

## SCHEDULES

### SCHEDULE 1

Section 6(1).

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *The Court of Session Act 1830 c. 69*

- 1 In section 33 (which provides for the Court of Session to have exclusive jurisdiction in respect of certain consistorial actions), for the word " All " there shall be substituted the words " Subject to section 5(2B) of the Sheriff Courts (Scotland) Act 1907, all " .
- 2 In section 36 (which makes provision as to the sufficiency of evidence in consistorial actions)—
  - (a) at the beginning there shall be inserted the words " Subject to section 2 of the Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983, " and
  - (b) after the word " enumerated" there shall be inserted the words " (including any actions for divorce brought in the sheriff court) " .

##### *The Conjugal Rights (Scotland) Amendment Act 1861 c. 86*

- 3 In section 8 (which empowers the Lord Advocate to appear in actions for declarator of nullity of marriage and divorce), after the word " divorce ", where it first appears, there shall be inserted the words " , whether (in the case of actions for divorce) in the Court of Session or in the sheriff court " .
- 4 In section 9 (which empowers the Court to make provision for the children of the marriage in any action for separation or divorce), after the word " divorce" there shall be inserted the words " , whether (in the case of actions for divorce) in the Court of Session or in the sheriff court, " .
- 5 In section 10 (which relates to the service of summonses in consistorial actions), after the word " action " where it first appears, there shall be inserted the words " in the Court of Session " .

##### *The Crofters Holdings (Scotland) Act 1886 c. 29*

- 6 At the end of section 29 (which provides, among other things, for the fixing of scales of costs and fees, and for their taxation) there shall be added the following—

“Provided that no scale of costs and fees fixed by the Commission, and no regulations made by them as to the taxation of such costs and fees, shall apply in respect of any of the matters which the Secretary of State may regulate under or by virtue of section 14A of the Legal Aid (Scotland) Act 1967”.

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*Status: This is the original version (as it was originally enacted).*

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*The Sheriff Courts (Scotland) Act 1907 c. 51*

- 7 In section 40 (which relates to the power of the Court of Session to regulate fees etc.), after the word " agents " there shall be inserted the words " (other than such of the fees of agents as the Secretary of State may regulate under or by virtue of section 14A of the Legal Aid (Scotland) Act 1967) " .

*The Administration of Justice (Scotland) Act 1933 c. 41*

- 8 In paragraph (g) of section 16 (which relates to the power of the Court of Session to regulate procedure etc. by Act of Sederunt), after the word " fees " there shall be inserted the words " (other than such fees as the Secretary of State may regulate under or by virtue of section 14A of the Legal Aid (Scotland) Act 1967) " .

*The Juries Act 1949 c. 27*

- 9 In subsection (1) of section 26 (which provides for fees payable by a party applying for a jury trial in a civil cause)—
- (a) for the words "Act of Sederunt", where they appear for the first time, there shall be substituted the words " an order made by the Secretary of State " ;
  - (b) after the words " as may be", where they appear for the second time,, there shall be inserted the word " so " ;
  - (c) the words " by Act of Sederunt", where they appear for the second time, shall cease to have effect.

*The Summary Jurisdiction (Scotland) Act 1954 c. 48*

- 10 In subsection (3) of section 76 (which relates to the regulation of fees by the High Court of Justiciary), for the words " affect the regulations enacted " there shall be substituted the words " empower the High Court to make any regulation which the Secretary of State is empowered to make " .

*The Legal Aid (Scotland) Act 1967 c. 43*

- 11 In subsection (7) of section 6 (which relates to the payment of solicitors and counsel appearing for persons receiving legal aid), for the words " not exceed those allowed under Schedule 2 to " there shall be substituted the words " be determined in accordance with regulations made under section 14A of " .

*The Sheriff Courts (Scotland) Act 1971 c. 58*

- 12 In subsection (2A) of section 37 (which relates to remits from the sheriff court to the Court of Session), after the words " sheriff court" there shall be inserted the words " , being an action for divorce or an action " .

