



# Courts Reform (Scotland) Act 2014

## 2014 asp 18

### PART 3

#### CIVIL PROCEDURE

#### CHAPTER 4

##### LAY REPRESENTATION FOR NON-NATURAL PERSONS

#### 95 Key defined terms

- (1) This section applies for the purposes of the interpretation of this Chapter.
- (2) “Non-natural person” means—
  - (a) a company (whether incorporated in the United Kingdom or elsewhere),
  - (b) a limited liability partnership,
  - (c) any other partnership,
  - (d) an unincorporated association of persons.
- (3) “Lay representative” means an individual who is not a legal representative.
- (4) “Legal representative” means—
  - (a) a solicitor,
  - (b) an advocate, or
  - (c) a person having a right to conduct litigation, or a right of audience, by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.
- (5) An individual holds a relevant position with a non-natural person if the individual—
  - (a) in the case of a company, is a director or secretary of the company,
  - (b) in the case of a limited liability partnership, is a member of the partnership,
  - (c) in the case of any other partnership, is a partner in the partnership,
  - (d) in the case of an unincorporated association, is a member or office holder of the association.

- (6) For the purposes of section 96, an individual also holds a relevant position with a non-natural person if the individual is an employee of the non-natural person.
- (7) References to conducting proceedings are references to exercising, in relation to the proceedings, a function or right (including a right of audience) that a legal representative could exercise in the proceedings.

## **96 Lay representation in simple procedure cases**

- (1) This section applies in any simple procedure case to which a non-natural person is a party.
- (2) A lay representative may conduct proceedings in the case on behalf of the non-natural person if—
  - (a) the lay representative holds a relevant position with the non-natural person,
  - (b) the responsibilities of the lay representative in that position do not consist wholly or mainly of conducting legal proceedings on behalf of the non-natural person or another person,
  - (c) the lay representative is authorised by the non-natural person to conduct the proceedings,
  - (d) the lay representative does not have a personal interest in the subject matter of the proceedings, and
  - (e) the lay representative is not the subject of an order such as is mentioned in section 98(2)(f).
- (3) In subsection (2)(d), “personal interest” means an interest other than one that anyone holding the position that the lay representative holds with the non-natural person would have.
- (4) Subsection (2) is subject to provision made by an act of sederunt under section 98.

## **97 Lay representation in other proceedings**

- (1) This section applies in civil proceedings (other than a simple procedure case) to which a non-natural person is a party.
- (2) A lay representative may, if the court grants permission, conduct the proceedings on behalf of the non-natural person.
- (3) The court may grant permission if satisfied that—
  - (a) the non-natural person is unable to pay for the services of a legal representative to conduct the proceedings,
  - (b) the lay representative is a suitable person to conduct the proceedings, and
  - (c) it is in the interests of justice to grant permission.
- (4) For the purposes of subsection (3)(b), a lay representative is a suitable person to conduct the proceedings if—
  - (a) the lay representative holds a relevant position with the non-natural person,
  - (b) the responsibilities of the lay representative in that position do not consist wholly or mainly of conducting legal proceedings on behalf of the non-natural person or another person,

- (c) the lay representative is authorised by the non-natural person to conduct the proceedings,
  - (d) the lay representative does not have a personal interest in the subject matter of the proceedings, and
  - (e) the lay representative is not the subject of an order such as is mentioned in section 98(2)(f).
- (5) In subsection (4)(d), “personal interest” means an interest other than one that anyone holding the position that the lay representative holds with the non-natural person would have.
- (6) For the purposes of subsection (3)(c), in deciding whether it is in the interests of justice to grant permission, the court must have regard, in particular, to—
- (a) the non-natural person’s prospects of success in the proceedings, and
  - (b) the likely complexity of the proceedings.
- (7) Subsection (2) is subject to provision made by an act of sederunt under section 98.
- (8) In this section—
- “civil proceedings” means civil proceedings in—
    - (a) the Court of Session,
    - (b) the Sheriff Appeal Court, or
    - (c) the sheriff court,
  - “the court”, in the case of proceedings in the sheriff court, means the sheriff.

## **98 Lay representation: supplementary provision**

- (1) The Court of Session may, by act of sederunt, make further provision about—
- (a) the granting of permission under section 97, and
  - (b) the conduct of proceedings by lay representatives by virtue of this Chapter.
- (2) Provision under subsection (1) may include, in particular, provision—
- (a) about the procedure to be followed in considering applications for permission under section 97 (including provision for applications to be considered in chambers and without hearing the parties),
  - (b) regulating the conduct of lay representatives in exercising a function or right by virtue of this Chapter,
  - (c) about the authorisation of lay representatives for the purposes of this Chapter,
  - (d) imposing conditions on the exercise by lay representatives of a function or right by virtue of this Chapter or enabling the court to impose such conditions in particular cases,
  - (e) enabling the court, in particular cases, to withdraw a lay representative’s right to exercise a function or right by virtue of this Chapter if the representative contravenes provision made by virtue of the act of sederunt,
  - (f) enabling the court to make an order preventing a lay representative from conducting any proceedings before any court on behalf of non-natural persons,
  - (g) enabling the court, in awarding expenses against a non-natural person in any case, to find a lay representative jointly and severally liable for the expenses.

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**Status:** This is the original version (as it was originally enacted).

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- (3) An act of sederunt under subsection (1) may make different provision for different purposes.
- (4) In this section, “the court”, in the case of proceedings in the sheriff court, means the sheriff.