

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 3 – Civil Procedure

Chapter 1 – Sheriff court

Simple procedure

Section 72 – Simple procedure

124. Subsection (1) establishes a new type of civil proceedings in the sheriff court called simple procedure. Simple procedure replaces the form of procedure known as summary cause which will be abolished through the repeal of sections 35 to 38 of the Sheriff Courts (Scotland) Act 1971 by paragraph 6 of schedule 5 to this Act. The abolition of summary cause proceedings will also mean the abolition of small claim proceedings which are a subset of summary cause proceedings. Subsection (2) makes it clear that most of the provisions about simple procedure will be made by court rules made under section 104(1).
125. Subsection (3) lists the types of proceedings which can only be brought by simple procedure, providing a monetary limit of £5,000 with respect to such proceedings. No other types of proceedings can be brought subject to simple procedure. Subsection (4) makes clear that the limitation on the type of case which must be brought under simple procedure does not prevent cases already raised under different forms of procedure from being transferred to simple procedure under section 78, or affect the operation of section 83 which provides that cases which are subject to summary cause procedure will become subject to simple procedure. It also makes clear that this limitation does not prevent a simple procedure case from being transferred out of that procedure under section 80.
126. Subsection (5) makes it clear that the obligation to raise an action falling within the description in 72(3)(a) by simple procedure does not apply where such a case is also of a type affected by section 73 (proceedings in an all-Scotland sheriff court), nor where it is also of a type affected by section 74 (proceedings for aliment of small amounts under simple procedure). Subsection (6) provides that court rules made by an act of sederunt by the Court of Session will determine the way in which the sum in subsection (3) may be calculated. Subsection (8) enables rules of court to clarify when proceedings are of a type that are to be subject to simple procedure. The method through which the court has determined whether a case must be raised under summary cause procedure is set out in the case of *Milmor Properties v W & T investments Co.Ltd.* [2000]. This power permits rules of court to adopt or modify this method.
127. Subsection (9) ensures that the term “simple procedure case”, when used in Part 3 of the Act includes cases which have been transferred to simple procedure under sections 78 and 79 and cases which have been made subject to simple procedure by other enactments. Subsection (12) provides that the £5,000 limit may be varied by the

*These notes relate to the Courts Reform (Scotland) Act 2014
(asp 18) which received Royal Assent on 10 November 2014*

Scottish Ministers by order (which is subject to the affirmative procedure by virtue of section 133(2)(a) of the Act).