



Law Reform (Miscellaneous Provisions) (Scotland) Act 1980

1980 CHAPTER 55

Sheriff Court

10 Performance of duties of sheriff principal.

In the ^{M1} Sheriff Courts (Scotland) Act 1971—

- (a) for subsection (1) of section 10 (Secretary of State may authorise sheriff principal to act in another sheriffdom) there shall be substituted the following subsections—

“(1) Where a vacancy occurs in the office of sheriff principal of any sheriffdom the Secretary of State may, if it appears to him expedient so to do in order to avoid delay in the administration of justice in that sheriffdom, authorise the sheriff principal of any other sheriffdom to perform the duties of sheriff principal in the first-mentioned sheriffdom (in addition to his own duties) until the Secretary of State otherwise decides.

(1A) Where the sheriff principal of any sheriffdom is unable to perform, or rules that he is precluded from performing, all of, or some part of, his duties as sheriff principal the Secretary of State may authorise the sheriff principal of any other sheriffdom to perform the duties of sheriff principal, or as the case may be that part of those duties, in the first-mentioned sheriffdom (in addition to his own duties) until the Secretary of State otherwise decides.”; and

- (b) for subsection (1) of section 11 (Secretary of State may appoint temporary sheriff principal) there shall be substituted the following subsections—

“(1) Where a vacancy occurs in the office of sheriff principal of any sheriffdom the Secretary of State may, if it appears to him expedient so to do in order to avoid delay in the administration of justice in that sheriffdom, appoint a person to act as sheriff principal of the sheriffdom.

Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, Cross Heading: Sheriff Court. (See end of Document for details)

- (1A) Where the sheriff principal of any sheriffdom is unable to perform, or rules that he is precluded from performing, all of, or some part of, his duties as sheriff principal the Secretary of State may appoint a person to act as sheriff principal of the sheriffdom, or as the case may be to perform that part of the duties of the sheriff principal.
- (1B) A person appointed under subsection (1) or (1A) above shall be known as a temporary sheriff principal.”.

Modifications etc. (not altering text)

C1 The text of ss. 2(3), 4, 5, 7–10, 13–16, 17(4), 19, 21, 22(1)(a)(b)(d), 24, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M1 1971 c. 58.

11 No jury trial in civil actions in sheriff court.

(1) It shall not be competent to appoint a civil action to be tried before a jury in the sheriff court;. . . ^{F1}

[^{F2}(1A) Subsection (1) is subject to section 63 (civil jury trials in all-Scotland sheriff courts) of the Courts Reform (Scotland) Act 2014.]

(2) ^{F3}

have no effect as regards any action which the sheriff has, before the coming into force of this section, appointed to be tried before a jury.

Textual Amendments

F1 Words repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. Pt. I** Gp. 3

F2 S. 11(1A) inserted (22.9.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **sch. 5 para. 19(3)**; S.S.I. 2015/247, art. 2, sch.

F3 Ss. 11(2), 28(2), Sch. 3 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I** Gp. 3

12 ^{F4}

Textual Amendments

F4 S. 12 repealed by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66), s. 75(2), **Sch. 8**

13 Jurisdiction of sheriff court in proceedings relating to trusts.

In the ^{M2} Trusts (Scotland) Act 1921—

- (a) in section 22 (appointment of new trustees by the court)—

Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, Cross Heading: Sheriff Court. (See end of Document for details)

- (i) for the word “court” where it first occurs there shall be substituted the words “ Court of Session or an appropriate sheriff court ”; and
- (ii) after the word “court” where it occurs for the second time there shall be inserted the words “ to which application is made ”;
- (b) in section 23 (removal of trustees in certain cases), for the words from “in the case of *amortis causa* trust” to the end there shall be substituted the words “ may be made either to the Court of Session or to an appropriate sheriff court. ”;
- (c) in section 24 (completion of title by the beneficiary of a lapsed trust)—
 - (i) for the word “court” where it first occurs there shall be substituted the words “ Court of Session or an appropriate sheriff court ”; and
 - (ii) after the word “court” where it occurs for the second time there shall be inserted the words “ to which application is made ”; and
- (d) the following section shall be inserted after section 24—

“24A Interpretation of sections 22–24.

In sections 22 to 24 of this Act the expression “appropriate sheriff court” means—

- (a) in the case of a trust other than a marriage contract—
 - (i) where the truster, or any of the trusters, was at the date of the coming into operation of the trust domiciled in a sheriffdom, a sheriff court of that sheriffdom; or
 - (ii) where sub-paragraph (i) of this paragraph does not apply, or where the applicant does not possess sufficient information to enable him to determine which sheriff court, if any, would by virtue of that sub-paragraph be an appropriate sheriff court, the sheriff court at Edinburgh;
- (b) in the case of a marriage contract—
 - (i) where either spouse is, or was when he died, domiciled in a sheriffdom, a sheriff court of that sheriffdom; or
 - (ii) where sub-paragraph (i) of this paragraph does not apply, or where the applicant does not possess sufficient information to enable him to determine which sheriff court, if any, would by virtue of that sub-paragraph be an appropriate sheriff court at Edinburgh.”.

