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*Status: Point in time view as at 01/10/2009.*

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## SCHEDULES

### SCHEDULE 10

#### DEVOLUTION ISSUES

#### PART IV

##### PROCEEDINGS IN SCOTLAND

###### *Application of Part IV*

- 21 This Part of this Schedule applies in relation to devolution issues in proceedings in Scotland.

###### *Institution of proceedings*

- 22 (1) Proceedings for the determination of a devolution issue may be instituted or defended by the Advocate General for Scotland.
- (2) The Attorney General for Northern Ireland or the First Minister and the deputy First Minister acting jointly may defend any such proceedings.
- (3) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

###### *Intimation of devolution issue*

- 23 Intimation of any devolution issue which arises in any proceedings before a court or tribunal shall be given to the Advocate General for Scotland, the Attorney General for Northern Ireland, the First Minister and the deputy First Minister (unless the person to whom the intimation would be given is a party to the proceedings).
- 24 A person to whom intimation is given in pursuance of paragraph 23 or, where such intimation is given to the First Minister and the deputy First Minister, those Ministers acting jointly may take part as a party in the proceedings, so far as they relate to a devolution issue.

###### *Reference of devolution issue to higher court*

- 25 A court, other than the [<sup>F1</sup>Supreme Court] or any court consisting of three or more judges of the Court of Session, may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the Inner House of the Court of Session.

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#### Textual Amendments

- F1** Words in Sch. 10 para. 25 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 117\(2\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

- 26 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Inner House of the Court of Session; and any other tribunal may make such a reference.
- 27 A court, other than any court consisting of two or more judges of the High Court of Justiciary, may refer any devolution issue which arises in criminal proceedings before it to the High Court of Justiciary.

*References from superior courts to [<sup>F2</sup>Supreme Court]*

#### Textual Amendments

- F2** Words in cross-heading preceding Sch. 10 para. 28 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 117\(3\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

- 28 Any court consisting of three or more judges of the Court of Session may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 25 or 26) to the [<sup>F3</sup>Supreme Court] .

#### Textual Amendments

- F3** Words in Sch. 10 para. 28 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 117\(4\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

- 29 Any court consisting of two or more judges of the High Court of Justiciary may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 27) to the [<sup>F4</sup>Supreme Court] .

#### Textual Amendments

- F4** Words in Sch. 10 para. 29 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 117\(5\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

*Appeals from superior courts to [<sup>F5</sup>Supreme Court]*

#### Textual Amendments

- F5** Words in cross-heading preceding Sch. 10 para. 30 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, {Sch. 9 para. 117\(6\)}](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

- 30 An appeal against a determination of a devolution issue by the Inner House of the Court of Session on a reference under paragraph 25 or 26 shall lie to the [<sup>F6</sup>Supreme Court] .

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#### Textual Amendments

**F6** Words in Sch. 10 para. 30 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 117(7); S.I. 2009/1604, art. 2(a)(d)

- 31 An appeal against a determination of a devolution issue by—
- (a) a court of two or more judges of the High Court of Justiciary (whether in the ordinary course of proceedings or on a reference under paragraph 27); or
  - (b) a court of three or more judges of the Court of Session from which there is no appeal to the [<sup>F7</sup>Supreme Court apart from this paragraph] ,
- shall lie to the [<sup>F8</sup>Supreme Court] , but only with [<sup>F9</sup>permission] of the court concerned or, failing such [<sup>F9</sup>permission] , with [<sup>F10</sup>permission] of the [<sup>F8</sup>Supreme Court] .

#### Textual Amendments

**F7** Words in Sch. 10 para. 31 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 117(8)(a); S.I. 2009/1604, art. 2(a)(d)

**F8** Words in Sch. 10 para. 31 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 117(8)(b); S.I. 2009/1604, art. 2(a)(d)

**F9** Words in Sch. 10 para. 31 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 117(8)(c); S.I. 2009/1604, art. 2(a)(d)

**F10** Words in Sch. 10 para. 31 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 117(8)(d); S.I. 2009/1604, art. 2(a)(d)

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