



Courts Reform (Scotland) Act 2014

2014 asp 18

PART 1

SHERIFF COURTS

CHAPTER 4

COMPETENCE AND JURISDICTION

Sheriffs: civil competence and jurisdiction

38 Jurisdiction and competence of sheriffs

- (1) A sheriff continues to have the jurisdiction and competence that attached to the office of sheriff in relation to civil proceedings immediately before this section comes into force.
- (2) Without limiting that generality, a sheriff has competence as respects proceedings for or in relation to—
 - (a) declarator,
 - (b) aliment or separation,
 - (c) recovery of maintenance arising out of an application under section 31(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972,
 - (d) divorce,
 - (e) division of commonty and division, or division and sale, of common property,
 - (f) questions of heritable right or title, including declarator of irritancy and removing,
 - (g) reduction, other than reduction of a decree of any court,
 - (h) proving the tenor,
 - (i) suspension of charges or threatened charges upon decrees of court granted by a sheriff or upon decrees of registration proceeding upon bonds, bills, contracts or other obligations registered in the books of a sheriff court or the Books of Council and Session,

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- (j) all civil maritime proceedings formerly competent in the High Court of Admiralty in Scotland.
- (3) For the purpose of subsection (2)(e), the Division of Commonties Act 1695 has effect as if it conferred the same competence on a sheriff as it confers on the Court of Session.

39 Exclusive competence

- (1) This section applies to any civil proceedings—
 - (a) which a sheriff has competence to deal with, and
 - (b) in which—
 - (i) one or more orders of value are sought, and
 - (ii) the aggregate total value of all such orders sought, exclusive of interest and expenses, does not exceed £100,000.
- (2) The proceedings may be brought only in the sheriff court and may not be brought in any other court.
- (3) This section does not apply to family proceedings unless the only order sought in the proceedings is an order for payment of aliment.
- (4) Subsection (2) is subject to section 92(7) (remit of cases in exceptional circumstances to the Court of Session).
- (5) The Scottish Ministers may by order substitute another sum for the sum for the time being specified in subsection (1)(b)(ii).
- (6) For the purposes of this Act, an order is an order of value if it is—
 - (a) an order for payment of money, or
 - (b) an order determining rights in relation to property.
- (7) Provision may be made by the Court of Session by act of sederunt for determining, for the purposes of this Act—
 - (a) the value of an order,
 - (b) the aggregate total value of all the orders of value sought in any proceedings.
- (8) An act of sederunt under subsection (7) may make different provision for different purposes.

40 Territorial jurisdiction

- (1) This section applies for the purpose of determining the territorial extent of the jurisdiction of a sheriff of a sheriffdom in relation to matters other than criminal matters.
- (2) The sheriff's jurisdiction extends throughout the sheriffdom and includes all of the following so far as located in or adjoining the sheriffdom—
 - (a) navigable rivers,
 - (b) ports,
 - (c) harbours,
 - (d) creeks,
 - (e) shores,
 - (f) anchoring grounds.

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- (3) Where two sheriffdoms are separated by a river, firth or estuary, the sheriffs of each sheriffdom on either side have concurrent jurisdiction over the intervening space occupied by the water.
- (4) This section does not affect any other enactment or rule of law that has effect for the purpose of determining the territorial extent of the jurisdiction of a sheriff of a sheriffdom, whether generally or in relation to a particular case or description of case.
- (5) This section is subject to an order under section 41(1).

41 Power to confer all-Scotland jurisdiction for specified cases

- (1) The Scottish Ministers may by order provide that the jurisdiction of a sheriff of a specified sheriffdom sitting at a specified sheriff court extends territorially throughout Scotland for the purposes of dealing with specified types of civil proceedings.
- (2) In subsection (1), “specified” means specified in an order under that subsection.
- (3) An order under subsection (1) may be made only with the consent of the Lord President of the Court of Session.
- (4) An order under subsection (1) does not affect—
 - (a) in relation to the sheriffdom specified in the order, the jurisdiction or competence of a sheriff of any other sheriffdom to deal with proceedings of the type specified in the order, or
 - (b) in relation to the sheriff court specified in the order, the jurisdiction or competence of a sheriff sitting at any other sheriff court to deal with such proceedings.
- (5) This section does not apply in relation to proceedings under the Children’s Hearings (Scotland) Act 2011.