Modifications etc. (not altering text)

- C2** The text of ss. 2(3), 4, 5, 7–10, 13–16, 17(4), 19, 21, 22(1)(a)(b)(d), 24, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
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Marginal Citations

- M2** 1921 c. 58.

Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, Cross Heading: Sheriff Court. (See end of Document for details)

14 Power of sheriff to appoint judicial factor.

(1) In the ^{M3} Judicial Factors (Scotland) Act 1880—

- (a) in section 3 (interpretation), for the words “mean factor loco tutoris and curator bonis” there shall be substituted the words “include a *curator bonis*, a factor *loco tutoris*, a factor *loco absentis*, a factor on trust or other estates, and a guardian where caution is required, but does not include a judicial factor appointed under section 14 or 163 of the Bankruptcy (Scotland) Act 1913”;
- (b) in section 4 (sheriff’s appointment of judicial factor)—
 - (i) for the words from “It shall” to “respectively” where it first occurs there shall be substituted the words “The sheriff shall have the same powers to appoint judicial factors as have the Court of Session and he”;
 - (ii) for paragraph 1 there shall be substituted the following paragraphs—

“1

Proceedings for appointment of judicial factors in the sheriff court shall commence by petition to be presented in an appropriate sheriff court as nearly as may be in the form in use in ordinary actions in that court:

1A

In paragraph 1 above, the expression “appropriate sheriff court”—

- (a) in the case of a petition for the appointment of a judicial factor on a trust estate, shall have the same meaning as in sections 22 to 24 of the Trusts (Scotland) Act 1921; and
- (b) in any other case shall mean—
 - (i) where the petition is for the appointment of a judicial factor (other than a factor *loco absentis* to an individual, a sheriff court of the sheriffdom in which the individual is resident;
 - (ii) where the petition is for the appointment of a factor *loco absentis* to an individual, a sheriff court of the sheriffdom in which the individual was last known to the petitioner to be resident; or
 - (iii) where the petition is not as mentioned in either of the foregoing provisions of this subparagraph, the sheriff court at Edinburgh;”;

(iii) paragraphs 2 and 3 shall cease to have effect.

(2) In section 163 of the ^{M4} Bankruptcy (Scotland) Act 1913 (application for judicial factor on estate of person deceased), the words “where the assets of the deceased are estimated not to exceed five hundred pounds” shall cease to have effect.

Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, Cross Heading: Sheriff Court. (See end of Document for details)

Modifications etc. (not altering text)

- C3** The text of ss. 2(3), 4, 5, 7–10, 13–16, 17(4), 19, 21, 22(1)(a)(b)(d), 24, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M3** 1880 c. 4.
M4 1913 c. 20.

^{F5}15

Textual Amendments

- F5** S. 15 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. I Group 1.

16 Remit from sheriff court to Court of Session.

^{F6} . . ., in section 37 of the ^{M5} Sheriff Courts (Scotland) Act 1971 (remits)—

- (a) in subsection (1)—
(i) after the word “sheriff”, where it occurs for the second time, there shall be inserted “—(a)”; and
(ii) at the end there shall be added the words—

“;

- (b) may, subject to section 7 of the Sheriff Courts (Scotland) Act 1907, on the motion of any of the parties to the cause, if he is of the opinion that the importance or difficulty of the cause make it appropriate to do so, remit the cause to the Court of Session.”;

- (b) after subsection (2) there shall be inserted the following subsection—

“(2A) In the case of any action in the sheriff court in relation to the custody of adoption of a child the sheriff may, of his own accord, at any stage remit the action to the Court of Session.”;

- (c) for subsection (3) there shall be substituted the following subsection—

“(3) A decision—

- (a) to remit, or not to remit, under subsection (2A) above; or
(b) to make, or not to make, a direction by virtue of paragraph (b) of, or the proviso to, subsection (2) above,

shall not be subject to review; but from a decision to remit, or not to remit, under subsection (1)(b) above an appeal shall lie to the Court of Session.”.

Changes to legislation: There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, Cross Heading: Sheriff Court. (See end of Document for details)

Textual Amendments

F6 Words in s. 16 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. I Group1.

Modifications etc. (not altering text)

C4 The text of ss. 2(3), 4, 5, 7–10, 13–16, 17(4), 19, 21, 22(1)(a)(b)(d), 24, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M5 1971 c. 58.

Changes to legislation:

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