

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 2 - Sheriff Appeal Court

Chapter 1 - Establishment and role

Section 46 – The Sheriff Appeal Court

83. This section provides for the establishment of the Sheriff Appeal Court as a “court of law”. This point is expanded upon in section 47. Subsection (2) provides that the court is made up of judicial office holders each known as an Appeal Sheriff.

Section 47 – Jurisdiction and competence

84. Subsection (1) sets out the jurisdiction and competence of the Sheriff Appeal Court, providing that it will determine appeals to such extent as is provided for in the Act or in any other enactment. With regard to the Act, the court will hear civil appeals under the provisions set out in Part 5 and criminal appeals under the provisions set out in Part 6. The court is a collegiate one with a decision of the court being constituted by a decision of one or more Appeal Sheriffs. Subsection (3) expands upon the phrase “court of law” used in section 46, putting beyond any doubt that the Sheriff Appeal Court is a court with the same inherent features as other courts in Scotland. This is intended to make clear that the court has the inherent jurisdiction of a court of law and thus ensures that, for example, the law on contempt of court and other rules relative to courts and court proceedings, such as rules about privilege and power to make reporting restrictions (*A v BBC*[2014] UKSC 25), are to apply.

Section 48 – Status of decisions of the Sheriff Appeal Court in precedent

85. This section makes specific provision about precedent. Whilst the position of the court in the hierarchy of courts in Scotland should ensure that its decisions will be binding upon those courts whose appeals it hears, this section puts that beyond doubt. Accordingly this section provides that in its interpretation or application of the law, the criminal decisions of the Sheriff Appeal Court will be binding on all justice of the peace courts throughout Scotland and the civil and criminal decisions of the Sheriff Appeal Court will be binding on all sheriffs throughout Scotland, as well as on the Sheriff Appeal Court (unless that Court is composed of a greater number of Appeal Sheriffs than that which composed the Court which made the decision). The use of “sheriff” in subsections (1)(a) and (2) will take on the definition in section 134 and will therefore bind the decisions of a sheriff principal sitting as a judge of first instance and any other judicial officer in the sheriff court.
86. Subsection (2) puts beyond doubt that a decision of the Sheriff Appeal Court also binds sheriffs in solemn criminal proceedings (before a sheriff and jury). Part 6 of the Act does not provide for an appeal from a solemn case in the sheriff court. Accordingly it is necessary to ensure that, despite the absence of such an appeal, the interpretation and

*These notes relate to the Courts Reform (Scotland) Act 2014
(asp 18) which received Royal Assent on 10 November 2014*

application of the law as set out by the Sheriff Appeal Court will be the same when applied by the sheriff, whether in a summary or solemn case.