

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 3 – Civil Procedure

Chapter 1 – Sheriff court

Simple procedure

Section 78 – Transfer of cases to simple procedure

133. *Section 78* provides for cases which are not being dealt with under simple procedure to be transferred to that form of proceedings, provided they are now of a type that could be brought under simple procedure. Accordingly if proceedings develop to such an extent that, if they had been raised at that point, they would have had to have been raised under simple procedure, they may be transferred to simple procedure. Subsection (2) (b) permits cases to be transferred to simple procedure if the parties agree, even if the sum sought would exceed the usual monetary limit for simple procedure cases. In such a transfer there is no obligation that the sum sought requires to be lowered to meet the financial limit set out in section 72(3) or 74(2). Accordingly the parties' agreement to continue subject to simple procedure does not have the effect of capping the sum sought to those financial limits. The sheriff has no discretion and must give effect to the parties' joint application. Unlike sections 79 and 80, a single party cannot make a section 78 application.