

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 3 – Civil Procedure

Chapter 4 – Lay representation for non-natural persons

Section 95 – Key defined terms

165. **Section 95** sets out key definitions of non-natural persons (companies and other bodies) in Chapter 4, as well as lay and legal representatives for the purposes of Chapter 4. Chapter 4 makes clear that non-natural persons are entitled to lay representation in certain circumstances in simple procedure cases and may be permitted, in certain circumstances to be represented by a lay person in other civil proceedings. “Solicitor” and “advocate” are defined in section 136(1).

Section 96 - Lay representation in simple procedure cases

166. **Section 96** sets out the scope for permitting lay representation on behalf of non-natural persons in simple procedure cases (see sections 72 to 83). Permission of the court is not required but this section is subject to provision that the Court of Session may make provision, by act of sederunt under section 98, to regulate the authorisation of lay representatives for non-natural persons.

Section 97 – Lay representation in other proceedings

167. **Section 97** sets out the scope for permitting lay representation on behalf of non-natural persons in non-simple procedure cases in the sheriff court, the Sheriff Appeal Court and the Court of Session. The decision on whether to permit lay representation in non-simple procedure cases lies with the court, who may grant permission subject to the fulfilment of the conditions in subsection (3). The suitability of the choice of lay representative is assessed in light of subsection (4) with the assessment of whether permitting lay representation is in the interest of justice in subsection (6). The assessment of such concepts as “interests of justice” and “suitability” in subsection (3) will ensure that the power to determine whether to permit lies firmly in the hands of the court taking into account the particular circumstances of the case.

Section 98 – Lay representation: supplementary provision

168. **Section 98** enables the Court of Session to make further provision by act of sederunt about granting permission for lay representatives under section 97 and, more generally, the way that the proceedings are conducted by lay representatives. Subsection (2) sets out particular provisions that the Court of Session may make in the act of sederunt through its powers in subsection (1) including enabling the court (including the sheriff in the case of proceedings in the sheriff court) to make an order preventing a lay representative from conducting proceedings other than non-simple procedure cases before the court and allowing applications to be considered in chambers and without

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(asp 18) which received Royal Assent on 10 November 2014*

hearing the parties. Subsection (2) is not an exhaustive list of the provisions which may be made under subsection (1).