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Changes to legislation: Courts Reform (Scotland) Act 2014, SCHEDULE 5 is up to date with all changes known to be in force on or before 19 August 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 5

(introduced by section 132)

MODIFICATIONS OF ENACTMENTS

PART 1

SHERIFF COURTS

Promissory Oaths Act 1868

- 1 In the Promissory Oaths Act 1868, in the second part of the Schedule (persons to take oaths of allegiance and judicial oaths), after “part-time sheriffs” insert “ , summary sheriffs, part-time summary sheriffs ”.

Commencement Information

- I1** Sch. 5 para. 1 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Promissory Oaths Act 1871

- 2 In section 2 of the Promissory Oaths Act 1871 (persons before whom oaths are to be taken), for “or sheriff, or, for a part-time sheriff,” substitute “ , sheriff or summary sheriff, or, for a part-time sheriff or part-time summary sheriff, ”.

Commencement Information

- I2** Sch. 5 para. 2 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Sheriff Courts (Scotland) Act 1876

- 3 In the Sheriff Courts (Scotland) Act 1876, section 54 (courts to make acts of sederunt) is repealed (so far as not previously repealed).

Commencement Information

- I3** Sch. 5 para. 3 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch. (with art. 6)

Sheriff Courts (Scotland) Act 1907

- 4 The following provisions of the Sheriff Courts (Scotland) Act 1907 are repealed—
- (a) sections 4 to 7 (jurisdiction, extension of jurisdiction, power of sheriff to order sheriff clerk to execute deeds relating to heritage, action competent in sheriff court and privative jurisdiction in causes under one thousand five hundred pounds value),
 - (b) sections 10 and 11 (privilege not to exempt from jurisdiction and appointment of sheriffs and salaried sheriffs-substitute),
 - (c) section 14 (salaries of sheriffs and sheriffs-substitute),
 - (d) section 17 (honorary sheriff-substitute),

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- (e) sections 27 to 29 (appeal to sheriff, appeal to Court of Session and effect of appeal),
- (f) sections 39 and 40 (procedure rules and Court of Session to regulate fees etc.),
- (g) section 50 (summary applications),
- (h) Schedule 1 (ordinary cause rules 1993).

Commencement Information

- I4** Sch. 5 para. 4(a) in force at 1.4.2015 for specified purposes by S.S.I. 2015/77, art. 2(2)(3), **Sch.**
- I5** Sch. 5 para. 4(a) in force at 22.9.2015 for specified purposes by S.S.I. 2015/247, art. 2, **Sch.** (with art. 3(1))
- I6** Sch. 5 para. 4(e) in force at 1.1.2016 by S.S.I. 2015/378, art. 2, **Sch.** (with art. 3)
- I7** Sch. 5 para. 4(f) in force at 1.4.2015 for specified purposes by S.S.I. 2015/77, art. 2(2)(3), **Sch.** (with art. 7)

Sheriff Courts and Legal Officers (Scotland) Act 1927

- 5 (1) Section 8 of the Sheriff Courts and Legal Officers (Scotland) Act 1927 (issuing of instructions to sheriff clerks and procurators fiscal) is amended in accordance with this paragraph.
- (2) In subsection (1), for “as regards sheriff clerks and the Lord Advocate as regards procurators fiscal may from time to time issue” substitute “ may from time to time issue to sheriff clerks ”.
- (3) After subsection (1) insert—
- “(1A) The Lord Advocate may from time to time issue to procurators fiscal such instructions as may be deemed necessary for the purpose of—
- (a) giving effect to the provisions of this Act, or
 - (b) the efficient disposal of business in the sheriff courts.”.

Commencement Information

- I8** Sch. 5 para. 5 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), **Sch.**

Sheriff Courts (Scotland) Act 1971

- 6 (1) The Sheriff Courts (Scotland) Act 1971 is amended in accordance with this paragraph.
- (2) The whole Act, apart from sections 2(3) and 3(4), is repealed.
- (3) In section 2(3) (compensation for loss of office), for “subsection (1) above includes, by virtue of subsection (2)(a) above,” substitute “ section 2(1) of the Courts Reform (Scotland) Act 2014 includes ”.
- (4) In section 3(4) (compensation for loss of employment), for “subsection (2) above” substitute “ section 2(1) of the Courts Reform (Scotland) Act 2014 ”.