*The Matrimonial Proceedings (Polygamous Marriages) Act 1972 c. 38*

- 13 In subsection (2)(c) of section 2 (which makes provision for matrimonial relief and declarations as to validity in respect of polygamous marriages in relation to Scotland), for the words " section 5 of the Divorce (Scotland) Act 1938 " there shall be substituted the words " section 1 of the Presumption of Death (Scotland) Act 1977 " .

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

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*The Legal Advice and Assistance Act 1972 c. 50*

- 14 In subsection (3) of section 3 (which relates to the financial limit on the prospective cost of advice and assistance).—
- (a) for the word " expenses " , in both places where it occurs, there shall be substituted the word " outlays " ;
  - (b) for the word " disbursements " , wherever it occurs, there shall be substituted the word " outlays " ;
  - (c) the words " charges or " , in both places where they occur, shall cease to have effect; and
  - (d) for the words " fees payable to " , in both places where they occur, there shall be substituted the words " the fees and outlays of " .
- 15 In section 4 (which relates to contributions from persons receiving advice or assistance), for the words " charge or fee " and the words " charges or fees " there shall be substituted the words " fees or outlays " .
- 16 In section 5 (which relates to the payment of charges or fees otherwise than through the client's contribution)—
- (a) for the words " charges or fees " , wherever they occur, there shall be substituted the words " fees or outlays " ;
  - (b) subsection (6) shall cease to have effect.
- 17 In section 6 (which provides for certain provisions of the Legal Aid (Scotland) Act 1967 to have effect in relation to legal advice and assistance as they have effect in relation to legal aid)—
- (a) in subsection (1)(b), for the word " 15 " there shall be substituted the words " 14A " ;
  - (b) in subsection (3), before the words " and section 15 " there shall be inserted the words " , 14A " .

*The Domicile and Matrimonial Proceedings Act 1973 c. 45*

- 18 In section 8 (which relates to the jurisdiction of the sheriff court).—
- (a) in subsection (1), at the end there shall be added the words " or divorce " ;
  - (b) in subsection (2) of the said section, after the word " separation " there shall be inserted the words " or divorce " ;
  - (c) in subsection (3) of the said section, after the word " separation " there shall be inserted the words " or divorce " ; and
  - (d) in subsection (4) of the said section, after the word " separation " there shall be inserted the words " or divorce " .
- 19 In paragraph 8 of Schedule 3 (which relates to the sisting of consistorial actions)—
- (a) after the words " in the Court of Session " there shall be inserted the words " or in the sheriff court " ;
  - (b) after the word " Court " where it appears for the second time there shall be inserted the word " concerned " .
- 20 In paragraph 9(3) of the said Schedule the words " on the Court of Session " shall cease to have effect.

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

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*The Divorce (Scotland) Act 1976 c. 39*

- 21 In subsection (1)(ii) of section 6 (which empowers the court to make orders relating to settlements and other dealings), for the words " out of the jurisdiction of the court" there shall be substituted the words " furth of Scotland " .
- 22 In section 13(1) (which defines terms used in the Act), in the definition of " court" for the words from " — (a)" to " require " there shall be substituted the words " , in relation to any action, the Court of Session or the sheriff court, as the case may require. " .

*The Matrimonial Homes (Family Protection) (Scotland) Act 1981 c. 59*

- 23 In subsection (2) of section 13 (which relates to the transfer of a tenancy on the granting of a decree of divorce or nullity of marriage), for the words from the beginning to "marriage," there shall be substituted the words " The Court of Session or a sheriff, in granting decree in an action for divorce, and the Court of Session, in granting decree in an action for nullity of marriage, may " .

*The Civil Jurisdiction and Judgments Act 1982 c. 27*

- 24 In Schedule 14 (repeals) in the entry relating to the Sheriff Courts (Scotland) Act 1907, for the words " the first " Provided " " there shall be substituted the words " " Provided that actions " " .