

Draft Order laid before the Scottish Parliament under section 133(2)(a) of the Courts Reform (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

SHERIFF COURT

**The Sheriff Court Simple Procedure
(Limits on Award of Expenses) Order 2016**

Made - - - - 2016
Coming into force - - 28th November 2016

The Scottish Ministers make the following Order in exercise of the powers conferred by section 81 of the Courts Reform (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 133(2)(a) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Sheriff Court Simple Procedure (Limits on Award of Expenses) Order 2016 and comes into force on 28th November 2016.

Category of simple procedure cases in which no award of expenses may be made

2. No award of expenses may be made in a simple procedure case⁽²⁾ in which the value of the claim is less than or equal to £200.

Categories of simple procedure cases in which expenses awarded may not exceed prescribed sum

3. In any simple procedure case in which the value of the claim is—
- (a) greater than £200 but less than or equal to £1,500, the expenses awarded by the sheriff may not exceed £150;
 - (b) greater than £1,500 but less than or equal to £3,000, the expenses awarded by the sheriff may not exceed 10% of the value of the claim.

(1) 2014 asp 18. There are amendments to the Courts Reform (Scotland) Act 2014 not relevant to this Order.
(2) “simple procedure case” is defined in section 72(9) of the Courts Reform (Scotland) Act 2014.

Exceptions

4. This Order does not apply to the following types of simple procedure case—
- (a) actions in respect of aliment and interim aliment;
 - (b) actions of defamation; or
 - (c) actions for personal injury to which section 17 or 18 of the Prescription and Limitation (Scotland) Act 1973 apply.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes categories of simple procedure cases in which the award of legal expenses is limited. Simple procedure is a new form of sheriff court procedure established by Chapter 1 of Part 3 of the Courts Reform (Scotland) Act 2014.

Article 2 provides that expenses are not awardable where the value of a claim does not exceed £200. Article 3(a) provides that, where the value of a claim is between £200 and £1,500, the maximum sum awardable as expenses is £150. Article 3(b) provides that, where the value of a claim is between £1,500 and £3,000, the maximum sum awardable as expenses is 10% of the value of the claim. The references to “sheriff” in article 3 include a summary sheriff by virtue of section 44(1) and paragraph 12 of schedule 1 of the Courts Reform (Scotland) Act 2014.

Article 4 sets out particular types of simple procedure case to which this Order does not apply.

Further, by virtue of section 81(4) of the Courts Reform (Scotland) Act 2014 this Order does not apply to the cases and appeals referenced in that subsection. A sheriff or summary sheriff may also disapply this Order by direction under section 81(7) on the application of any party to a simple procedure case. An application might be made if it was considered that a difficult question of law, or a question of fact of exceptional complexity, is involved.