

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 3 – Civil Procedure

Chapter 1 – Sheriff court

Simple procedure

Section 81 – Expenses in simple procedure cases

136. [Section 81](#) re-enacts section 36B of the Sheriff Courts (Scotland) Act 1971 with modifications to reflect the new system of simple procedure. Subsection (1) provides that the Scottish Ministers may prescribe, by order (subject to the affirmative procedure by virtue of section 133(2)(a)), categories of simple procedure to which alternative expenses rules will apply. In other words, in those cases the normal rules on expenses will not apply. Subsection (2) makes it clear that these categories will be defined by reference to the value of the claim or the subject matter of the claim, permitting types of actions, for example personal injury, to be excluded from any limitation on expenses.
137. An order under subsection (3) could also specify some civil proceedings where different expenses could apply, excepting them from categories set out in subsection (2).
138. Subsection (4) then sets out cases in which those rules are disapplied. Subsection (5) is based on section 36B(3) of the 1971 Act and lists the circumstances in which the restrictions on expenses should not apply owing to the behaviour of one of the parties to the case. Subsections (6) and (7) allow the sheriff to make an direction disapplying the restrictions on expenses in an order under subsection (1) in complex cases.