SCOTTISH COURT SERVICE CIRCULAR, 02/2004
National Archives of Scotland, October 2003

SCHEDULE OF SHERIFF COURT RECORDS FOR PRESERVATION AND DESTRUCTION

INTRODUCTORY NOTES FOR SHERIFF CLERKS

The schedule

The attached schedule replaces the schedule of January 1991 (SCS Circular no. 3/91). It is to be used by court staff and staff of National Archives of Scotland (NAS). It includes some records which are now unlikely to be in the custody of sheriff clerks.

1. This schedule has been revised to take account of new record classes. In particular, it specifies the preservation of electronic records as the authentic record of court business, and permits certain categories of records to be destroyed sooner. Special arrangements will be considered where it is necessary to provide for the particular needs of individual courts.

Destruction of records

2. Sheriff clerks are responsible for arranging the destruction of records after the periods specified in the schedule. Subject to the caveat in paragraph 4, it is not necessary to consult the NAS before destroying records. The records of Linlithgow Sheriff Court, with the exception of minor administrative records, are kept entire as a sample.

3. I encourage sheriff clerks to identify and bring to the NAS's attention anything which seems to be of significant historical or legal interest but which is within a category listed for destruction. For instance, summary complaints are to be destroyed after 10 years, but a summary complaint involving a legal precedent would merit permanent preservation. Cases of historical or social history interest would also merit preservation.

4. In the case of categories listed under the heading 'Administrative Records', the schedule provides that the Scottish Court Service be consulted before records relating to financial transactions are destroyed.

Care and preservation of records

5. The proper care of records held by sheriff courts is the Sheriff's responsibility under the Public Records (Scotland) Act, 1937, section 2(3). NAS staff will visit courts by arrangement with sheriff clerks to make routine surveys of their records and check storage conditions.

6. I am particularly concerned about the way in which some courts keep their records. Some records are poorly stored, disorganised and vulnerable to loss or accidental destruction. I recognise that this may occur because of the pressures of current business and the growing number of records. However, it is important to recognise that older records require the same degree of care as more recent material. I therefore encourage sheriff clerks to adopt best practice in managing all records in their care.

7. NAS staff are happy to give advice on matters affecting your records at any time (tel. 0131 270 3312 / 3301, e-mail: court&legal@nas.gov.uk).

Floods or other damage

8. Basic precautions may help prevent serious problems:

- Avoid storing records on floors, under pipes or in areas prone to floods or leaks
- Box records in suitable boxes
- Check storage areas regularly

NAS should be informed **immediately** when records are affected by flooding or other accidents. (Please telephone 0131 270 3308 / 3312 or 3301, or e-mail: court&legal@nas.gov.uk).

Transmissions of records to the Keeper

9. The NAS takes transmissions from sheriff courts of electronic records over 5 years old, commissary records over 10 years old, and other records over 25 years old (as noted in the schedule).

10. A planned programme allows, in general terms, for transmissions from the largest courts every 3-4 years, from middle-size courts every 5-8 years, and from the smaller courts every 10 years or so, depending on available resources. It may be possible to allow earlier clearance of records from courts which have severe storage problems.

11. Before any transmission takes place, in terms of the Public Records (Scotland) Act 1937, section 2(1), sheriff clerks must contact NAS to agree the transmission. NAS must receive the written authorisation of the Sheriff Principal, by which we obtain a specific order from the Lord President.

12. In selecting of material for permanent preservation, NAS aims to keep some record, however brief, of every case, e.g. in court registers. Changes in forms of record-keeping may affect this aim significantly. For example, the discontinuation of criminal and quasi-criminal roll books (which are preserved), taken with the destruction of criminal complaints and court sheets as allowed by the schedule, leaves gaps in the record of summary criminal cases unless computerised records exist. For this reason the schedule specifies that criminal indexes including card indexes should be saved for transmission to the Keeper.

13. A second example is the change to divorce procedure since 1984, by which the final divorce record is submitted to the Registrar General for Scotland for the Register of Divorces. To prevent unnecessary duplication of the records, the schedule permits the selective destruction of simplified procedure divorces.

14. Lastly, where appropriate this schedule specifies the preservation of electronic records as the authentic record of court business.

GEORGE MACKENZIE,
Keeper of the Records of Scotland
1 October 2003

National Archives of Scotland
HM General Register House
2 Princes Street
Edinburgh EH1 3YY
Tel: 0131 535 1314
www.nas.gov.uk

Schedule of sheriff court records for preservation and destruction
(in terms of Statutory Instrument 1990 No. 106 (S.8), the Disposal of Court Records (Scotland) Regulations 1990)

The period of years after which any record shall be destroyed, as specified below, shall be calculated from the date of the last entry in that record. Sheriff clerks are responsible for arranging the destruction of these records without referring first to the National Archives of Scotland.

