
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision which is expedient in consequence of the Courts Reform (Scotland) Act 2014 (“the 2014 Act”).

Article 2 substantially re-enacts sections 2(3) and 3(4) of the Sheriff Courts (Scotland) Act 1971, and consequentially repeals these sections. (The Sheriff Courts (Scotland) Act 1971 was otherwise repealed, as a matter of Scots law, by paragraph 6 of schedule 5 to the 2014 Act.)

Sections 34 and 35 of the 2014 Act provide for the Lord President of the Court of Session to direct certain categories of sheriff court case as suitable to be dealt with by specialist judiciary, and for the Lord President or the sheriff principal of a sheriffdom to be able to designate particular members of the sheriff court judiciary as specialists in one or more areas. Articles 3 and 5 provide for these powers to be exercisable in relation to categories of case which relate to reserved matters.

Section 39(1) of the 2014 Act provides that civil proceedings which a sheriff has competence to deal with and in which orders of value are sought of an aggregate value of £100,000 or less may be brought only in the sheriff court. Article 4 prevents this section from applying to proceedings for winding up of a company, with the consequence that such proceedings will remain competent in the Court of Session regardless of any order for value sought.

Article 6 amends section 27B of the Court of Session Act 1988 (which was introduced by section 89 of the 2014 Act) to apply the same test for applications relating to decisions of the Upper Tribunal as apply, by virtue of that section, to applications relating to decisions of the Upper Tribunal for Scotland.

Article 7 makes provision for the procedural steps where an application to the supervisory jurisdiction of the Court of Session is transferred to the Upper Tribunal under section 20 of the Tribunals, Courts and Enforcement Act 2007. This is equivalent to the provision made for applications transferred from that Court to the Upper Tribunal for Scotland by section 57A of the Tribunals (Scotland) Act 2014 (as inserted by paragraph 24 of schedule 5 to the 2014 Act).

Sections 103 to 106 of the 2014 Act confer powers upon the Court of Session by act of sederunt to regulate procedure and practice in connection with civil proceedings in the Court of Session, sheriff court and Sheriff Appeal Court, and to regulate the fees of specified persons. These re-enact and extend the existing powers of the Court of Session under section 5 of the Court of Session Act 1988 and section 32 of the Sheriff Courts (Scotland) Act 1971. Article 8 permits these powers to be exercised to make provision which relates to a reserved matter or modifies the law on reserved matters.

Article 9 transfers to the Scottish Courts and Tribunals Service the functions of the Scottish Ministers relating to the provision of accommodation and administrative support to, and the payment of allowances, fees and expenses in relation to, the Pensions Appeal Tribunal (Scotland).

The Schedule contains consequential amendments.

Paragraphs 1, 2, 5, 6 and 13, which do not extend to Scotland, repeal provisions which are repealed as a matter of Scots law by the 2014 Act.

Paragraphs 3 and 4 make repeals which are consequential upon the abolition of the office of honorary sheriff by section 26 of the 2014 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Paragraph 7, which does not extend to Scotland, amends section 9 to the Administration of Justice Act 1973 to remove that section's application to Scottish judiciary. (Section 9 is repealed, as a matter of Scots law, by the 2014 Act.)

Paragraphs 8 and 9 amend the House of Commons Disqualification Act 1975 and the Northern Ireland Assembly Disqualification Act 1975 to add the new offices of summary sheriff and part-time summary sheriff to the list of those judges who are disqualified from membership of the House of Commons and Northern Ireland Assembly. They also update the references in those Acts to existing disqualified judges to reflect the new legal basis for their appointment or continuation in office under the 2014 Act.

Paragraph 10 amends the entry for "sheriff" in Schedule 1 to the Interpretation Act 1978.

Paragraph 11, which does not extend to Scotland, makes equivalent amendments to those made to the Civil Jurisdiction and Judgments Act 1982 as a matter of Scots law by paragraphs 7 and 13 of schedule 5 to the 2014 Act.

Paragraph 12 amends the Child Support Act 1991 in consequence of the repeal by the 2014 Act of the Sheriff Courts (Scotland) Act 1971.

Paragraph 14 amends the Judiciary and Courts (Scotland) Act 2008 (Consequential Provisions and Modifications) Order 2009 (which provided that Scottish Court Service established by section 60(1) of the Judiciary and Courts (Scotland) Act 2008 was part of the Scottish Administration) to reflect the re-naming of that body as the Scottish Courts and Tribunals Service by section 130(1) of the 2014 Act.

A full regulatory impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.