

**2016 No. 291 (C. 26)**

**COURT OF SESSION**

**SHERIFF COURT**

**The Courts Reform (Scotland) Act 2014 (Commencement No. 7,  
Transitional and Saving Provisions) Order 2016**

*Made* - - - - - *14th September 2016*

*Laid before the Scottish Parliament* *16th September 2016*

*Coming into force* - - - *28th November 2016*

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(a) 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. 7, Transitional and Saving Provisions) Order 2016 and comes into force on 28th November 2016.

(2) In this Order—

“the 1898 Act” means the Vexatious Actions (Scotland) Act 1898(b);

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

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

“relevant claim” means—

(a) a claim raised on or after 28th November 2016 that would be a small claim but for the repeal of sections 35(2) to (4)(d), 36A, 36B(e) and 37(2B) and (2C)(f) and the words “other than a small claim” in section 38(b)(g) of the 1971 Act; or

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- (a) 2014 asp 18. There are amendments to the 2014 Act not relevant to this Order.
- (b) 1898 c.35; as amended by the Administration of Justice (Scotland) Act 1933 (c.41), section 3(1) and the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55), section 19. The 1898 Act is repealed by paragraph 27 of schedule 5 of the 2014 Act.
- (c) 1971 c.58. The 1971 Act is to be repealed by paragraph 6(2) of schedule 5 of the 2014 Act and S.I. 2015/700.
- (d) Section 35 has been amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), sections 18(1) and 59 and schedule 2, paragraph 14; the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), schedule 6, paragraph 1; and S.S.I. 2007/507.
- (e) Sections 36A and 36B were inserted by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, section 18(2).
- (f) Section 37 has been amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, section 16 and the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, section 18(3). The repeal of subsection (1)(b) was commenced on 22nd September 2015 by S.S.I. 2015/247.
- (g) Section 38 has been amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, section 18(4).

- (b) a claim which would be such a claim were the figures of £3000 within each of article 2(a) and (b) of the Small Claims (Scotland) Order 1988(a) figures of £5000; and  
“small claim” has the meaning it has in section 35(2) of the 1971 Act.

### **Appointed day**

2.—(1) Subject to paragraph (2), the day appointed for the coming into force of the provisions of the 2014 Act specified in column 1 of the table in the schedule of this Order (the subject matter of which is specified in column 2 of that table) is 28th November 2016.

(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.

### **Small claims raised before 28th November 2016**

3.—(1) The following provisions apply to small claims raised before 28th November 2016.

(2) Despite the repeal of sections 35(2) to (4), 36A, 36B and 37(2B) and (2C) and the words, “other than a small claim” in section 38(b) of the 1971 Act by paragraph 6(1) and (2) of schedule 5 of the 2014 Act, those sections and the Small Claims (Scotland) Order 1988 continue to apply to such claims.

(3) Despite the repeal of paragraph 3(c) of Part 2 of schedule 2 of the Legal Aid (Scotland) Act 1986 (proceedings in which civil legal aid is not available)(b), that paragraph continues to apply to such claims.

(4) Sections 72, 73, 77, 78, 80, 82 and 96 of the 2014 Act do not apply to such claims.

### **Savings as regards the Vexatious Actions (Scotland) Act 1898**

4. Despite the repeal of the 1898 Act by paragraph 27 of schedule 5 of the 2014 Act—

- (a) the 1898 Act continues to apply to an application made under that Act before 28th November 2016; and  
(b) an order under the 1898 Act (including as applied by paragraph (a)) continues to have effect.

*ANNABELLE EWING*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
14th September 2016

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(a) S.I. 1988/1999; as amended by S.S.I. 2007/496.

(b) 1986 c.47. Paragraph 3 has been amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, section 18(1) and S.I. 1993/969.

