

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 12 – General

Section 132 – Modifications of enactments

260. Section 132 introduces schedule 5, which makes minor and consequential modifications of enactments.

Section 133 – Subordinate legislation

261. Subsection (1) of section 133 makes provision allowing any order made by the Scottish Ministers under this Act to include any incidental, supplemental, consequential, transitional, transitory or saving provision. It also permits an order to make different provisions for different purposes or different parts of the country. Subsections (2) and (3) prescribe the procedure which is to apply to orders made by the Scottish Ministers under the Act. Subsection (4) provides that this section does not apply to a commencement order made under section 138(2) of the Act.

Section 134 – References to sheriff

262. Subject to the exceptions narrated by subsection (3), this section makes provision defining references to “sheriff” in the Act. The definition of “sheriff” in the Interpretation and Legislative Reform (Scotland) Act 2010 takes its meaning from section 134 (see paragraph 45 of Part 11 of schedule 5 to the Act). Accordingly reference to “sheriff” in the Act and other enactments will be taken, subject to the conditions set out in this section, to include reference to other judiciary of the sheriffdom (as defined in section 136(2)).

Section 135 – Definition of family proceedings

263. This section lists various proceedings which, for the purposes of this Act, are to be understood as “family proceedings” (for example paragraph 1 of schedule 1 confers competence on summary sheriffs to deal with family proceedings as defined). The Scottish Ministers may modify this list by an order made under subsection (2) subject to the affirmative procedure.

Section 136 – Interpretation

264. Subsection (1) sets out the definitions that apply throughout the Act unless the context requires otherwise.
265. Subsection (2) lists the judicial officers who are included by references to the “judiciary of a sheriffdom”.
266. Subsection (3) makes provision explaining that “proceedings in the sheriff court” includes proceedings before any member of the judiciary of a sheriffdom.

Section 137 – Ancillary provision

267. This section allows the Scottish Ministers, by order, to make such ancillary provision as they consider appropriate for the purposes of, or in connection with or for the purposes of giving full effect to, any provision made by, or by virtue of, the Act. Orders are subject to either the negative or the affirmative procedure depending on their content.

Section 138 – Commencement

268. This section makes provision for all of this Part, with the exception of section 132 and section 134(2), to come into force on the day after Royal Assent. The other provisions of the Act come into force on days appointed by order by the Scottish Ministers. Such orders may contain transitional, transitory or saving provision which may be required (for example the saving of existing subordinate legislation made under enabling powers being repealed and restated in the Act). Section 8(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 allows Ministers to appoint different days for different purposes.

Section 139 – Short title

269. This section makes provision for the short title of the Act to be the Courts Reform (Scotland) Act 2014.