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Commencement Information

- I9** Sch. 5 para. 6(1)(2) in force at 1.4.2015 for specified purposes by S.S.I. 2015/77, art. 2(2)(3), Sch. (with art. 7)
- I10** Sch. 5 para. 6(1)(2) in force at 22.9.2015 for specified purposes by S.S.I. 2015/247, art. 2, Sch.
- I11** Sch. 5 para. 6(1)(2) in force at 28.11.2016 for specified purposes by S.S.I. 2016/291, art. 2, sch. (with art. 3(1)(2))

Civil Jurisdiction and Judgments Act 1982

- 7 In section 20(3) of the Civil Jurisdiction and Judgments Act 1982 (rules as to jurisdiction in Scotland)—
- (a) for the opening words substitute “ Section 43 of the Courts Reform (Scotland) Act 2014 does not apply— ”,
 - (b) in paragraph (a), the words “to the extent that it determines jurisdiction” are repealed.

Commencement Information

- I12** Sch. 5 para. 7 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Judicial Pensions and Retirement Act 1993

- 8 In Schedule 5 to the Judicial Pensions and Retirement Act 1993 (relevant offices for the purposes of retirement provisions)—
- (a) for the entry for “Sheriff principal or sheriff in Scotland” substitute— “ Sheriff principal, sheriff or summary sheriff in Scotland ”,
 - (b) after the entry for “Part-time sheriff in Scotland”, insert— “ Part-time summary sheriff in Scotland ”,
 - (c) the entry for “Stipendiary magistrate in Scotland” is repealed.

Commencement Information

- I13** Sch. 5 para. 8 in force at 22.9.2015 by S.S.I. 2015/247, art. 2, Sch.

Judiciary and Courts (Scotland) Act 2008

- 9 (1) The Judiciary and Courts (Scotland) Act 2008 is amended in accordance with this paragraph.
- (2) The following provisions are repealed—
- (a) sections 24 to 26 (amendments of Sheriff Courts (Scotland) Act 1971 relating to sheriffs principal, sheriffs and part-time sheriffs),
 - (b) section 40 (amendments of the 1971 Act relating to consideration of fitness for, and removal from, shrieval office),
 - (c) sections 47 to 56 (miscellaneous amendments of the 1971 Act relating to the sheriff courts),
 - (d) section 64(1) and (2) (amendments of the 1971 Act relating to remuneration and allowances of certain judicial office holders),

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- (e) in section 72 (interpretation), the definition of “the 1971 Act”,
 - (f) in schedule 5, paragraph 2 (consequential amendments of the 1971 Act).
- (3) In subsection (1) of section 10 (judicial offices within the remit of the Judicial Appointments Board for Scotland), after paragraph (f) insert—
- “(fza) the office of summary sheriff,
 - (fzb) the office of part-time summary sheriff”.
- (4) In section 43 (meaning of “judicial office holder”)—
- (a) in subsection (1), for paragraph (c) substitute—
 - “(c) a person acting as a sheriff or as a summary sheriff by virtue of section 12(1) or 13(5) of the Courts Reform (Scotland) Act 2014.”,
 - (b) in subsection (2), after paragraph (g) insert—
 - “(ga) the office of summary sheriff,
 - (gb) the office of part-time summary sheriff”.
- (5) In section 62(1)(c) (administrative support to be provided by the Scottish Courts and Tribunals Service), for “section 15 to 17 of the 1971 Act” substitute “ sections 27 and 28 of the Courts Reform (Scotland) Act 2014 ”.
- (6) In section 72 (interpretation)—
- (a) in the definition of “office of part-time sheriff” for “11A, or a reappointment under section 11B(5) or (7), of the 1971 Act” substitute “ 8(1), or a reappointment under section 9(1) or (3), of the Courts Reform (Scotland) Act 2014 ”,
 - (b) after the definition of “office of part-time sheriff” insert—
 - ““office of part-time summary sheriff” means an appointment under section 10(1), or a reappointment under section 11(1) or (3), of the Courts Reform (Scotland) Act 2014, and references to suspension from that office are to be construed accordingly,”,
 - (c) in the definition of “office of temporary sheriff principal” for “11(1) or (1A) of the 1971 Act” substitute “ 6(2) of the Courts Reform (Scotland) Act 2014 ”.

