

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 3 – Civil Procedure

Chapter 1 – Sheriff court

Interdicts and other orders: effect outside sheriffdom

Section 84 – Interdicts having effect in more than one sheriffdom

Section 85 – Proceedings for breach of an extended interdict

141. Section 84 gives a sheriff competence to grant an interdict or interim interdict having effect outwith the sheriff's sheriffdom (i.e., within any other sheriffdom in Scotland).
142. Section 85 sets out that these types of interdicts are to be known as "extended interdicts" and that proceedings for a breach of an extended interdict will be capable of being validly raised and enforced by an action in a number of sheriff courts: in the sheriffdom in which the defender is domiciled; in the sheriffdom in which the interdict was granted; and in the sheriffdom in which the alleged breach occurred.
143. However, on the application of a party to the proceedings or on the sheriff's own initiative, a sheriff may transfer proceedings to a sheriff of another sheriffdom, if satisfied that this would be more appropriate. This sheriff may transfer the proceedings to any other sheriffdom in this case and is not limited to the sheriffdom in which the defender is domiciled, the sheriffdom in which the interdict was granted or the sheriffdom in which the alleged breach occurred. Where a case is transferred to another sheriff in this way, then that sheriff has the competence to consider and determine the proceedings.
144. This provision is a permissive one, however and makes it clear that the sheriff will be able to use discretion in determining whether proceedings should be raised before them. This discretion applies to the operation of all the rules in the section. It is anticipated that, by providing that the test does not affect the power of the sheriff to decline jurisdiction, a sheriff will continue to be able to decline jurisdiction on the basis that his or her court is not an appropriate forum for determining the matter in dispute (*forum non conveniens*).