

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

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

JURIES

LANDS TRIBUNAL

POLICE

PRISONS

SHERIFF COURT

TRIBUNALS AND INQUIRIES

SCOTTISH COURTS AND TRIBUNALS SERVICE

The Courts Reform (Scotland) Act 2014
(Consequential Provisions) Order 2016

Made - - - - 2016
Coming into force - - 1st April 2016

The Scottish Ministers make the following Order in exercise of the powers conferred by section 137 of the Courts Reform (Scotland) Act 2014(1) and all other powers enabling them to do so.

In accordance with section 133(2)(b) 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 Courts Reform (Scotland) Act 2014 (Consequential Provisions) Order 2016 and comes into force on 1st April 2016.

Lands Tribunal Act 1949

2. In section 2(6) of the Lands Tribunal Act 1949⁽²⁾ (members, officers and expenses of Lands Tribunal for Scotland), for “There may be paid” substitute “The Scottish Courts and Tribunals Service is to pay”.

Scottish Civil Justice Council and Criminal Legal Assistance Act 2013

3. In section 16 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013⁽³⁾ (interpretation of Part 1), after the entry relating to draft civil procedure rules insert—

“draft fees rules” has the meaning given in section 2(6A)⁽⁴⁾.”.

Tribunals (Scotland) Act 2014

4. In section 27(5)(c)(ii) of the Tribunals (Scotland) Act 2014⁽⁵⁾ (listed tribunals), for “section 12A of the Sheriff Courts (Scotland) Act 1971” substitute “section 21 of the Courts Reform (Scotland) Act 2014”.

Modification of enactments

5. The modifications in the Schedule have effect.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(2) 1949 c.42. Section 2(6) was relevantly amended by the Judicial Pensions Act 1981 (c.20), Schedule 4, by S.S.I. 2009/1307 and by the Courts Reform (Scotland) Act 2014, schedule 4, paragraph 4.

(3) 2013 asp 3.

(4) Section 2(6A) was inserted by paragraph 31(2)(b) of schedule 5 to the Courts Reform (Scotland) Act 2014.

(5) 2014 asp 10.

SCHEDULE

Article 5

Abolition of the office of stipendiary magistrate and introduction of the office of summary sheriff

Law Reform (Miscellaneous Provisions) (Scotland) Act 1980

1. In Group A of Part I of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980⁽⁶⁾ (persons ineligible for jury service: the judiciary), after paragraph (c) insert—

“(ca) summary sheriffs;”.

Prisons (Scotland) Act 1989

2.—(1) Section 15 of the Prisons (Scotland) Act 1989⁽⁷⁾ (right of sheriff or justice to visit prison) is amended as follows.

(2) In sub-section (1), after “sheriff” insert “, summary sheriff”.

(3) In sub-section (2), after “sheriff” insert “, summary sheriff”.

Criminal Justice (Scotland) Act 2003

3. In section 42 of the Criminal Justice (Scotland) Act 2003⁽⁸⁾ (drugs courts), for subsection (2) substitute—

“(2) It may be prescribed that there is to be a drugs court within a sheriffdom or sheriff court district, in which case the sheriff principal is, subject to subsection (1), to nominate a court within that sheriffdom or, as the case may be, sheriff court district to be a drugs court.”.

Criminal Justice and Licensing (Scotland) Act 2010

4. In paragraph 1(3)(c) of schedule 1 to the Criminal Justice and Licensing (Scotland) Act 2010⁽⁹⁾ (the Scottish Sentencing Council: membership), for “justice of the peace or stipendiary magistrate” substitute “summary sheriff or justice of the peace”.

Police and Fire Reform (Scotland) Act 2012

5.—(1) The Police and Fire Reform (Scotland) Act 2012⁽¹⁰⁾ is amended as follows.

(2) In section 10(1) (declaration of constable of the Police Service of Scotland)⁽¹¹⁾, after “sheriff” insert “, summary sheriff”.

(3) In section 16(3) (temporary service as constable of the Police Service of Scotland), after “sheriff” insert “, summary sheriff”.

⁽⁶⁾ 1980 c.55. Group A was amended by paragraph 34 of Part 1 of Schedule 9 to the Constitutional Reform Act 2005 (c.4).

⁽⁷⁾ 1989 c.45.

⁽⁸⁾ 2003 asp 7. Section 42(2)(b) was amended by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), schedule 1, paragraph 30(a).

⁽⁹⁾ 2010 asp 13.

⁽¹⁰⁾ 2012 asp 8.

⁽¹¹⁾ Section 24(4) of the Railways and Transport Safety Act 2003 (c.20), as substituted by S.I. 2013/602, applies section 10 of the Police and Fire Reform (Scotland) Act 2012 to constables of the British Transport Police appointed in Scotland.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision principally in consequence of the coming into force of certain provisions of the Courts Reform (Scotland) Act 2014 (“the Act”) on 1st April 2016 (articles 2 and 5 and the Schedule). This Order comes into force on the same date.

Article 2 transfers responsibility for the payment of remuneration etc. in connection with the Lands Tribunal for Scotland to the Scottish Courts and Tribunals Service, in consequence of the transfer of responsibility for equivalent payments in connection with courts by virtue of sections 16(12) and (13), 124 and 126 of the Act.

Articles 3 and 4 make amendments which are consequential on provisions of the Act commenced on 1st April 2015, namely paragraph 31 of Part 7 of schedule 5 to the Act (amending the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013) and section 21 of the Act (replacing section 12A of the Sheriff Courts (Scotland) Act 1971).

Article 5 introduces the Schedule to the Order which amends primary legislation in consequence of the abolition of the office of stipendiary magistrate and the introduction of the office of summary sheriff.