Commencement Information

I14 Sch. 5 para. 9 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

PART 2

SHERIFF APPEAL COURT

Sheriff Courts and Legal Officers (Scotland) Act 1927

- 10 In section 1 of the Sheriff Courts and Legal Officers (Scotland) Act 1927 (appointment of sheriff clerk and procurator fiscal), after subsection (5) insert—

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“(6) For the purposes of subsection (3) above, the appointment of a sheriff clerk as Clerk of the Sheriff Appeal Court under section 59 of the Courts Reform (Scotland) Act 2014 is not a removal from office.”.

Commencement Information

I15 Sch. 5 para. 10 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Public Records (Scotland) Act 1937

11 (1) The Public Records (Scotland) Act 1937 is amended in accordance with this paragraph.

(2) After section 1, insert—

“1A Sheriff Appeal Court records

“1A “1A Sheriff Appeal Court records

(1) The records of the Sheriff Appeal Court are to be transmitted to the Keeper at such times, and subject to such conditions as may be prescribed—

- (a) in relation to records relating to criminal proceedings, by act of adjournal,
- (b) in relation to other records, by act of sederunt.

(2) An act of adjournal or act of sederunt under subsection (1) may—

- (a) fix different times and conditions of transmission for different descriptions or records,
- (b) make provision for—
 - (i) re-transmission of records to the High Court of Justiciary, the Court of Session or the Sheriff Appeal Court when such re-transmission is necessary for the purposes of proceedings in any of the Courts, and
 - (ii) the return to the Keeper of any records so re-transmitted as soon as they have ceased to be required for such a purpose.

(3) Before making an act of adjournal or act of sederunt under subsection (1), the High Court of Justiciary or, as the case may be, the Court of Session must consult the Keeper.”.

(3) In section 2(2) (re-transmission of sheriff court records from the Keeper to the courts)

- (a) after “Session” in the first place it occurs insert “, the Sheriff Appeal Court”,
- (b) after “Session” in the second place it occurs insert “, of an Appeal Sheriff”.

(4) In section 2A(3) (re-transmission of JP court records from the Keeper to the courts)—

- (a) after “Session,” in the first place it occurs insert “ the Sheriff Appeal Court, ”,
- (b) after “Session” in the second place it occurs insert “, of an Appeal Sheriff”.

(5) In section 14(1) (interpretation), after the definition of “records of the Court of Session” and “records of the High Court of Justiciary” insert—

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“the expression “records of the Sheriff Appeal Court” includes the registers, minute books, processes, writs or documents belonging to or in the custody of the Sheriff Appeal Court;”.

Commencement Information

I16 Sch. 5 para. 11 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Administration of Justice (Scotland) Act 1972

- 12 (1) Section 1 of the Administration of Justice (Scotland) Act 1972 (powers of courts to order inspection of documents or other property etc.) is amended in accordance with this paragraph.
- (2) In subsection (1), after “Session” insert “, of the Sheriff Appeal Court ”.
- (3) In subsection (1A), after “Session” insert “, of the Sheriff Appeal Court ”.
- (4) In subsection (3), after “sheriff court” insert “ and the Sheriff Appeal Court ”.

Commencement Information

I17 Sch. 5 para. 12(1)(4) in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

I18 Sch. 5 para. 12(2)(3) in force at 1.1.2016 by S.S.I. 2015/378, art. 2, Sch.

Civil Jurisdiction and Judgments Act 1982

- 13 In section 50 of the Civil Jurisdiction and Judgments Act 1982 (interpretation), in the definition of “court of law”, in paragraph (c) after “Session” insert “, the Sheriff Appeal Court ”.

Commencement Information

I19 Sch. 5 para. 13 in force at 1.1.2016 by S.S.I. 2015/378, art. 2, Sch.

Legal Aid (Scotland) Act 1986

- 14 (1) The Legal Aid (Scotland) Act 1986 is amended in accordance with this paragraph.
- (2) In section 21(1) (criminal legal aid), in paragraph (a), after sub-paragraph (i) insert—
 “(ia) the Sheriff Appeal Court;”.
- (3) In section 25 (legal aid in appeals)—
- (a) in subsection (2)(b)—
- (i) for “or 175(2)” substitute “, 175(2) or 194ZB(1) ”,
- (ii) after “leave” insert “ or permission ”,
- (b) in subsection (2A), after “High Court” insert “ or, in the case of an appeal to the Sheriff Appeal Court, that Court ”,
- (c) in subsection (2B), after “High Court” insert “ or, in the case of an appeal to the Sheriff Appeal Court, that Court ”,

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(d) in subsection (5)—

(i) for “or 187” substitute “, 187, 194ZD or 194ZE”,

(ii) after “leave” in each place where it occurs insert “ or permission ”.

