

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 5 – Civil Appeals

Appeals to the Sheriff Appeal Court

Section 109 – Abolition of appeal from a sheriff to the sheriff principal

199. Whilst the office of sheriff principal will continue, section 109(1) abolishes the right of appeal from the sheriff to the sheriff principal in civil proceedings, in consequence of the new right of appeal to the Sheriff Appeal Court in section 110. This only applies to appeals from the sheriff to the sheriff principal and does not affect any statutory appeals or applications to the sheriff principal from tribunals or other bodies. Subsections (2) and (3) provide that any specific provisions in other enactments which provide for an appeal from a sheriff to the sheriff principal will now be to the Sheriff Appeal Court.

Section 110 – Appeal from a sheriff to the Sheriff Appeal Court

200. **Section 110** is based on section 27 of the Sheriff Courts (Scotland) Act 1907 but provides that the appeal is to the Sheriff Appeal Court rather than the sheriff principal. Permission to appeal is not required in relation to the matters set out in subsection (1). Subsection (2) provides that permission to appeal is, however, required against any other interlocutor (order) of a sheriff in civil proceedings. Subsections (4) to (6) contain a number of qualifications and are intended to restate section 28(2) of the 1907 Act and, in particular, to preserve any specific provision regarding appeal to the Sheriff Appeal Court or Court of Session that may be contained in other enactments. But the general rules for appeals from sheriffs in sections 27 to 29 of the 1907 Act are repealed by paragraph 4(e) of Part 1 of schedule 5 to the Act. See also the explanatory notes for section 82 which makes special provision for appeals from simple procedure cases.

Section 111 – Sheriff Appeal Court’s powers of disposal in appeals

201. **Section 111** sets out the powers of disposal available to the Sheriff Appeal Court. The power in subsection (1)(a) is designed to be wide and is illustrated, but not limited, by the specific disposals listed in sub-paragraphs (i) to (v). Subsection (2) makes it clear that the provisions do not limit the inherent powers possessed by the Sheriff Appeal Court as a court of law conferred under section 47(3).

Section 112 – Remit of appeal from Sheriff Appeal Court to Court of Session

202. **Section 112** permits a case to be remitted for the consideration of the Inner House of the Court of Session. However, it is not intended that parties should be able to bypass the Sheriff Appeal Court since the rationale for having such a court is that not all civil appeals merit the attention of the Inner House. Accordingly, section 112(2)(b) permits the Sheriff Appeal Court to remit an appeal on the application of a party to the Court

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

of Session only if the Sheriff Appeal Court considers that it involves complex or novel points of law.