted which may lead to disciplinary sanction. The Law Society would ultimately determine whether a lawyer was a fit and proper person to hold that office.

6. Lawyers

6. 1. Statute of the profession

6. 1. 1. Profession

130) Total number of lawyers practising in your country. If there is no data available, please indicate it (NA).

10521

131) Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court? If no go to question 133.

- Yes
 No
 Not applicable

132) Number of legal advisors. If there is no data available, please indicate it (NA)

10243

133) Do lawyers have a monopoly of representation in (multiple options are possible):

- Civil cases*?
 Criminal cases - Defendant*?
 Criminal cases - Victim*?
 Administrative cases*?

* If appropriate, please specify if it concerns first instance and appeal. And in case there is no monopoly, please specify the organisations or persons which may represent a client before a court (for example a NGO, family member, trade union, etc) and for which types of cases:

Civil cases - patent attorneys have rights of audience in Scotland

134) Is the lawyer profession organised through?

- a national bar?
 a regional bar?
 a local bar?

Please specify:

Please indicate the source for answering the questions 130 and 132:

Law Society of Scotland

6. 1. 2. Training

135) Is there a specific initial training and/or examination to enter the profession of lawyer?

- Yes
 No

136) Is there a mandatory general system for lawyers requiring continuing professional

training? Yes No**137) Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?** Yes No

If yes, please specify:

The Law Society of Scotland Accreditation Panels

6. 1. 3. Fees

138) Can users establish easily what the lawyers' fees will be? Yes No

Please provide comments to explain the answer under question 138

At the beginning of a transaction, Solicitors are obliged to provide their clients with a term of engagement letter which should include an estimate of costs.

139) Are lawyers fees regulated by law? regulated by Bar association? freely negotiated?

Please provide comments to explain the answer under question 139:

The Law Society of Scotland used to produce a table of fees but it was abolished after it was found to be anti-competitive.

6. 2. Evaluation

6. 2. 1. Complaints and sanctions

140) Have quality standards been formulated for lawyers? Yes No**141) If yes, who is responsible for formulating these quality standards:** the bar association? the legislature? other?

Please specify (including a description of the quality criteria used):

The Law Society of Scotland

142) Is it possible to complain about

- the performance of lawyers?
 the amount of fees?

Please specify:

It is possible to complain about the performance of lawyers to the Scottish Legal Complaints Commission. They will investigate complaints relating to the service given by a solicitor and they will refer any conduct matters to The Law Society of Scotland to investigate.

It is not possible to complain about the amount of fees, but it is possible to have an account independently evaluated by the auditor of court.

143) Which authority is responsible for disciplinary procedures

- the judge?
 the Ministry of justice?
 a professional authority or other?

Please specify:

The Scottish Legal Complaints Commission for procedures relating to inadequate professional service; The Law Society of Scotland for procedures relating to unsatisfactory legal conduct; The Scottish Solicitors' Discipline Tribunals, which was established by statute, for more serious conduct matters.

144) Disciplinary proceedings initiated against lawyers: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 141:

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number	104	478	2	269

Comment :

145) Sanctions pronounced against lawyers : please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 145:

	Reprimand	Suspension	Removal	Fine	Other
Annual number	37	2	1	16	NAP

Comment :

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
 the characteristics of your system concerning the organisation of the Bar and the main reforms that have been implemented over the last two years

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

7. 1. 1. Mediation

146) Does the legal system provide for mediation procedures? If no go to question 151

- Yes
 No

147) If applicable, please specify, by type of cases, the organisation of mediation

	Possibility for private mediation proposed by the judge or court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Prosecutor
Civil and commercial cases	Yes	Yes	No	No	No
Family law cases (ex. Divorce)	Yes	Yes	No	No	No
Administrative cases	Yes	Yes	No	No	No
Employment dismissals	Yes	Yes	No	No	No
Criminal cases	No	No	No	No	No

148) Is there a possibility to receive legal aid for mediation procedures?

- Yes
 No

If yes, please specify:

149) Number of accredited mediators. If there is no data available, please indicate it (NA)

NA

150) Please Indicate the total number of judicial mediation procedures per case category. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

civil cases?	NA
family cases?	NA
administrative cases?	NA
employment dismissals?	NA
criminal cases?	NAP

Please indicate the source for answering the question 150:

Local knowledge. ADR is not embedded in the legal process, however, it is possible to use it as indicated above

7. 1. 2. Other forms of alternative dispute resolution

151) Can you give information concerning other forms of alternative dispute resolution (e.g. arbitration, conciliation)? Please specify:

Use of forms of ADR is acceptable but not built into our legal system. An Arbitration Bill is being

introduced which will reform and modify the law on Arbitration to make it more attractive for businesses to use Arbitration as a method of resolving their disputes. But, it will not make the use of Arbitration compulsory. Exact information on how often other forms of ADR are used in Scotland, is not available, because most of it will be conducted outwith the legal system.

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years**

ADR is available and the Judges are free to suggest to parties that they may wish to consider ADR to resolve their dispute, but it goes no further than that. There is no 'system' of ADR as such.

