

**2015 No. 247 (C. 35)**

**SUPREME COURT OF THE UNITED KINGDOM**

**COURT OF SESSION**

**HIGH COURT OF JUSTICIARY**

**SCOTTISH LAND COURT**

**SHERIFF APPEAL COURT**

**SHERIFF COURT**

**JUSTICE OF THE PEACE COURT**

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

*Made* - - - - - *4th June 2015*

*Laid before the Scottish Parliament* *8th June 2015*

*Coming into force* - - - *22nd September 2015*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 138(2) and (3) of the Courts Reform (Scotland) Act 2014<sup>(a)</sup> and all other powers enabling them to do so.

**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<sup>(b)</sup>;

“the 1988 Act” means the Court of Session Act 1988<sup>(c)</sup>; and

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<sup>(a)</sup> 2014 asp 18.

<sup>(b)</sup> 1971 c.58.

<sup>(c)</sup> 1988 c.36.

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

### **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(b) (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.

### **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(c) (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 arise 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)(d) does not apply.

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(a) 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.

(b) 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).

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

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

### **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(a) 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.

### **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.

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(a) 1995 c.46.

(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

## SCHEDULE

Article 2

### Provisions of the Act coming into force on 22nd September 2015

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provisions of the Act</i>	<i>Subject Matter</i>	<i>Purpose</i>
Section 5	Summary sheriffs	For all remaining purposes
Section 10	Part-time summary sheriffs	For all remaining purposes
Section 39	Exclusive competence	For all remaining purposes
Sections 44 and 45	Summary sheriff: civil and criminal competence and jurisdiction	
Section 46	The Sheriff Appeal Court	For all remaining purposes
Sections 47 and 48	Sheriff Appeal Court – appeals and status of decisions in precedent	For the purposes of the Sheriff Appeal Court’s criminal competence and jurisdiction
Section 57(1) and (2)	Sittings of the Sheriff Appeal Court	
Section 58	Rehearing of pending case by a larger Sheriff Appeal Court	
Sections 63 to 71	Civil jury trials in an all-Scotland sheriff court	
Section 79	Proceedings in an all-Scotland sheriff court: transfer to simple procedure	
Section 89	Judicial review <sup>(1)</sup>	
Sections 92 to 94	Remit of cases to and from Court of Session, or to the Scottish Land Court	
Section 99	Jury service	
Section 108	Sanction for counsel in the sheriff court and Sheriff Appeal Court	
Section 117	Appeals to the Supreme Court	
Section 118	Appeals to the Sheriff Appeal Court from summary criminal proceedings	
Section 119	Appeals from the Sheriff Appeal Court to the High Court	For all remaining purposes
Section 120	Power to refer points of law for the opinion of the High Court	
Section 121	References by the Scottish Criminal Cases Review Commission	
Section 122	Bail appeals	
Section 132	Modification of enactments	For the purpose of bringing into force the provisions of schedule 5 listed in column 1 below
Schedule 1	Civil proceedings, etc. in relation to which summary sheriff has competence	
Schedule 2	Appeal Sheriffs: temporary	For all remaining purposes

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Purpose</i>
Paragraphs 1 to 9, 10(1) to (3), (6) and (7), 11 to 21, 23, 24 and 26 of schedule 3	provision Transfer of summary criminal appeal jurisdiction to the Sheriff Appeal Court	
The following provisions of schedule 5—	Modifications of enactments	
Paragraph 4(a)	Repeal of sections 4 to 7 of the Sheriff Courts (Scotland) Act 1907	For the purpose of repealing section 7 of the Sheriff Courts (Scotland) Act 1907
Paragraph 6(1) and (2)	Repeal of the 1971 Act, other than sections 2(3) and 3(4) <sup>(2)</sup>	For the purpose of repealing— (a) section 31 (privative jurisdiction); and (b) section 37(1)(b), (2A) and (2D) (remits to the Court of Session and the Scottish Land Court).
Paragraph 8	Amendment of the Judicial Pensions and Retirement Act 1993	
Paragraph 14(1) to (3)	Amendment of the Legal Aid (Scotland) Act 1986	
Paragraph 15	Amendment of the Criminal Procedure (Scotland) Act 1995	
Paragraph 19	Amendment of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980	
Paragraph 24	Amendment of the Tribunals (Scotland) Act 2014	
Paragraph 25	Repeal of section 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985	
Paragraph 32(1), (2) and (4)	Amendment of the 1988 Act	
Paragraph 33	Repeal of section 40(3) of the Constitutional Reform Act 2005	

<sup>(1)</sup> Section 89 of the Act inserts sections 27A to 27D into the 1988 Act. Section 27B is amended by article 6 of the Courts Reform (Scotland) Act 2014 (Consequential Provisions and Modifications) Order 2015 (S.I. 2015/700).

<sup>(2)</sup> Sections 2(3) and 3(4) were repealed by article 2(3) of S.I. 2015/700.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force provisions of the Courts Reform (Scotland) Act 2014 (“the Act”). The provisions specified in column 1 of the table in the schedule to the Order come into force on 22nd September 2015. The subject matter of these provisions is set out in column 2 of the table, and where provisions are brought into force only for a limited purpose, this purpose is given in column 3.

Articles 3 to 13 contain transitional and saving provisions.

Article 3 provides for the transition from a sheriff’s privative jurisdiction of £5,000 under section 7 of the Sheriff Courts (Scotland) Act 1907 (“the 1907 Act”) to the exclusive competence of £100,000 under section 39 of the Act.