42 All-Scotland jurisdiction: further provision

- (1) This section applies in relation to a sheriff sitting at a sheriff court specified in an order under section 41(1) (referred to in this section as a “specified sheriff court”).
- (2) The sheriff’s all-Scotland jurisdiction is concurrent with, and alternative to, the sheriff’s local jurisdiction.
- (3) The sheriff’s “all-Scotland jurisdiction” is the extended jurisdiction in relation to specified proceedings that the sheriff has by virtue of the order under section 41(1).
- (4) The sheriff’s “local jurisdiction” is the jurisdiction that the sheriff would have in relation to specified proceedings apart from the order under section 41(1).
- (5) A party bringing specified proceedings in the specified sheriff court must indicate, at the time the proceedings are brought, whether they are for determination in the exercise of a sheriff’s all-Scotland jurisdiction or a sheriff’s local jurisdiction.
- (6) Subsection (5) does not affect any power that a sheriff has to decline jurisdiction in any case.

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- (7) In this Act, references to an “all-Scotland sheriff court” are references to a specified sheriff court so far as the court is constituted by a sheriff sitting in the exercise of the sheriff’s all-Scotland jurisdiction.
- (8) For the purposes of any provision of this Act, or any other enactment, relating to the transfer or remit of proceedings between courts, a specified sheriff court is, when constituted as an all-Scotland sheriff court, taken to be a separate sheriff court from the court as constituted by a sheriff sitting in the exercise of the sheriff’s local jurisdiction.
- (9) In this section, “specified proceedings” means, in relation to a specified sheriff court, civil proceedings of a type that are specified in relation to that court in the order under section 41(1).

43 Jurisdiction over persons, etc.

- (1) Subsection (2) applies for the purpose of determining the jurisdiction of a sheriff in relation to any civil proceedings that may competently be dealt with by a sheriff.
- (2) The proceedings may be brought before the sheriff of a particular sheriffdom if—
 - (a) the defender (or, where there is more than one defender, one of them) resides in the sheriffdom,
 - (b) the defender (or, where there is more than one defender, one of them) formerly resided in the sheriffdom for at least 40 days and the defender—
 - (i) has ceased to reside there for fewer than 40 days, and
 - (ii) has no known residence in Scotland,
 - (c) the defender—
 - (i) carries on business in the sheriffdom,
 - (ii) has a place of business in the sheriffdom, and
 - (iii) is cited in the sheriffdom, either personally or at the place of business,
 - (d) where the defender is not otherwise subject to the jurisdiction of any court in Scotland, there has been arrested in the sheriffdom—
 - (i) a ship or vessel of which the defender is an owner or part-owner, demise charterer or master, or
 - (ii) goods, debts, money or other moveable property belonging to the defender,
 - (e) any property of which the defender is (either individually or as trustee) the owner, part-owner, tenant or joint tenant is located in the sheriffdom and the proceedings relate to such property or to the defender’s interest in it,
 - (f) in proceedings for interdict, the alleged wrong is being committed or threatened to be committed in the sheriffdom,
 - (g) in proceedings relating to a contract—
 - (i) the place of execution or performance of the contract is located in the sheriffdom, and
 - (ii) the defender is personally cited in the sheriffdom,
 - (h) in actions of furthcoming or multiplepoinding—
 - (i) the fund or property that is the subject of the proceedings is located in the sheriffdom, or
 - (ii) the sheriff otherwise has jurisdiction over the arrestee or holder of the fund or property that is the subject of the proceedings,

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- (i) the party sued is the pursuer in any proceedings pending in the sheriffdom against the party suing,
 - (j) where the proceedings are founded in delict, the delict was committed in the sheriffdom,
 - (k) the defender has prorogated the jurisdiction of the sheriff or courts of the sheriffdom.
- (3) Subsection (2) is subject to—
- (a) section 8 of, and Schedule 1B to, the Domicile and Matrimonial Proceedings Act 1973,
 - (b) the Civil Jurisdiction and Judgments Act 1982,
 - (c) Chapter 3 of Part 1 of the Family Law Act 1986, and
 - (d) any other enactment or rule of law that applies for the purpose of determining the jurisdiction of a sheriff in relation to persons or subject-matter.