(4) In Part 1 of Schedule 2 (courts in which civil legal aid is available), in paragraph 1, after the entry for the Scottish Land Court, insert— “ the Sheriff Appeal Court; ”.

Commencement Information

I20 Sch. 5 para. 14(1)-(3) in force at 22.9.2015 by S.S.I. 2015/247, art. 2, Sch.

I21 Sch. 5 para. 14(4) in force at 1.1.2016 by S.S.I. 2015/378, art. 2, Sch.

Criminal Procedure (Scotland) Act 1995

15 In section 304 of the Criminal Procedure (Scotland) Act 1995 (Criminal Courts Rules Council), in subsection (2)(c), before sub-paragraph (i) insert—
“(zi) one Appeal Sheriff;”.

Commencement Information

I22 Sch. 5 para. 15 in force at 22.9.2015 by S.S.I. 2015/247, art. 2, Sch.

Judiciary and Courts (Scotland) Act 2008

16 (1) The Judiciary and Courts (Scotland) Act 2008 is amended in accordance with this paragraph.

(2) In section 2 (Head of the Scottish Judiciary)—

(a) after subsection (2) insert—

“(2A) If, in carrying out the responsibility mentioned in subsection (2)(a), the Lord President gives a direction of an administrative character to the President of the Sheriff Appeal Court, the President must comply with the direction.”,

(b) in subsection (6), after paragraph (e) insert—

“(ea) the Sheriff Appeal Court.”.

(3) In subsection (2) of section 43 (meaning of “judicial office holder”), after paragraph (c) insert—

“(ca) the office of Appeal Sheriff.”.

(4) In section 62 (Scottish Court Service to provide administrative support for other persons), in subsection (1), after paragraph (b) insert—

“(ba) the President of the Sheriff Appeal Court in the carrying out of functions under section 56 of the Courts Reform (Scotland) Act 2014.”.

Commencement Information

I23 Sch. 5 para. 16 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

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Criminal Justice and Licensing (Scotland) Act 2010

17 (1) The Criminal Justice and Licensing (Scotland) Act 2010 is amended in accordance with this paragraph.

(2) In section 6 (effect of sentencing guidelines)—

(a) for subsection (4), substitute—

“(4) Subsection (5) applies where, on an appeal in any case—

(a) the High Court of Justiciary passes another sentence under one of the following provisions of the 1995 Act—

(i) section 118(3),

(ii) section 118(4)(b),

(iii) section 118(4A)(b),

(iv) section 118(4A)(c)(ii), or

(b) the Sheriff Appeal Court or the High Court passes another sentence under section 189(1)(b) of that Act.”,

(b) in subsection (5), after “Court” insert “ or, as the case may be, the Sheriff Appeal Court ”.

(3) After section 8, insert—

“8A Sheriff Appeal Court's power to require preparation or review of sentencing guidelines

“8A “8A Sheriff Appeal Court's power to require preparation or review of sentencing guidelines

(1) Where the Sheriff Appeal Court pronounces an opinion under section 189(7) of the 1995 Act, the Court may require the Council to—

(a) prepare, for the approval of the High Court of Justiciary, sentencing guidelines on any matter, or

(b) review any sentencing guidelines published by the Council on any matter.

(2) On making a requirement under subsection (1), the Sheriff Appeal Court must state its reasons for doing so.

(3) The Council must comply with a requirement made under subsection (1) and, in doing so, must have regard to the Sheriff Appeal Court's reasons for making the requirement.”.

(4) In section 9 (publication of High Court guideline judgments)—

(a) in subsection (1), for “or 189(7) of the 1995 Act” substitute “ of the 1995 Act and opinions of the Sheriff Appeal Court or the High Court pronounced under section 189(7) of that Act ”,

(b) in subsection (2), after “High Court” insert “ or the Sheriff Appeal Court ”,

(c) the title of the section becomes “ **Publication of High Court and Sheriff Appeal Court guideline judgments** ”.

(5) In section 13 (annual report of the Scottish Sentencing Council), in subsection (3)—

(a) the word “and” immediately following paragraph (d) is repealed,

(b) after paragraph (e) insert “, and

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- (f) requirements made by the Sheriff Appeal Court under section 8A and of the Council's response to them.”.