Article 4 provides that where the date on which the grounds giving rise to an application for judicial review arose before 22nd September 2015, they are regarded as having arisen on 22nd September so that the applicant has 3 months to make an application from that date.

Article 5 saves the existing appeal provisions in sections 24 and 40 of the Court of Session Act 1988 (“the 1988 Act”) for any appeal against judgments of the Inner House of the Court of Session that were pronounced before 22nd September 2015.

Articles 6 and 7 provide for the transition from summary criminal appeals and bail appeals (including in solemn proceedings) from sheriffs or JP courts being directed to the Sheriff Appeal Court in place of the High Court of Justiciary.

Article 8 provides for appeal routes from an all-Scotland sheriff court pending the Sheriff Appeal Court having its civil competence and jurisdiction. The All-Scotland Sheriff Court (Sheriff Personal Injury Court) Order 2015 (S.S.I. 2015/213) establishes an all-Scotland sheriff court known as the Sheriff Personal Injury Court.

Articles 9 to 12 modify references to simple procedure to reflect that summary cause procedure will continue to be in place for the time being.

The Act received Royal Assent on 10th November 2014. Sections 133, 134(1) and (3) and 135 to 139 came into force the following day.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 1 to 4	1st April 2015	2015/77 (C. 17)
Section 5 (partially)	1st April 2015	2015/77 (C. 17)
Sections 6 to 9	1st April 2015	2015/77 (C. 17)
Section 10 (partially)	1st April 2015	2015/77 (C. 17)
Sections 11 to 15	1st April 2015	2015/77 (C. 17)
Section 16(1) to (11)	1st April 2015	2015/77 (C. 17)
Sections 17 to 22	1st April 2015	2015/77 (C. 17)
Section 23(5)	12th March 2015	2015/77 (C. 17)
Section 23 (for all remaining purposes)	1st April 2015	2015/77 (C. 17)
Sections 24 and 25	1st April 2015	2015/77 (C. 17)
Sections 27 to 38	1st April 2015	2015/77 (C. 17)
Section 39 (partially)	1st April 2015	2015/77 (C. 17)
Sections 40 to 43	1st April 2015	2015/77 (C. 17)
Section 46 (partially)	1st April 2015	2015/77 (C. 17)
Sections 49 to 56	1st April 2015	2015/77 (C. 17)

Section 57(3) to (5)	1st April 2015	2015/77 (C. 17)
Sections 59 to 62	1st April 2015	2015/77 (C. 17)
Section 72 (partially)	1st April 2015	2015/77 (C. 17)
Sections 75 and 76	1st April 2015	2015/77 (C. 17)
Section 81 (partially)	1st April 2015	2015/77 (C. 17)
Section 86 (partially)	1st April 2015	2015/77 (C. 17)
Sections 87 and 88	1st April 2015	2015/77 (C. 17)
Sections 90 and 91	1st April 2015	2015/77 (C. 17)
Section 98	1st April 2015	2015/77 (C. 17)
Section 102 (partially)	1st April 2015	2015/77 (C. 17)
Sections 103 to 107	1st April 2015	2015/77 (C. 17)
Section 115	1st April 2015	2015/77 (C. 17)
Section 119 (partially)	1st April 2015	2015/77 (C. 17)
Section 123	1st April 2015	2015/77 (C. 17)
Section 125	1st April 2015	2015/77 (C. 17)
Section 127	1st April 2015	2015/77 (C. 17)
Section 130 and paragraphs 1(1), (2), (6), (8) and (9) and 3(1) to (4) and (6) of schedule 4 (partially)	2nd February 2015	2015/12 (C. 2)
Section 130 and schedule 4 (for all remaining purposes)	1st April 2015	2015/77 (C. 17)
Section 131	1st April 2015	2015/77 (C. 17)
Section 132 (for the purpose of bringing into force the provisions of schedule 5 listed below)	1st April 2015	2015/77 (C. 17)
Section 134(2)	1st April 2015	2015/77 (C. 17)
Schedule 2 (partially)	1st April 2015	2015/77 (C. 17)
The following provisions of schedule 5—		
Paragraphs 1 to 3	1st April 2015	2015/77 (C. 17)
Paragraph 4(a) (partially)	1st April 2015	2015/77 (C. 17)
Paragraphs 4(b) and (c)	1st April 2015	2015/77 (C. 17)
Paragraph 4(f) (partially)	1st April 2015	2015/77 (C. 17)
Paragraph 5	1st April 2015	2015/77 (C. 17)
Paragraph 6(1) and (2) (partially)	1st April 2015	2015/77 (C. 17)
Paragraph 7	1st April 2015	2015/77 (C. 17)
Paragraphs 9 to 11	1st April 2015	2015/77 (C. 17)
Paragraph 12(1) and (4)	1st April 2015	2015/77 (C. 17)
Paragraph 16	1st April 2015	2015/77 (C. 17)
Paragraph 18	1st April 2015	2015/77 (C. 17)
Paragraph 26	1st April 2015	2015/77 (C. 17)
Paragraphs 28 to 31	1st April 2015	2015/77 (C. 17)
Paragraph 34	1st April 2015	2015/77 (C. 17)
Paragraphs 36 to 38	1st April 2015	2015/77 (C. 17)
Paragraphs 42 to 45	1st April 2015	2015/77 (C. 17)

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