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## SCHEDULES

### SCHEDULE 6

#### DEVOLUTION ISSUES

#### PART III

##### PROCEEDINGS IN ENGLAND AND WALES

###### *Application of Part III*

- 14 This Part of this Schedule applies in relation to devolution issues in proceedings in England and Wales.

###### *Institution of proceedings*

- 15 (1) Proceedings for the determination of a devolution issue may be instituted by the Attorney General.
- (2) The Lord Advocate 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.

###### *Notice of devolution issue*

- 16 A court or tribunal shall order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General and the Lord Advocate (unless the person to whom the notice would be given is a party to the proceedings).
- 17 A person to whom notice is given in pursuance of paragraph 16 may take part as a party in the proceedings, so far as they relate to a devolution issue.

###### *Reference of devolution issue to High Court or Court of Appeal*

- 18 A magistrates' court may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the High Court.
- 19 (1) A court may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the Court of Appeal.
- (2) Sub-paragraph (1) does not apply to—
- (a) a magistrates' court, the Court of Appeal or the [F<sup>1</sup>Supreme Court], or
  - (b) the High Court if the devolution issue arises in proceedings on a reference under paragraph 18.

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#### Textual Amendments

- F1** Words in Sch. 6 para. 19(2)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\), Sch. 9 para. 104\(2\)](#); S.I. 2009/1604, [art. 2](#)

20 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Court of Appeal; and any other tribunal may make such a reference.

21 A court, other than the [<sup>F2</sup>Supreme Court] or the Court of Appeal, may refer any devolution issue which arises in criminal proceedings before it to—

- (a) the High Court (if the proceedings are summary proceedings), or
- (b) the Court of Appeal (if the proceedings are proceedings on indictment).

#### Textual Amendments

- F2** Words in Sch. 6 para. 21 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\), Sch. 9 para. 104\(3\)](#); S.I. 2009/1604, [art. 2](#)

#### *References from Court of Appeal to [<sup>F3</sup>Supreme Court]*

#### Textual Amendments

- F3** Words in heading before Sch. 6 para. 22 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\), Sch. 9 para. 104\(4\)](#); S.I. 2009/1604, [art. 2](#)

22 The Court of Appeal may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 19, 20 or 21) to the [<sup>F4</sup>Supreme Court].

#### Textual Amendments

- F4** Words in Sch. 6 para. 22 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\), Sch. 9 para. 104\(5\)](#); S.I. 2009/1604, [art. 2](#)

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

#### Textual Amendments

- F5** Words in heading before Sch. 6 para. 23 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\), Sch. 9 para. 104\(6\)](#); S.I. 2009/1604, [art. 2](#)

23 An appeal against a determination of a devolution issue by the High Court or the Court of Appeal on a reference under paragraph 18, 19, 20 or 21 shall lie to the [<sup>F6</sup>Supreme Court], but only with [<sup>F7</sup>permission] of the High Court or (as the case may be) the Court of Appeal or, failing such [<sup>F7</sup>permission], with [<sup>F8</sup>permission] of the [<sup>F6</sup>Supreme Court].

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#### **Textual Amendments**

- F6** Words in Sch. 6 para. 23 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\)](#), [Sch. 9 para. 104\(7\)\(a\)](#); S.I. 2009/1604, [art. 2](#)
- F7** Words in Sch. 6 para. 23 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\)](#), [Sch. 9 para. 104\(7\)\(b\)](#); S.I. 2009/1604, [art. 2](#)
- F8** Words in Sch. 6 para. 23 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40\(4\), 148\(1\)](#), [Sch. 9 para. 104\(7\)\(c\)](#); S.I. 2009/1604, [art. 2](#)

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