STATUTORY INSTRUMENTS

1969 No. 1756 (S.153)

REGISTERS AND RECORDS, SCOTLAND

The Preservation of Sheriff Court Records Regulations 1969

Laid before Parliament in draft
Made - - - *5th December* 1969
Coming into Operation *1st January* 1970

I, the Lord President of the Court of Session, in exercise of the powers conferred upon me by section 12 of the Public Records (Scotland) Act 1937(a) and section 5 of the Public Registers and Records (Scotland) Act 1948(b), do hereby make the following Regulations, a draft whereof has lain before each House of Parliament in accordance with section 12(2) of the said Act of 1937 and no address has been presented to Her Majesty by either House against the draft :—

1. The Regulations made by the Lord Justice General and Lord President and the Secretary of State (c) under section 12 of the Public Records (Scotland) Act 1937 relating to the disposal of documents not to be preserved by the Keeper of the Registers and Records of Scotland, in so far only as they relate to sheriff court records, are hereby revoked.

2. In these Regulations "sheriff court records" shall have the same meaning as sheriff court records as defined in section 14(1) of the Public Records (Scotland) Act 1937.

3. These Regulations shall apply to all sheriff court records whether in the custody of the Keeper of the Records of Scotland (hereinafter called "the Keeper") or of any other body or person.

4. No sheriff court record containing an entry of older date than the year 1860 shall be disposed of by destruction or otherwise.

5. Subject to the provisions of Regulations 4 and 6 to 8 hereof the sheriff court records of the sheriff court district named and described in Schedule 1 hereto shall be selected for preservation in accordance with a scheme to be determined by the Lord President after consultation with the Sheriff of the sheriffdom concerned and the Keeper, with a view to preserving a representative sample of records relating to the development of sheriff court procedure and administration.

6. The sheriff court records described in Schedule 2 hereto shall be transmitted to the Keeper in terms of section 2(1) of the Public Records (Scotland) Act 1937, for preservation or for disposal in accordance with Regulations 7 and 8 hereof.

(a) 1937 c. 43. (b) 1948 c. 57.
(c) S.R. & O. 1940/2107 (Rev. XIX, p. 846: 1940 I, p. 917).

7. Subject to the provisions of Regulations 9, 10 and 11 hereof no sheriff court record shall be disposed of by destruction or otherwise until the expiry of twenty-five years from the date of the last interlocutor or other entry made therein or in respect thereof, or until the expiry of such longer period as may be particularly specified in Schedule 3 hereto. No such record shall be disposed of by destruction or otherwise until it has been transmitted to the Keeper, nor shall any such record be destroyed except in accordance with Regulation 8 hereof.

8. The sheriff court records referred to in Regulation 7 hereof and described in Schedule 3 hereto may be destroyed under the directions of the Keeper after the periods specified in the said Schedule. Such directions shall so far as practicable ensure the preservation of such records, or parts thereof, as shall seem to the Keeper to have a value for legal purposes or for historical or other research.

9. Subject to the provisions of Regulations 4 and 5 hereof the sheriff court records referred to in Schedule 4 hereto shall be destroyed forthwith by the person having proper legal custody thereof.

10. Subject to the provisions of Regulations 4 and 5 hereof the person having proper legal custody of the sheriff court records referred to in Schedule 5 hereto shall destroy them after the expiry of ten years from the date of the last entry to be made therein :

Provided that documents falling under the head of administrative records in the said Schedule may be destroyed earlier with the consent in writing of the Queen's and Lord Treasurer's Remembrancer.

11. Subject to the provisions of Regulations 4 and 5 hereof the person having proper legal custody of the sheriff court records referred to in Schedule 6 hereto shall destroy them after the expiry of twenty years from the date of the last entry to be made therein.

12. Except as aforesaid no sheriff court record shall be disposed of by the person having custody thereof, provided that transmission of any record to the custody of the Keeper shall not be a disposal for the purposes of these Regulations. In appropriate cases the Keeper may, with the consent of the Lord President and of the Sheriffs concerned, transfer such records in his custody, which in terms of section 12(1) of the Public Records (Scotland) Act 1937 would more appropriately be in the custody of any person, body or institution other than the Keeper, to such person, body or institution.

13.—(1) These Regulations may be cited as the Preservation of Sheriff Court Records Regulations 1969 and shall come into operation on 1st January 1970.

(2) The Interpretation Act 1889(a) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament, and Section 38 of the said Interpretation Act shall apply as if these regulations were an Act of Parliament and as if the regulations revoked (in so far as they relate to sheriff court records) by these Regulations were an Act of Parliament repealed by an Act of Parliament.

J. L. Clyde,
Lord President.

Edinburgh,
5th December 1969.

