
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 247

The Courts Reform (Scotland) Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2015

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Courts Reform (Scotland) Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2015 and comes into force on 22nd September 2015.

(2) In this Order—

“the Act” means the Courts Reform (Scotland) Act 2014;

“the 1971 Act” means the Sheriff Courts (Scotland) Act 1971(1);

“the 1988 Act” means the Court of Session Act 1988(2); and

“summary cause” and related expressions are to be construed in accordance with section 35(1) of the 1971 Act(3).

Appointed day

2.—(1) Subject to paragraph (2), the day appointed for the coming into force of the provisions of the Act specified in column 1 of the table in the Schedule to this Order (the subject matter of which is specified in column 2 of that table) is 22nd September 2015.

(2) Where a purpose is specified in column 3 of the table in the Schedule, a provision specified in column 1 of that table comes into force only for that purpose.

Exclusive competence of sheriffs: proceedings raised before 22nd September 2015

3.—(1) Despite the repeal of section 7 of the Sheriff Courts (Scotland) Act 1907(4) (privative jurisdiction in causes under £5,000) by paragraph 4(a) of schedule 5 to the Act, that section continues to apply to proceedings raised before 22nd September 2015.

(2) Accordingly, section 39 of the Act (exclusive competence) does not apply to such proceedings.

(3) Despite the repeal of section 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (remit from Court of Session to sheriff) by paragraph 25 of schedule 5 to the Act, that section continues to apply to proceedings raised before 22nd September 2015.

(4) Accordingly, section 93 of the Act (remit of cases from the Court of Session) does not apply to such proceedings.

(1) 1971 c.58.

(2) 1988 c.36.

(3) Section 35 of the 1971 Act has been amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) and S.S.I. 2007/507. Section 35 is to be repealed by paragraph 6(2) of schedule 5 to the Act.

(4) 1907 c.51 Section 7 of the Sheriff Courts (Scotland) Act 1907 has been amended by the Sheriff Courts (Scotland) Act 1913 (c.28), the 1971 Act and the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55).

Judicial review: time limits

4.—(1) Paragraph (2) applies where the grounds giving rise to an application to the supervisory jurisdiction of the Court of Session first arose before 22nd September 2015.

(2) Section 27A of the 1988 Act⁽⁵⁾ (time limits) has effect as if the reference to the date on which the grounds giving rise to the application to the supervisory jurisdiction of the Court of Session first arose were a reference to 22nd September 2015.

Appeals to the Supreme Court where judgment of Inner House pronounced before 22nd September 2015

5.—(1) Despite the repeal of section 24 of the 1988 Act (exchequer appeals to the Supreme Court) by paragraph 32(2) of schedule 5 to the Act, that section continues to apply to exchequer appeals against judgments of the Inner House of the Court of Session pronounced before 22nd September 2015.

(2) Despite the substitution of section 40 of the 1988 Act (other appeals to the Supreme Court) by section 117 of the Act, section 40 of the 1988 Act continues to apply to appeals against judgments of the Inner House of the Court of Session pronounced before 22nd September 2015 as if it had not been substituted by section 117 of the Act.

(3) Accordingly, in relation to appeals falling within paragraph (1) or (2) section 40A of the 1988 Act (permission to appeal)⁽⁶⁾ does not apply.

Appeals from summary criminal proceedings made before 22nd September 2015

6.—(1) Section 118 of the Act (appeals from summary criminal proceedings) does not apply to appeals from summary criminal proceedings made to the High Court of Justiciary before 22nd September 2015.

(2) Accordingly, the amendments made to the Criminal Procedure (Scotland) Act 1995⁽⁷⁾ by section 118(3) of, and schedule 3 to, the Act do not apply in relation to such appeals.

Bail appeals made before 22nd September 2015

7. The amendments made to the Criminal Procedure (Scotland) Act 1995 by section 122 of the Act (bail appeals) do not apply to bail appeals made to the High Court of Justiciary before 22nd September 2015.

All-Scotland sheriff court: references to the Sheriff Appeal Court

8.—(1) Paragraphs (2) and (3) have effect until the day on which section 47 (jurisdiction and competence of the Sheriff Appeal Court) comes into force for the purposes of that Court's civil competence and jurisdiction.

(2) Sections 69 to 71 of the Act (appeals from civil jury trials) have effect as if references to the Sheriff Appeal Court were references to the Inner House of the Court of Session.

(3) Sections 69 and 70 of the Act have effect as if references to an Appeal Sheriff were references to a Senator of the College of Justice.

⁽⁵⁾ Section 27A of the 1988 Act is inserted by section 89 of the Act.

⁽⁶⁾ Section 40A of the 1988 Act is inserted by section 117 of the Act.

⁽⁷⁾ 1995 c.46.

Proceedings in an all-Scotland sheriff court.

9.—(1) Section 35(1) of the 1971 Act (summary causes), so far as requiring any relevant proceedings to be brought as a summary cause, does not apply to any such proceedings in an all-Scotland sheriff court, and no such proceedings may be brought or continued in such a court as a summary cause.

(2) Paragraph (1) does not affect the application of section 35(1) of the 1971 Act in relation to any relevant proceedings brought in any other sheriff court.

(3) In this article, “relevant proceedings” means proceedings of a type mentioned in section 35(1) (a) of the 1971 Act so far as they are also of a type specified in an order under section 41(1) (power to confer all-Scotland jurisdiction for specified cases) of the Act.

Proceedings in an all-Scotland sheriff court: transfer to summary cause procedure

10.—(1) Paragraphs (2) and (3) apply until the day on which section 72(3) of the Act (proceedings subject only to simple procedure) comes into force.

(2) Section 79(2) and (3) of the Act (proceedings in an all-Scotland sheriff court: transfer to simple procedure) has effect as if references to proceedings continuing subject to simple procedure in another sheriff court were references to proceedings continuing as a summary cause in another sheriff court.

(3) Section 79(4) of the Act has effect as if the reference to a direction made under section 78(3) of the Act were a reference to a direction made under section 37(1) of the 1971 Act.

Remit of cases other than summary causes to the Court of Session

11.—(1) Paragraph (2) applies until the day on which section 72(3) of the Act comes into force.

(2) Section 92(1)(c) and (3)(c) of the Act (remit of cases to the Court of Session) has effect as if references to civil proceedings before a sheriff not being subject to simple procedure were references to civil proceedings before a sheriff not being summary causes.

Summary sheriff to have competence in relation to summary causes

12.—(1) Paragraph (2) applies until the day on which section 72(3) of the Act comes into force.

(2) Paragraph 12 of schedule 1 to the Act (civil proceedings, etc. in relation to which summary sheriff has competence) has effect as if the reference to a simple procedure case within the meaning of section 72(9) of the Act were a reference to a summary cause.

St Andrew’s House,
Edinburgh
4th June 2015

PAUL WHEELHOUSE
Authorised to sign by the Scottish Ministers