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

152) Do you have in your system enforcement agents (judicial officers)? If no go to question 154

- Yes
 No

153) Number of enforcement agents. If there is no data available, please indicate it (NA).
NA

154) Are enforcement agents (multiple options are possible):

- judges?
 bailiff practising as private profession ruled by public authorities?
 bailiff working in a public institution?
 other enforcement agents?

Please specify their status and powers:

Please see rules of court on the website at www.scotcourts.gov.uk

155) Is there a specific initial training or examination to enter the profession of enforcement agent?

- Yes
 No
 Not applicable

156) Is the profession of enforcement agent organised by?

- a national body?
 a regional body?
 a local body?
 not applicable

157) Can users establish easily what the fees of the enforcement agents will be?

- Yes
 No
 Not applicable

158) Are enforcement fees:

- regulated by law?
 freely negotiated?
 not applicable

Please indicate the source for answering the question 153:

NA

8. 1. 2. Supervision

159) Is there a body entrusted with the supervision and the control of the enforcement agents?

- Yes
 No
 Not applicable

160) Which authority is responsible for the supervision and the control of enforcement agents:

- a professional body?
 the judge?
 the Ministry of justice?
 the prosecutor?
 other?

Please specify:
Advisory Council

161) Have quality standards been formulated for enforcement agents?

- Yes
 No
 Not applicable

If yes, who is responsible for formulating these quality standards and what are the quality criteria used?

162) Is there a specific mechanism for executing court decisions rendered against public authorities, including the follow up to this execution?

- Yes
 No

if yes, please specify

163) Is there a system for monitoring the execution?

- Yes
 No

If yes, please specify

8. 1. 3. Complaints and sanctions

**164) What are the main complaints of users concerning the enforcement procedure?
Please indicate a maximum of 3.**

- no execution at all?
 non execution of court decisions against public authorities?
 lack of information?
 excessive length?
 unlawful practices?
 insufficient supervision?
 excessive cost?
 other?

Please specify:

165) Has your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?

- Yes
 No

If yes, please specify:

Establishment of Advisory Council

166) Is there a system measuring the timeframes of the enforcement of decisions :

- for civil cases?
 for administrative cases?

167) As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court sits:

- between 1 and 5 days
 between 6 and 10 days
 between 11 and 30 days
 more

If more, please specify

168) Number of disciplinary proceedings initiated against enforcement agents. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Total number of disciplinary proceedings	NA
for breach of professional ethics	NA
for professional inadequacy	NA
for criminal offence	NA
Other	NA

169) Number of sanctions pronounced against enforcement agents. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Total number of sanctions	NA
Reprimand	NA
Suspension	NA
Dismissal	NA
Fine	NA
Other	NA

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your enforcement system of decisions in civil matters and the main reforms that has been implemented over the last two years**

There is no system for measuring timeframes relating to questions 166/167.

Please indicate the source for answering the questions 167, 168 and 169:

8. 2. Execution of decisions in criminal matters

8. 2. 1. Functioning

170) Is there a judge who is in charge of the enforcement of judgments?

- Yes
 No

If yes, please specify his/her functions and activities (e.g. Initiative or control functions). If no, please specify which authority is entrusted with the enforcement of judgements (e.g. prosecutor):

Court Staff. And, with effect from 2008, dedicated fines enforcement teams take enforcement action supported by judicial order where appropriate.

171) As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?

- Yes
 No

If yes, please specify:

The Scottish Government has commissioned an independent external evaluation of the reforms to fines enforcement. The team was appointed in 2009 and is due to report in 2011. In addition, the recovery rate is monitored by the Scottish Court Service, who will publish quarterly reports on fines from November 2009. These will appear on the Scottish Court Service website at www.scotcourts.gov.uk

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your enforcement system of decisions in criminal matters and the main reforms that have been implemented over the last two years**

The introduction of fines enforcement officers and additional sanctions such as deductions from benefits, seizure of vehicles and arrestment of wages, was brought about in March 2008 by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. This amended existing fines enforcement provisions in the Criminal Procedure (Scotland) Act 1995.

9. Notaries

9. 1. Statute

9. 1. 1. Functioning

172) Do you have notaries in your country? If no go to question 177

- Yes
 No

173) Is the status of notaries (if the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations):

a private one (without control from public authorities)?		NAP
a status of private worker ruled by the public authorities?		NAP
a public one?	<input type="checkbox"/> number	NA
other?		NAP

Comment :

It is a public office. To be a notary public you have to be a solicitor with a current practising certificate. Therefore, all public notaries are solicitors, although not all solicitors are notary public.

Number is not available at this time.

174) Do notaries have duties:

- within the framework of civil procedure?
 in the field of legal advice?
 to authenticate legal deeds?
 other?

Please specify:

Please indicate the source for answering the question 173

Law Society of Scotland

9. 1. 2. Supervision

175) Is there an authority entrusted with the supervision and the control of the notaries?

- Yes
 No

176) Which authority is responsible for the supervision and the control of the notaries:

- a professional body?
 the judge?
 the Ministry of justice?
 the prosecutor?

other?

not applicable

Please specify:

The responsibility for admission and registration of notaries lies with the Council of the Law Society of Scotland under the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your system of notaries and the main reforms that have been implemented over the last two years**

10. Court interpreters

10. 1. function

10. 1. 1. Statute

177) Is the title of court interpreter protected?

