

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 3 – Civil Procedure

Chapter 1 – Sheriff court

Civil jury trials

Section 63 – Civil jury trials in an all-Scotland sheriff court

111. Subsection (1), read together with subsection (7), sets out the types of actions which may require a jury trial. The section only applies to those types of civil proceedings which have been specified in an order made under section 41, and only at the sheriff court or courts which have been specified as having jurisdiction throughout Scotland for those types of civil proceedings. Further, subsection (7) provides that a civil jury trial is only to take place for those types of proceedings which, if they were competent in the Court of Session, would be tried by a jury there, under section 11 of the Court of Session Act 1988.
112. [Section 63\(2\)](#) makes it clear that a jury trial must take place where proceedings have been remitted to probation (that is, where it has been decided to allow evidence to be led to establish the facts). This qualification makes it clear that it is unnecessary to have a jury trial where the pleadings are irrelevant or there is some other fundamental problem. However, subsection (2) also makes it clear that a jury trial will not go ahead if the parties agree otherwise or special cause is shown. The use of the phrase “special cause” is deliberately identical to that in section 9(b) of the Court of Session Act 1988 and subsection (3) explicitly provides that the sheriff will apply that test in the same way as the Court of Session currently does.
113. Subsection (4) sets out the questions which are to be put to the jury, being the “issues” put to the jury in the equivalent action in the Court of Session, in terms of section 12 of the 1988 Act. Again, as with civil jury trials in the Court of Session, a jury will consist of 12 people (subsection (5)).