Commencement Information

I24 Sch. 5 para. 17 in force at 19.10.2015 by S.S.I. 2015/336, art. 2(d)

Scottish Civil Justice Council and Criminal Legal Assistance Act 2013

- 18 In section 2 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (functions of the Scottish Civil Justice Council)—
- (a) in subsection (1)(b), after “in” where it fourth occurs insert “ the Sheriff Appeal Court or ”,
- (b) in subsection (6)—
- (i) the word “and” immediately following paragraph (a) is repealed,
- (ii) after that paragraph insert—
- “(aa) the Sheriff Appeal Court, and”.

Commencement Information

I25 Sch. 5 para. 18 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

PART 3

CIVIL JURY TRIALS

Law Reform (Miscellaneous Provisions) (Scotland) Act 1980

- 19 (1) The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 is amended in accordance with this paragraph.
- (2) In section 2(2) (fining of jurors in civil proceedings for non-attendance), after paragraph (a) insert—
- “(aa) by the sheriff where imposed in the sheriff court;”.
- (3) In section 11 (no jury trial in civil actions in the sheriff court), after subsection (1) insert—
- “(1A) Subsection (1) is subject to section 63 (civil jury trials in all-Scotland sheriff courts) of the Courts Reform (Scotland) Act 2014.”.

Commencement Information

I26 Sch. 5 para. 19 in force at 22.9.2015 by S.S.I. 2015/247, art. 2, Sch.

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PART 4

SIMPLE PROCEDURE

PROSPECTIVE

Heritable Securities (Scotland) Act 1894

- 20 In section 5 of the Heritable Securities (Scotland) Act 1894 (power to eject proprietor in personal occupation), after subsection (2) insert—
- “(2A) Subsection (2) is subject to section 72(3) of the Courts Reform (Scotland) Act 2014 (which provides for certain proceedings for the recovery of heritable property to be subject to simple procedure).”.

PROSPECTIVE

Sheriff Courts (Civil Jurisdiction and Procedure) (Scotland) Act 1963

- 21 The Sheriff Courts (Civil Jurisdiction and Procedure) (Scotland) Act 1963 is repealed.

PROSPECTIVE

Conveyancing and Feudal Reform (Scotland) Act 1970

- 22 In section 24 of the Conveyancing and Feudal Reform (Scotland) Act 1970 (application by creditor to court for remedies on default), after subsection (1D) insert—
- “(1E) Subsection (1D) is subject to section 72(3) of the Courts Reform (Scotland) Act 2014 (which provides for certain proceedings for the recovery of heritable property to be subject to simple procedure).”.

Legal Aid (Scotland) Act 1986

- 23 (1) Part 2 of Schedule 2 to the Legal Aid (Scotland) Act 1986 (proceedings in which civil legal aid is not available) is amended in accordance with this paragraph.
- (2) In paragraph 3, sub-paragraph (c) (small claims) is repealed.
- (3) After paragraph 3, insert—
- “3A Civil legal aid shall not be available in relation to the following categories of simple procedure case (within the meaning of section 72(9) of the Courts Reform (Scotland) Act 2014) at first instance, namely—
- (a) proceedings for payment of a sum of money not exceeding £3,000 (exclusive of interest and expenses), other than—
- (i) proceedings in respect of aliment or interim aliment, and
- (ii) actions for personal injury,

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- (b) actions ad factum praestandum and proceedings for the recovery of possession of moveable property in which (in either case) there is included, as an alternative to the claim, a claim for payment of a sum of money not exceeding £3,000 (exclusive of interest and expenses).
- 3B In paragraph 3A—
- (a) “actions for personal injury” means actions to which section 17 or 18 of the Prescription and Limitation (Scotland) Act 1973 applies, and
 - (b) “actions ad factum praestandum” includes actions for delivery and actions for implement but does not include actions for count, reckoning and payment.”.