- Yes
 No

178) Is the function of court interpreter regulated?

- Yes
 No

179) Number of certified court interpreters. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations

NA

180) Are there binding provisions regarding the quality of court interpreting in judicial proceedings?

- Yes
 No

If yes, please specify:

181) Are the courts responsible for the selection of court interpreters?

- Yes
 No

Please provide comments to explain the answers to question 178 (in particular, if no, which authority selects court interpreters?) :

Courts arrange for the attendance of interpreters to protect the interests of the accused person, procured via private sector agencies. (The prosecution engage services for any witnesses who require interpretation services.) The courts require that interpreters are qualified sign language interpreters registered with the Scottish Association of Sign Language Interpreters. When a community or foreign language interpreter is required the interpreter should be qualified with the Diploma in Public Service Interpreting (Scottish legal option) or its equivalent and who has recent experience of consecutive and simultaneous interpreting in the criminal court context. It is ultimately for the court to determine if the provided interpreter is sufficiently qualified for the purposes of the particular proceedings.

Codes of Practice and Conduct, and directions from the court regulate the function of the interpreter.

11. Functioning of justice

11. 1. Foreseen reforms

11. 1. 1. Reforms

182) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? For example changes in legislation, changes in the structure of the judiciary, innovation programmes, etc. Please specify:

Reforms to summary criminal procedure introduced in 2007, currently being implemented; reform to solemn procedure with jury currently under expert consideration; reform of civil justice system subject to October 2009 debate in Parliament following receipt of expert report; reform to administrative justice under consideration following receipt of expert report; Government intention to issue proposals for public consultation in 2010, with legislation expected in 2012.

The Criminal Justice and Licensing (Scotland) Bill was introduced into the Scottish Parliament on 5 March 2009. The aim of the Bill is to significantly strengthen the hand of our law enforcement agencies to tackle serious organised crime linked to drugs, money laundering, human trafficking and sexual exploitation and give police and the courts new powers to deal with predatory sex offenders. The Bill has 148 sections and will help to support the dedicated people working in our criminal justice system, by equipping them to deal with the impact of offending from the moment a crime is committed, through the police investigation and court process and then when the sentence is handed out to the offender. The legislation includes provisions to:

- Create new offences of directing, involvement in or failing to report serious organised crime, with prison sentences up to 14 years, and new powers for prosecutors to apply for financial reporting orders
- Allow the Crown to appeal against court decisions that end solemn trials without a jury verdict, enabling retrials where this is upheld
- Establish a statutory regime for disclosure of evidence in criminal trials
- End the loophole that allows spouses/civil partners to avoid giving evidence against their partner, eg, in cases of alleged child abuse
- Widen the scope of Sexual Offences Prevention Orders, enable prosecutors to apply for these when sex offenders are sentenced and extend travel ban periods of Foreign Travel Orders
- Outlaw the possession of extreme pornography and increase maximum jail terms for publishing, selling or distributing it
- Establish a Sentencing Council to develop guidelines and improve transparency and public confidence in sentencing
- Create a presumption against short prison sentences and provide for tough new Community Payback Orders, requiring offenders to repay the community for the damage they have done with penalties that reduce their likelihood of reoffending and so protect communities
- Make the changes needed to reflect the independent Scottish Prisons Commission's recommendations for a workable sentence management regime for those offenders who are sent to prison
- Raise the age at which children can be prosecuted in the adult courts from 8 to 12, and end the remand of children in adult prisons;
- Enable police to temporarily retain forensic evidence relating to serious violent and sexual offences dealt with in the Children's Hearings System.

The Bill is currently at the latter stages of Stage 1 scrutiny in the Scottish Parliament. If the Bill secures a successful passage Parliament, it is hoped the Bill will come into force late 2010.

GILL REVIEW

The Lord Justice Clerk, Lord Gill, published his report of the Scottish Civil Courts Review on 30 September. His report, which spans two volumes and contains 206 recommendations, is the culmination of a wide-reaching review which began in April 2007. Lord Gill was appointed to carry out a review of the civil courts in Scotland with a view to making recommendations to improve access to civil justice, promote early resolution of disputes, make the best use of resources and ensure that cases are dealt with in ways which are proportionate to the value, importance and complexity of the issues raised.

The review proposes the appointment of district judges who would hear summary criminal business and civil claims up to £5,000 together with housing actions, appeals from children's hearings and family actions. The Court of Session would no longer hear cases where the sum sued for is less than £150,000 and a specialist personal injury court would be established in Edinburgh.

It is now for Scottish Ministers to take forward these recommendations.

LEGAL SERVICES (SCOTLAND) BILL

The Legal Services (Scotland) Bill was published on 1 October 2009. Among its provisions, it will allow solicitors to secure external investment and business expertise and to combine with other professionals to offer legal services to the public in new ways; remove restrictions on solicitors entering into business relationships with non-solicitors; and create a robust regulatory framework in which the Scottish Government will appoint approved regulators who will regulate the new business structures.