(a) 1889 c. 63.

SCHEDULE 1 Regulation 5

Sheriff Court District of which the records shall be selected for preservation in accordance with Regulation 5.

Name and Description of District:

Linlithgow District of the Sheriffdom of the Lothians and Peebles.

SCHEDULE 2 Regulation 6

List of sheriff court records to be transmitted to the Keeper in terms of Regulation 6.

1. Ordinary Court, Applications and Appeals:
   Processes and miscellaneous applications, including club applications and productions.
   Act Books
   Minute Books
   "A" Register
   "B" Register
   Extract Decree Books
   Process Inventory Books
   Borrowing Books
   Register of English and Irish Judgments
   Register of Bankruptcy Sequestrations
   Register of Appeals
   Register of Precepts of Arrestment
   Register of Reports of Poinding and Sale
   Register of Consignations
   Register of Solicitors
   Register of Sheriff Officers
   Register of Reports of Sequestration Sale
   Fiars Court Registers and Proceedings
   Adoption of Children Processes and Registers
   Register of Clubs

2. Workmen's Compensation:
   Memoranda of Agreement
   Special Register
   Minute Book of Memoranda
   Register of Arbitrations etc.
   Processes
   Ledgers (sums paid into Court)
   Certificates and Reports

3. Small Debt Court:
   Small Debt Court Books

4. Debts Recovery Court (abolished 1907):
   Debt Recovery Court Books

5. Summary Removing Court:
   Court Books

6. Commissary:
   Bonds of Caution
   Register of Inventories
   Register of Wills
   Register of Confirmations
   Minute Book of Petitions
   Minute Book of Inventories

7. Sheriff's Criminal, Summary and Juvenile Courts:

Criminal Record and Copy Indictments
Register of Criminal and *quasi* Criminal Cases
Juvenile Court Registers
Juvenile Complaints and related documents

8. Register of Deeds and Protests:

Recorded Deeds
Recorded Protests
Register of Deeds and Minute Books
Register of Protests and Minute Books
Register of Hornings

9. Parliamentary Deposits and Plans:

Plans and Books of reference

10. Miscellaneous:

Registers of Freeholders
Regality Records
Other records prior in date to 1860

Regulations 7 and 8 SCHEDULE 3

List of sheriff court records which may be disposed of by the Keeper in terms of Regulations 7 and 8.

1. Ordinary Court, Applications and Appeals:

Processes and miscellaneous applications, including club applications and productions (after the expiry of twenty-five years from the date of the last interlocutor or other entry made therein or in respect thereof).
Note: This does not apply to adoption processes which must be preserved permanently.

2. Workmen's Compensation:

Workmen's Compensation records, as described in Schedule 2 hereof (after the expiry of seventy-five years).

3. Sheriff's Criminal, Summary and Juvenile Courts:

Juvenile Complaints and related documents (after the expiry of twenty-five years).

Regulation 9 SCHEDULE 4

List of sheriff court records which shall be destroyed forthwith.

1. Workmen's Compensation:

Registers of Medical Referees Reports

2. Debts Recovery Court (abolished 1907):

Complaints

Regulation 10 SCHEDULE 5

List of sheriff court records to be preserved for ten years from the date of the last entry made therein.

1. Ordinary Court, Applications and Appeals:

Returned Citations Book
Register of Notices of Appearance
Dog Licences—Register of Applications

Fatal Accident Inquiries—Petitions and Minutes of Evidence
Lunacy and Mental Deficiency—Register of Warrants

2. Small Debt Court:
Returned Citations Book

3. Summary Removing Court:
Complaints

4. Commissary:
Printed weekly list of petitions

5. Sheriff's Criminal, Summary and Juvenile Courts:
Bail Bonds
Bonds of Caution
Road Traffic Offences

6. Administrative Records:
Routine correspondence files and books, bank books, fine and fee ledgers, and cash books, extract order books, search order books etc.

SCHEDULE 6 Regulation 11

List of sheriff court records to be preserved for twenty years from the date of the last entry made therein.

1. Ordinary Court, Applications and Appeals:
Caveat Books
Register of Indorsations
Fatal Accident Inquiries—Notes of Evidence
Registration of Births, Deaths and Marriages—Applications
Sequestrations
Receipts and processes relevant to sums paid into Court

2. Workmen's Compensation:
Receipts and processes relevant to sums paid into Court

3. Small Debt Court:
Small Debt Complaints

4. Commissary:
Petitions
Receipt Book for Wills
Borrowing Receipt Books
Extract Decree Dative Book

5. Sheriff's Criminal, Summary and Juvenile Courts:
Summary Complaints

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations prescribe a new code for the preservation or disposal of Sheriff Court records.