Commencement Information

I27 Sch. 5 para. 23 in force at 28.11.2016 by S.S.I. 2016/291, art. 2, sch. (with art. 3(1)(3))

PART 5

JUDICIAL REVIEW

Tribunals (Scotland) Act 2014

24 After section 57 of the Tribunals (Scotland) Act 2014 insert—

“57A Procedural steps where petition remitted

“57A “57A Procedural steps where petition remitted

- (1) This section applies where the Court of Session remits a petition for judicial review under section 57(2).
- (2) It is for the Upper Tribunal to determine—
 - (a) whether the petition has been made timeously, and
 - (b) whether to grant permission for the petition to proceed under section 27B of the Court of Session Act 1988 (“the 1988 Act”) (requirement for permission).
- (3) Accordingly—
 - (a) the Upper Tribunal has the same powers in relation to the petition as the Court of Session would have had in relation to it under sections 27A to 27C of the 1988 Act,
 - (b) sections 27C and 27D of that Act apply in relation to a decision of the Upper Tribunal under section 27B(1) of that Act as they apply in relation to such a decision of the Court of Session.
- (4) The references in section 27C(3) and (4) of the 1988 Act (oral hearings where permission refused) to a different Lord Ordinary from the one who refused or granted permission are to be read as references to different members of the Tribunal from those of whom it was composed when it refused or granted permission.”.

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Commencement Information

I28 Sch. 5 para. 24 in force at 22.9.2015 by S.S.I. 2015/247, art. 2, Sch.

PART 6

REMIT OF CASES BETWEEN COURTS

Law Reform (Miscellaneous Provisions) (Scotland) Act 1985

- 25 In the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985, section 14 (remit from Court of Session to sheriff) is repealed.

Commencement Information

I29 Sch. 5 para. 25 in force at 22.9.2015 by S.S.I. 2015/247, art. 2, Sch. (with art. 3(3))

PART 7

REGULATION OF PROCEDURE AND FEES

Courts of Law Fees (Scotland) Act 1895

- 26 In the Courts of Law Fees (Scotland) Act 1895, section 2 (power of Scottish Ministers to regulate court fees) is repealed.

Commencement Information

I30 Sch. 5 para. 26 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch. (with art. 7)

Vexatious Actions (Scotland) Act 1898

- 27 The Vexatious Actions (Scotland) Act 1898 is repealed.

Commencement Information

I31 Sch. 5 para. 27 in force at 28.11.2016 by S.S.I. 2016/291, art. 2, sch. (with art. 4)

Execution of Diligence (Scotland) Act 1926

- 28 In the Execution of Diligence (Scotland) Act 1926, section 6 (regulations, forms and fees) is repealed.

Commencement Information

I32 Sch. 5 para. 28 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch. (with art. 7)

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Administration of Justice (Scotland) Act 1972

- 29 In section 1(3) of the Administration of Justice (Scotland) Act 1972 (powers of courts to order inspection of documents or other property etc.), for “section 32 of the Sheriff Courts (Scotland) Act 1971” substitute “section 104(1) of the Courts Reform (Scotland) Act 2014”.

Commencement Information

I33 Sch. 5 para. 29 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Court of Session Act 1988

- 30 (1) The Court of Session Act 1988 is amended in accordance with this paragraph.
- (2) In section 2(4) (composition of the Court), for “section 5(ba) below,” substitute “an act of sederunt under section 103(1) of the Courts Reform (Scotland) Act 2014,”.
- (3) Sections 5 (power to regulate procedure etc. by act of sederunt), 5A (rules for lay representation) and 6 (allocation of business etc. by act of sederunt) are repealed.
- (4) In section 26(3) (summary trials), for “this Act” substitute “section 103(1) of the Courts Reform (Scotland) Act 2014”.

Commencement Information

I34 Sch. 5 para. 30 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch. (with art. 7)

Scottish Civil Justice Council and Criminal Legal Assistance Act 2013

- 31 (1) The Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 is amended in accordance with this paragraph.
- (2) In section 2 (functions of the Council)—
- (a) in subsection (1)(c), after sub-paragraph (i) insert—
“(ia) draft fees rules,”
- (b) after subsection (6), insert—
“(6A) For the purposes of this Part, “draft fees rules” means drafts of such provision as the Court of Session may make by act of sederunt under section 105(1) or 106(1) of the Courts Reform (Scotland) Act 2014 (powers to regulate court fees).”
- (3) In section 4 (Court of Session to consider rules)—
- (a) in subsection (1), after “rules” where it first occurs insert “, draft fees rules”,
- (b) in subsection (2), after “rules” where it first occurs insert “, draft fees rules”,
- (c) in subsection (3)—
- (i) the words from “which” to “section 2(5)” become paragraph (a), and
- (ii) after that paragraph insert—
“(b) under section 105(1) or 106(1) of the Courts Reform (Scotland) Act 2014.”

