
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 77

The Courts Reform (Scotland) Act 2014 (Commencement No. 2, Transitional and Saving Provisions) Order 2015

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Courts Reform (Scotland) Act 2014 (Commencement No. 2, Transitional and Saving Provisions) Order 2015.

(2) This article and article 2(1) come into force on 12th March 2015.

(3) The remaining provisions of this Order come into force on 1st April 2015.

(4) In this Order, “the Act” means the Courts Reform (Scotland) Act 2014.

Appointed day

2.—(1) The day appointed for the coming into force of section 23(5) of the Act (power of Court of Session to make rules about procedure at tribunal constituted under section 21) is 12th March 2015.

(2) Subject to paragraph (3), the day appointed for the coming into force of the provisions of the Act specified in column 1 of the table in the Schedule to this Order (the subject matter of which is specified in column 2 of that table) is 1st April 2015.

(3) Where a purpose is specified in column 3 of the table in the Schedule, a provision specified in column 1 of that table comes into force only for that purpose.

Payment of judicial remuneration and expenses

3.—(1) Paragraphs (2) to (4) apply until the day on which section 16(12) of the Act (salaries and remuneration payable by SCTS) comes into force.

(2) Salaries under section 16(1) of the Act and remuneration under section 16(3) of the Act are to be paid by the Scottish Ministers.

(3) Remuneration under section 16(5), (9) and (11) of the Act is to be paid by the Scottish Courts and Tribunals Service.

(4) Sums required by the Scottish Ministers for the payment of a salary or remuneration under paragraph (2) are charged on the Scottish Consolidated Fund.

Tribunal to consider fitness for office

4. Judicial conduct occurring before 1st April 2015 may be taken into account in any proceedings under section 21 of the Act (tribunal to consider fitness for office).

Re-employment of former sheriffs principal in the Sheriff Appeal Court

5.—(1) Section 51(1) of the Act (re-employment of former Appeal Sheriffs) has effect as if the reference in it to a qualifying former Appeal Sheriff included a reference to a qualifying former sheriff principal.

(2) For that purpose, a “qualifying former sheriff principal” is an individual who—

- (a) prior to the commencement of section 49(1) of the Act—
 - (i) held office as a sheriff principal; and
 - (ii) ceased to hold that office other than by virtue of an order under section 12E of the Sheriff Courts (Scotland) Act 1971 (removal from office)(1); and
- (b) has not reached the age of 75.

Saving for regulation of commissary business

6. Despite the repeal of section 54 of the Sheriff Courts (Scotland) Act 1876(2) (courts to make acts of sederunt) by paragraph 3 of schedule 5 to the Act—

- (a) any act of sederunt made under that section shall continue to have effect on or after 1st April 2015 as it had effect immediately before that date; and
- (b) that section shall continue to have effect for the purpose of enabling the revocation of any act of sederunt made under it.

Saving for existing subordinate legislation

7.—(1) Despite the coming into force of paragraphs 4(f), 6(2), 26, 28 and 30(3) of schedule 5 to the Act (which repeal the enactments specified in paragraph (2)), any subordinate legislation made under an enactment specified in paragraph (2) continues to have effect.

(2) The enactments are—

- (a) section 2 of the Court of Law Fees (Scotland) Act 1895(3) (power of Scottish Ministers to regulate court fees);
- (b) section 6 of the Execution of Diligence (Scotland) Act 1926(4) (regulations, forms and fees);
- (c) section 40 of the Sheriff Courts (Scotland) Act 1907(5) (Court of Session to regulate fees etc.);
- (d) in the Sheriff Courts (Scotland) Act 1971—
 - (i) section 32 (power of Court of Session to regulate civil procedure in sheriff court);
 - (ii) section 32A(6) (rules for lay representation); and
 - (iii) section 41 (power of Her Majesty to vary limit to privative jurisdiction of sheriff court etc.);
- (e) in the Court of Session Act 1988(7)—
 - (i) section 5 (power to regulate procedure etc. by act of sederunt);
 - (ii) section 5A(8) (rules for lay representation); and
 - (iii) section 6 (allocation of business etc. by act of sederunt).

(1) 1971 c.58; section 12E was inserted by the Judiciary and Courts (Scotland) Act 2008 (asp 6), section 40.

(2) 1876 c.70; section 54 was repealed, except in so far as it relates to commissary regulations, by the Sheriff Courts (Scotland) Act 1907 (c.51), Schedule 2. Section 54 was amended by the Public Records (Scotland) Act 1937 (c.43), Schedule 2 and the Sheriff Courts (Scotland) Act 1971 (c.58), Schedule 1, paragraph 1; the relevant acts of sederunt are S.S.I. 2013/291 and S.S.I. 2014/265.

(3) 1895 c.14; section 2 was substituted by the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c.12), section 4.

(4) 1926 c.16.

(5) 1907 c.51.

(6) Section 32A was added by the Legal Services (Scotland) Act 2010 (asp 16), section 127(b).

(7) 1988 c.36.

(8) Section 5A was added by the Legal Services (Scotland) Act 2010 (asp 16), section 126(b).

(3) In paragraph (2), a reference to an enactment includes a reference to that enactment as extended, applied or modified by any other enactment.

St Andrew's House,
Edinburgh
24th February 2015

PAUL WHEELHOUSE
Authorised to sign by the Scottish Ministers