ORDINARY COURT

Destroy after 1 year	Court sheets (the loose-leaf roll summarising the day's events and covering cases of all kinds)
Destroy after 15 years	Simplified Procedure divorces, **except those not recorded in register, or contested cases**
Destroy after 20 years	Register of applications relating to births, deaths and marriages Register of maintenance orders, parts I and II Caveat books/caveats Receipts and processes relating to sums paid into court
For transmission to the Keeper of the Records of Scotland (KRS) after 5 years	Records in electronic form: Act / minute books 'A' register 'B' register Appeals register Register of sequestrations Sequestrations Club applications
For transmission to KRS after 25 years	Processes and applications other than those mentioned elsewhere, including: Adoptions Divorces - all cases, except Simplified Procedure divorces where register entries exist, and cases which were not previously contested Parental rights cases, e.g. access, custody, aliment Sequestrations Fatal Accident Inquiries - all papers Club applications Gaming licence applications Act/minute books Roll/diet books 'A' register 'B' register Adoption register Divorce register Appeals register Register of sequestrations Register of English and Irish judgements/inferior courts register Register under Debtors (Scotland) Act 1987 Register of reports of poindings and sales, including sequestration sales Register of clubs Register of gaming licences Register of judicial factors Indexes to processes or registers

SUMMARY CAUSES

Destroy after 2 years	Summonses and accompanying papers (if these have not gone to solicitors for execution)
For transmission to KRS after 5 years	Records in electronic form: Summary Cause register (RSC1 and RSC2)
For transmission to KRS after 25 years	Summary cause register

SMALL CLAIMS

Destroy after 2 years	Summonses and accompanying papers (if these have not gone to solicitors for execution)
For transmission to KRS after 5 years	Records in electronic form: Small Claims register
For transmission to KRS after 25 years	Small Claims register

CRIMINAL COURTS

Destroy after 1 year	Means Inquiry Court sheets
Destroy after 2 years	Bail bonds Bonds of caution
Destroy after 10 years	Court sheets Summary complaints Fiscal/fixed penalty forms (Kirkwall, Lerwick, Lochmaddy) Means Inquiry Court records (unless attached to indictments)
Destroy after 10 years	Petitions in solemn procedure
For transmission to KRS after 5 years	Records in electronic form: Experimental Drugs Court records
For transmission to KRS after 25 years	Criminal and Quasi-Criminal roll book Register of applications under Social Work (Scotland) Act, 1968 Indictments/record of criminal jury trials Applications to Sheriff under Social Work (Scotland) Act, 1968 Appeals register Fiscal/fixed penalty register (only Kirkwall, Lerwick and Lochmaddy) Criminal indexes, including card indexes

COMMISSARY COURT

Destroy after 1 year	Printed weekly list of petitions
Destroy after 5 years	Petitions Minute book of inventories
Destroy after 30 years	Bonds of caution
For transmission to KRS after 10 years	Register of confirmations (to 1984) Register of inventories (to 1984) Register of wills (to 1984) Register of wills etc. (post 1984) in microform (only from Commissary Office) Register of wills etc. (post 2000) in electronic form (only from Commissary Office)

	Register/minute book of petitions/applications

REGISTER OF DEEDS AND PROTESTS

Destroy after 5 years	Warrants of protests
For transmission to KRS after 25 years	Register of deeds and minute books Register of protests and minute books Recorded deeds Register of hornings

ADMINISTRATIVE RECORDS

Destroy after 1 year	Election papers (under the Representation of the People Act 1983, schedule 1 para. 57(1) as applied to Scotland by para. 58)
Destroy after 5 years	Returned citations/returned citations book
Destroy after 10 years	Transmission books Process inventory, borrowing and receipt books
Destroy after 15 years	Consignation registers
Destroy at the discretion of the sheriff clerk (where records relate to financial transactions, in consultation with the Scottish Court Service).	Fines records (cards, cash sheets, imposed sheets, cash books and ledgers) Non-exchequer registers Compensation registers Fee books Cash books Postal receipts registers Circulars Correspondence Bank books and cheque stubs Statistics

SMALL DEBT COURT (ceased 1976)

Destroy immediately	Summonses and accompanying papers
For transmission to KRS after 25 years	Court books

WORKMEN'S COMPENSATION ACT

Destroy immediately	Registers of medical referees reports
Destroy after 20 years	Receipts and processes relating to sums paid into court Ledgers of sums paid into court
For transmission to KRS after 25 years	Special register Memoranda of agreement Minute book of memoranda of agreement Register of arbitration applications Processes Medical reports and certificates

OTHER RECORDS

For transmission to KRS after 25 years	Parliamentary deposits and plans

OBSOLETE / HISTORICAL RECORDS

Destroy immediately	Register of lunacy and mental deficiency warrants
Destroy after 10 years	Juvenile Court complaints Legal aid applications and register
For transmission to KRS after 25 years	Juvenile Court register Colonial probates Sheriff of Chancery register
For transmission to KRS when a transmission of the main series of records is arranged	Register of Extract decrees Jury books prior to 1949 Debts Recovery Court books Freeholders' records Regality Court records Fiars Court register and proceedings Commissioners of Supply records Justices of the Peace records Register of Improvements to Entailed Estates and related vouchers

The National Archives of Scotland may weed post 1707 sheriff court records including processes of any duplicate or ephemeral material. The records of Linlithgow Sheriff Court, with the exception of minor administrative records, are kept entire as a sample. Processes from the island courts (Kirkwall, Lerwick, Stornoway, Portree and Lochmaddy) are exempted from weeding.

October 2003