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: Courts Reform (Scotland) Act 2014, SCHEDULE 5 is up to date with all changes known to be in force on or before 19 August 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I35 Sch. 5 para. 31 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

PART 8

CIVIL APPEALS

Court of Session Act 1988

- 32 (1) The Court of Session Act 1988 is amended in accordance with this paragraph.
- (2) Section 24 (appeal to the Supreme Court in exchequer causes) is repealed.
- (3) In section 32 (appeals)—
- (a) in subsection (1), for “sheriff principal or sheriff under section 28 of the Sheriff Courts (Scotland) Act 1907” substitute “ Sheriff Appeal Court under section 113 of the Courts Reform (Scotland) Act 2014 or the judgment of a sheriff principal under section 114 of that Act ”,
 - (b) in each of subsections (2) and (4), for “sheriff principal or sheriff” substitute “ Sheriff Appeal Court or, as the case may be, the sheriff principal ”.
- (4) In section 52 (consequential amendments, repeals and savings), subsection (3) is repealed.

Commencement Information

I36 Sch. 5 para. 32(1)(2)(4) in force at 22.9.2015 by S.S.I. 2015/247, art. 2, Sch. (with art. 5(1))

I37 Sch. 5 para. 32(3) in force at 1.1.2016 by S.S.I. 2015/378, art. 2, Sch.

Constitutional Reform Act 2005

- 33 In section 40 of the Constitutional Reform Act 2005 (jurisdiction of the Supreme Court), subsection (3) is repealed.

Commencement Information

I38 Sch. 5 para. 33 in force at 22.9.2015 by S.S.I. 2015/247, art. 2, Sch.

PART 9

JUDGES OF THE COURT OF SESSION

Promissory Oaths Act 1868

- 34 In the Promissory Oaths Act 1868, in the Second Part of the Schedule, for “35(3) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990” substitute “ 20B(1) of the Judiciary and Courts (Scotland) Act 2008 ”.

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: Courts Reform (Scotland) Act 2014, SCHEDULE 5 is up to date with all changes known to be in force on or before 19 August 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I39 Sch. 5 para. 34 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Administration of Justice Act 1973

- 35 In section 9 of the Administration of Justice Act 1973 (judicial salaries), subsection (5) is repealed.

Commencement Information

I40 Sch. 5 para. 35 in force at 1.4.2016 by S.S.I. 2016/13, art. 2, Sch.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1985

- 36 Section 22 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (re-employment of retired judges) is repealed.

Commencement Information

I41 Sch. 5 para. 36 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

- 37 (1) The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 is amended in accordance with this paragraph.
- (2) In section 35 (judicial appointments)—
- (a) subsections (1) and (3) are repealed,
 - (b) in subsection (2), for “the said Schedule” substitute “ Schedule 4 ”.
- (3) In Schedule 4 (judicial appointments), paragraphs 1 to 3 and 5 to 11 are repealed.

Commencement Information

I42 Sch. 5 para. 37 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Judiciary and Courts (Scotland) Act 2008

- 38 (1) The Judiciary and Courts (Scotland) Act 2008 is amended in accordance with this paragraph.
- (2) In section 43(1)(b) (meaning of “judicial office holder”), for “22(1) or (4) (re-employment of retired Court of Session judges) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73)” substitute “ 20E(1) (re-employment of former judges) or 20F(3) (re-employment of former judges: further provision) ”.
- (3) In section 64 (amendments of enactments relating to remuneration and allowances of re-employed retired judges and temporary judges), subsections (3) and (4) are repealed.

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: Courts Reform (Scotland) Act 2014, SCHEDULE 5 is up to date with all changes known to be in force on or before 19 August 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) In section 72 (interpretation), in the definition of “office of temporary judge”, for “35(3) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40)” substitute “ 20B(1) (temporary judges) ”.

