

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

2015 No.

**COURT OF SESSION
JUDICIAL APPOINTMENTS AND DISCIPLINE
SHERIFF COURT**

The Courts Reform (Scotland) Act 2014
(Consequential Provisions) Order 2015

Made - - - -

Coming into force - - *1st April 2015*

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 2015 and comes into force on 1st April 2015.

Modification of enactments

2. The modifications in the schedule have effect.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

SCHEDULE

Article 2

Modification of Enactments

PART 1

Modification of primary legislation

Law Reform (Miscellaneous Provisions) (Scotland) Act 1966

1. In section 8(6) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966⁽²⁾ (variation etc. of certain orders made by the Court of Session in respect of maintenance, custody etc.), in the definition of “sheriff”, for “paragraph (a), (b) or (j) of section 6 of the Sheriff Courts (Scotland) Act 1907” substitute “paragraphs (a), (b), (c) or (k) of section 43(2) of the Courts Reform (Scotland) Act 2014”.

Hovercraft Act 1968

2. In section 2(1) of the Hovercraft Act 1968⁽³⁾ (admiralty jurisdiction etc.), for “section 4 of the Sheriff Courts (Scotland) Act 1907” substitute “sections 38(2)(j) and 40 of the Courts Reform (Scotland) Act 2014”.

Administration of Justice (Scotland) Act 1972

3. In section 1(3) of the Administration of Justice (Scotland) Act 1972⁽⁴⁾ (powers of courts to order inspection of documents or other property, etc.), for “section 16 of the Administration of Justice (Scotland) Act 1933” substitute “section 103(1) of the Courts Reform (Scotland) Act 2014”.

Insolvency Act 1986

4. In section 414 of the Insolvency Act 1986⁽⁵⁾ (fees orders (company insolvency proceedings)), subsection (9) is repealed.

Criminal Procedure (Scotland) Act 1995

5. In section 8(2) of the Criminal Procedure (Scotland) Act 1995⁽⁶⁾ (sittings of sheriff and JP courts), for “section 17(1)(b) of the Sheriff Courts (Scotland) Act 1971” substitute “section 28(1) of the Courts Reform (Scotland) Act 2014”.

Human Rights Act 1998

6.—(1) Section 18 of the Human Rights Act 1998⁽⁷⁾ (appointment to European Court of Human Rights) is amended as follows.

(2) In subsection (4)(e), for “section 14 of the Sheriff Courts (Scotland) Act 1907 (salaries etc.)” substitute “section 16 of the Courts Reform (Scotland) Act 2014 (remuneration)”.

(2) 1966 c.19.

(3) 1968 c.59.

(4) 1972 c.59; section 1(3) is amended by the Courts Reform (Scotland) Act 2014 (asp 18), schedule 5, paragraph 12(4).

(5) 1986 c.45.

(6) 1995 c.46.

(7) 1998 c.42.

(3) In subsection (5), for “section 11(1) of the Sheriff Courts (Scotland) Act 1971 (temporary appointment of sheriff principal)” substitute “section 6 of the Courts Reform (Scotland) Act 2014 (temporary sheriff principal)”.

Access to Justice Act 1999

7.—(1) Section 68 of the Access to Justice Act 1999⁽⁸⁾ (judges holding office in European or international courts) is amended as follows.

(2) In subsection (3)(a), for “section 14 of the Sheriff Courts (Scotland) Act 1907” substitute “section 16 of the Courts Reform (Scotland) Act 2014”.

(3) In subsection (4), for “section 11(1) of the Sheriff Courts (Scotland) Act 1971 (temporary appointment of sheriff principal)” substitute “section 6 of the Courts Reform (Scotland) Act 2014 (temporary sheriff principal)”.

Antisocial Behaviour etc. (Scotland) Act 2004

8. In section 40 of the Antisocial Behaviour etc. (Scotland) Act 2004⁽⁹⁾ (interpretation of part 4), in the definition of “court day” for the words from “section 17(1)(b)” to “(c.46)” substitute “section 28(1) of the Courts Reform (Scotland) Act 2014 (asp 18)”.

Inquiries Act 2005

9.—(1) Section 10 of the Inquiries Act 2005⁽¹⁰⁾ (appointment of judge as panel member) is amended as follows.

(2) In the first column of the table in subsection (1) (description of judge), for “or sheriff” substitute “, sheriff or summary sheriff”.

(3) Subsection (2) is repealed.

Bankruptcy and Diligence etc. (Scotland) Act 2007

10. In section 114(4) of the Bankruptcy and Diligence etc. (Scotland) Act 2007⁽¹¹⁾ (audit of report of sale), for “section 2 of the Courts of Law Fees (Scotland) Act 1895 (c.14)” substitute “section 107(1) of the Courts Reform (Scotland) Act 2014 (asp 18)”.

PART 2

Modification of secondary legislation

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013

11. In part 2 of schedule 4 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013⁽¹²⁾ (excepted professions, offices, employments and occupations), for paragraph 27 substitute—

“27. Members mentioned in section 21(4)(d) of the Courts Reform (Scotland) Act 2014 of a tribunal constituted under section 21(1) or (2) of that Act to consider the fitness for office of a person holding a judicial office mentioned in section 21(3) of that Act.”.

(8) 1999 c.22.
(9) 2004 asp 8.
(10) 2005 c.12.
(11) 2007 asp 3.
(12) S.S.I. 2013/50.

Draft Legislation: This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, *The Courts Reform (Scotland) Act 2014 (Consequential Provisions) Order 2015* ISBN 978-0-11-102666-3

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in consequence of the coming into force of certain provisions of the Courts Reform (Scotland) Act 2014 (“the Act”). This Order comes into force on 1st April 2015.

Article 2 of, and the schedule to, the Order make provision modifying primary and secondary legislation.

The modifications are in consequence of provisions of the Act which—

- repeal and re-enact provisions of the Courts of Law Fees (Scotland) Act 1895;
- repeal and re-enact provisions of the Sheriff Courts (Scotland) Acts 1907 and 1971;
- repeal and re-enact provisions of the Court of Session Act 1988; and
- introduce the office of summary sheriff.