## SCHEDULE

Article 2

### Provisions of the 2014 Act coming into force on 28th November 2016

<i>Column 1</i> <i>Provisions of the 2014 Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 72	Simple procedure	For the purposes of a relevant claim
Section 73	Simple procedure: proceedings in an all-Scotland sheriff court	For the purposes of a relevant claim
Sections 77 and 78	Simple procedure: further provisions	For the purposes of a relevant claim
Sections 80 to 82	Simple procedure: further provisions	For the purposes of a relevant claim
Sections 84 and 85	Extended interdicts	
Section 86	Power to enable sheriff to make orders having effect outside sheriffdom	For all remaining purposes
Section 95	Lay representation for non-natural persons: key defined terms	
Section 96	Lay representation in simple procedure cases	For the purposes of a relevant claim
Section 97	Lay representation in other proceedings	
Sections 100 and 101	Vexatious litigation orders	
Section 102	Power to make orders in relation to vexatious behaviour	For all remaining purposes
Section 132	Modifications of enactments	For the purpose of bringing into force the provisions of schedule 5 listed in column 1 below
The following provisions of schedule 5—	Modifications of enactments	
Paragraph 6(1) and (2)	Repeal of the 1971 Act <sup>(a)</sup>	For the purpose of repealing— <ul style="list-style-type: none"> <li>(a) section 35(2) to (4) (small claims);</li> <li>(b) section 36A (further provisions as to small claims);</li> <li>(c) section 36B (expenses in small claims);</li> <li>(d) section 37(2B) and (2C) (remits: small claims); and</li> <li>(e) in section 38(b) (appeal in summary causes) the words,</li> </ul>

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

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Provisions of the 2014 Act</i>	<i>Subject Matter</i>	<i>Purpose</i>
Paragraph 23	Amendment of the Legal Aid (Scotland) Act 1986	“other than a small claim”.
Paragraph 27	Repeal of the 1898 Act	

## EXPLANATORY NOTE

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

This Order brings into force provisions of the Courts Reform (Scotland) Act 2014. The provisions specified in column 1 of the table in the schedule of the Order come into force on 28th November 2016. 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.

Amongst other things, simple procedure is commenced as regards “relevant claims” as defined in article 1(2); otherwise summary cause procedure continues to exist.

Article 3 is a transitional provision for small claims raised before 28th November 2016 (all small claims are “relevant claims”).

Articles 4 concerns the transition from the Vexatious Actions (Scotland) Act 1898 to vexatious litigation orders under the 2014 Act.

The Courts Reform (Scotland) Act 2014 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
Section 5 (partially)	1st April 2015	2015/77
Section 5 (for all remaining purposes)	22nd September 2015	2015/247
Sections 6 to 9	1st April 2015	2015/77
Section 10 (partially)	1st April 2015	2015/77
Section 10 (for all remaining purposes)	22nd September 2015	2015/247
Sections 11 to 15	1st April 2015	2015/77
Section 16(1) to (11)	1st April 2015	2015/77
Section 16(12) and (13)	1st April 2016	2016/13
Sections 17 to 22	1st April 2015	2015/77
Section 23(5)	12th March 2015	2015/77
Section 23 (for all remaining purposes)	1st April 2015	2015/77
Sections 24 and 25	1st April 2015	2015/77
Sections 27 to 38	1st April 2015	2015/77
Section 39 (partially)	1st April 2015	2015/77
Section 39 (for all remaining purposes)	22nd September 2015	2015/247
Sections 40 to 43	1st April 2015	2015/77
Sections 44 and 45	22nd September 2015	2015/247
Section 46 (partially)	1st April 2015	2015/77
Section 46 (for all remaining purposes)	22nd September 2015	2015/247
Sections 47 and 48 (partially)	22nd September 2015	2015/247
Sections 47 and 48 (for all remaining purposes)	1st January 2016	2015/378
Sections 49 to 56	1st April 2015	2015/77
Section 57(1) and (2)	22nd September 2015	2015/247
Section 57(3) to (5)	1st April 2015	2015/77
Section 58	22nd September 2015	2015/247
Sections 59 to 62	1st April 2015	2015/77
Sections 63 to 71	22nd September 2015	2015/247
Section 72 (partially)	1st April 2015	2015/77