Commencement Information

I43 Sch. 5 para. 38 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

PART 10

JUSTICE OF THE PEACE COURTS

Criminal Procedure (Scotland) Act 1995

- 39 (1) The Criminal Procedure (Scotland) Act 1995 is amended in accordance with this paragraph.
- (2) In section 6(2) (constitution of JP courts), for “stipendiary magistrate” substitute “ summary sheriff ”.
- (3) In section 7 (jurisdiction and powers of JP courts), subsection (5) is repealed.
- (4) In section 245A (restriction of liberty orders), subsection (9) is repealed.
- (5) In section 248C(1) (power to prescribe courts to which sections 248A and 248B apply), the words from “and, without prejudice” to the end are repealed.
- (6) In section 249(8) (compensation orders)—
- (a) in paragraph (a), the words “, or a stipendiary magistrate,” are repealed, and
 - (b) in paragraph (b), the words “(other than a stipendiary magistrate)” are repealed.
- (7) In section 307(1) (interpretation)—
- (a) in the definition of “justice”, the words “stipendiary magistrate or” are repealed, and
 - (b) the definition of “stipendiary magistrate” is repealed.

Commencement Information

I44 Sch. 5 para. 39 in force at 1.4.2016 by S.S.I. 2016/13, art. 2, Sch. (with art. 3)

Criminal Proceedings etc. (Reform) (Scotland) Act 2007

- 40 (1) The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 is amended in accordance with this paragraph.
- (2) In section 61(3)(a) (efficient disposal of business in JP courts), for “stipendiary magistrate” substitute “ summary sheriff ”.
- (3) In section 62 (area and territorial jurisdiction of JP courts)—

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- (a) in each of subsections (4), (5), (6) and (7), the words “or stipendiary magistrate” in each place they appear are repealed,
 - (b) in subsection (4), the words “or (as the case may be) magistrate” are repealed,
 - (c) in subsection (7)(a), the words “or (as the case may be) stipendiary magistrate” are repealed.
- (4) In section 63 (constitution and powers etc. of JP courts), in each of subsections (2) and (5)(a), for “stipendiary magistrate” substitute “summary sheriff”.
- (5) The following sections are repealed—
- (a) section 74 (appointment of stipendiary magistrates),
 - (b) section 74A (exercise of functions by stipendiary magistrates),
 - (c) section 75 (stipendiary magistrates: further provision).
- (6) In section 76 (signing functions)—
- (a) in subsection (1), the words “or a stipendiary magistrate” are repealed,
 - (b) in subsection (5), the words “, stipendiary magistrate” are repealed.
- (7) In section 77 (records and validity of appointment)—
- (a) in subsection (1), in each of paragraphs (a) and (b)(ii), the words “or stipendiary magistrate” are repealed,
 - (b) in subsection (2), the words “and stipendiary magistrates” are repealed,
 - (c) subsection (5) is repealed.

Commencement Information

I45 Sch. 5 para. 40 in force at 1.4.2016 by S.S.I. 2016/13, art. 2, Sch.

Judiciary and Courts (Scotland) Act 2008

- 41 In subsection (2) of section 43 of the Judiciary and Courts (Scotland) Act 2008 (meaning of “judicial office holder”), paragraph (h) is repealed.

Commencement Information

I46 Sch. 5 para. 41 in force at 1.4.2016 by S.S.I. 2016/13, art. 2, Sch.

PART 11

MISCELLANEOUS

Judicial Offices (Salaries, &c.) Act 1952

- 42 The Judicial Offices (Salaries, &c.) Act 1952 is repealed.

Commencement Information

I47 Sch. 5 para. 42 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

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Court of Session Act 1988

- 43 In section 51 of the Court of Session Act 1988 (interpretation), in the definition of “enactment”, after “sederunt” insert “ and an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament ”.

Commencement Information

I48 Sch. 5 para. 43 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Criminal Procedure (Scotland) Act 1995

- 44 In section 85(4) of the Criminal Procedure (Scotland) Act 1995 (citation of jurors), the words “by registered post or recorded delivery” are repealed.

Commencement Information

I49 Sch. 5 para. 44 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Interpretation and Legislative Reform (Scotland) Act 2010

- 45 In schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010 (definitions of words and expressions), for the entry for “sheriff” substitute—
 ““sheriff” is to be construed in accordance with section 134(2) and (3) of the Courts Reform (Scotland) Act 2014,”.

Commencement Information

I50 Sch. 5 para. 45 in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

Status:

This version of this schedule contains provisions that are prospective.

Changes to legislation:

Courts Reform (Scotland) Act 2014, SCHEDULE 5 is up to date with all changes known to be in force on or before 19 August 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. 1 para. 5A and cross-heading inserted by [2020 asp 9 s. 9](#)
- sch. 1 para. 2(g)(h) inserted by [2021 asp 16 s. 15\(8\)](#)