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 75 and 76	1st April 2015	2015/77
Section 79	22nd September 2015	2015/247
Section 81 (partially)	1st April 2015	2015/77
Section 86 (partially)	1st April 2015	2015/77
Sections 87 and 88	1st April 2015	2015/77
Section 89	22nd September 2015	2015/247
Sections 90 and 91	1st April 2015	2015/77
Sections 92 to 94	22nd September 2015	2015/247
Section 98	1st April 2015	2015/77
Section 99	22nd September 2015	2015/247
Section 102 (partially)	1st April 2015	2015/77
Sections 103 to 107	1st April 2015	2015/77
Section 108	22nd September 2015	2015/247
Sections 109 to 114	1st January 2016	2015/378
Section 115	1st April 2015	2015/77
Section 116	1st January 2016	2015/378
Sections 117 and 118	22nd September 2015	2015/247
Section 119 (partially)	1st April 2015	2015/77
Section 119 (for all remaining purposes)	22nd September 2015	2015/247
Sections 120 to 122	22nd September 2015	2015/247
Section 123	1st April 2015	2015/77
Section 124	1st April 2016	2016/13
Section 125	1st April 2015	2015/77
Section 126	1st April 2016	2016/13
Section 127	1st April 2015	2015/77
Sections 128 and 129	1st April 2016	2016/13
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
Section 130 and schedule 4 (for all remaining purposes)	1st April 2015	2015/77
Section 131	1st April 2015	2015/77
Section 132 (for the purpose of bringing into force certain provisions of schedule 5)	1st April 2015	2015/77
Section 132 (for the purpose of bringing into force further provisions of schedule 5)	22nd September 2015	2015/247
Section 132 (for the purpose of bringing into force further provisions of schedule 5)	19th October 2015	2015/336
Section 132 (for the purpose of bringing into force further provisions of schedule 5)	1st January 2016	2015/378
Section 132 (for the purpose of bringing into force further provisions of schedule 5)	1st April 2016	2016/13
Section 134(2)	1st April 2015	2015/77
Schedule 1	22nd September 2015	2015/247
Schedule 2 (partially)	1st April 2015	2015/77
Schedule 2 (for all remaining purposes)	22nd September 2015	2015/247
Paragraphs 1 to 9, 10(1) to (3), (6) and (7), 11 to 21, 23, 24 and 26 of schedule 3	22nd September 2015	2015/247
The following provisions of schedule 5—		
Paragraphs 1 to 3	1st April 2015	2015/77
Paragraph 4(a) (partially)	1st April 2015	2015/77
Paragraph 4(a) (for all remaining purposes)	22nd September 2015	2015/247

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Paragraphs 4(b) and (c)	1st April 2015	2015/77
Paragraph 4(e)	1st January 2016	2015/378
Paragraph 4(f) (partially)	1st April 2015	2015/77
Paragraph 5	1st April 2015	2015/77
Paragraph 6(1) and (2) (partially)	1st April 2015	2015/77
Paragraph 6(1) and (2) (partially)	22nd September 2015	2015/247
Paragraph 7	1st April 2015	2015/77
Paragraph 8	22nd September 2015	2015/247
Paragraphs 9 to 11	1st April 2015	2015/77
Paragraph 12(1) and (4)	1st April 2015	2015/77
Paragraph 12(2) and (3)	1st January 2016	2015/378
Paragraph 13	1st January 2016	2015/378
Paragraph 14(1) to (3)	22nd September 2015	2015/247
Paragraph 14(4)	1st January 2016	2015/378
Paragraph 15	22nd September 2015	2015/247
Paragraph 16	1st April 2015	2015/77
Paragraph 17	19th October 2015	2015/336
Paragraph 18	1st April 2015	2015/77
Paragraph 19	22nd September 2015	2015/247
Paragraphs 24 and 25	22nd September 2015	2015/247
Paragraph 26	1st April 2015	2015/77
Paragraphs 28 to 31	1st April 2015	2015/77
Paragraph 32(1), (2) and (4)	22nd September 2015	2015/247
Paragraph 32(3)	1st January 2016	2015/378
Paragraph 33	22nd September 2015	2015/247
Paragraph 34	1st April 2015	2015/77
Paragraph 35	1st April 2016	2016/13
Paragraphs 36 to 38	1st April 2015	2015/77
Paragraphs 39 to 41	1st April 2016	2016/13
Paragraphs 42 to 45	1st April 2015	2015/77

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