



# Sheriff Courts (Scotland) Act 1907

1907 CHAPTER 51 7 Edw 7

## JURISDICTION

### [<sup>F1</sup>4 Jurisdiction.

The jurisdiction of the [<sup>F2</sup>sheriffs principal], within their respective sheriffdoms shall extend to and include all navigable rivers, ports, harbours, creeks, shores, and anchoring grounds in or adjoining such sheriffdoms. And the powers and jurisdictions formerly competent to the High Court of Admiralty in Scotland in all maritime causes and proceedings, civil and criminal, including such as may apply to persons furth of Scotland, shall be competent to the [<sup>F2</sup>sheriffs principal], provided the defender shall upon any legal ground of jurisdiction be amenable to the jurisdiction of the [<sup>F2</sup>sheriff principal] before whom such cause or proceeding may be raised, and provided also that it shall not be competent to the [<sup>F2</sup>sheriffs principal] to try any crime committed on the seas which it would not be competent for him to try if the crime had been committed on land; Provided always that where sheriffdoms are separated by a river, firth, or estuary, the [<sup>F2</sup>sheriffs principal] on either side shall have concurrent jurisdictions over the intervening space occupied by water.]

#### Textual Amendments

- F1** S. 4 repealed so far as relating to criminal proceedings by [Criminal Procedure \(Scotland\) Act 1975](#) (c. 21), **Sch. 10 Pt. I**; extended by [Hovercraft Act 1968](#) (c. 59), **s. 2**
- F2** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971](#) (c. 58), **s. 4**

### 5 Extension of jurisdiction.

Nothing herein contained shall derogate from any jurisdiction, powers, or authority presently possessed or in use to be exercised by the [<sup>F3</sup>sheriffs principal] of Scotland, and such jurisdiction shall extend to and include—

- (1) Actions of declarator (except declarators of marriage or nullity of marriage, . . . <sup>F4</sup>):
- (1A) . . . . . <sup>F5</sup>

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[<sup>F6</sup>(2) Actions for alimnt or separation (other than any action mentioned in subsection (2A) below) . . . <sup>F7</sup>]

[<sup>F8</sup>(2A) Actions, arising out of an application under section 31(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, for the recovery of maintenance:]

[<sup>F9</sup>(2B) Actions for divorce]

<sup>F10</sup>(2C) . . . . .

- (3) Actions of division of commony and of division or division and sale of common property, in which cases the <sup>M1</sup>Division of Commonities Act 1695 concerning the division of commonities shall be read and construed as if it conferred jurisdiction upon the sherrif court in the same manner as upon the Court of Session:
- (4) Actions relating to questions of heritable right or title (except actions of adjudication save in so far as now competent and actions of reduction) including all actions of declarator of irritancy and removing, whether at the instance of a superior against a vassal or of a landlord against a tenant:
- (5) Suspension of charges or threatened charges upon the decrees of court granted by the [<sup>F3</sup>sheriff principal] or upon decrees of registration proceeding upon bonds, bills, contracts or other obligations registered in the books of the sheriff court, the books of council and session, or any others competent . . . <sup>F11</sup>: . . . <sup>F12</sup>: . . . <sup>F13</sup>.

#### Textual Amendments

- F3** Words substituted by virtue of Sheriff Courts (Scotland) Act 1971 (c. 58), s. 4
- F4** Words repealed (S.) by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), Sch. 2
- F5** S. 5(1A) which was inserted by Presumption of Death (Scotland Act) 1977 (c. 27), s.20(2), Sch. 1 is repealed (S.) by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), Sch. 2
- F6** S. 5(2) substituted (S.) by virtue of Family Law (Scotland) Act 1985 (c. 37, SIF 49:3), s. 28(1), Sch. 1 para. 1
- F7** Words repealed by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 9, 10(2), Sch. 2
- F8** S. 5(2A) inserted by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), s. 85(3), Sch. 2 para. 1(b)
- F9** S. 5(2B) inserted by Divorce Jurisdiction, Court Fees and Legal Aid (Scotland) Act 1983 (c. 12, SIF 47), s. 1
- F10** S. 5(2C) repealed (1.11.1996) by 1995 c. 36, s. 105(5), Sch. 5; S.I. 1996/2203, art. 3, Sch.
- F11** Words repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3, 72:2), ss. 15(a), 28(2), Sch. 3
- F12** Words repealed by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), s. 54, Sch. 14
- F13** Words repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 72:2), s. 28(2), Sch. 3

#### Modifications etc. (not altering text)

- C1** S. 5 excluded by Land Registration (Scotland) Act 1979 (c. 33, SIF 31:3), ss. 21(6), 22(7)

#### Marginal Citations

- M1** Scots Act 1695 c. 69

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## **[<sup>F14</sup>5A Power of sheriff to order sheriff clerk to execute deeds relating to heritage.**

- (1) This section applies where—
  - (a) an action relating to heritable property is before the sheriff; or
  - (b) it appears to the sheriff that an order under this section is necessary to implement a decree of a sheriff relating to heritable property.
- (2) Where the grantor of any deed relating to the heritable property cannot be found or refuses or is unable or otherwise fails to execute the deed, the sheriff may—
  - (a) where subsection (1)(a) above applies, on application;
  - (b) where subsection (1)(b) above applies, on summary application,by the grantee, make an order dispensing with the execution of the deed by the grantor and directing the sheriff clerk to execute the deed.
- (3) Where in pursuance of an order under this section a deed is executed by the sheriff clerk, it shall have the like force and effect as if it had been executed by the grantor.
- (4) In this section—

“grantor” means a person who is under an obligation to execute the deed; and  
“grantee” means the person to whom that obligation is owed.]

### **Textual Amendments**

**F14** S. 5A inserted (S.) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 36:1\)](#), s. 17

## **[<sup>F15</sup>6 Action competent in sheriff court.**

- [<sup>F16</sup>Subject to section 8 of the <sup>M2</sup>Domicile and Matrimonial Proceedings Act 1973 [<sup>F17</sup>and Chapter III of Part I of the Family Law Act 1986].] Any action competent in the sheriff court may be brought within the jurisdiction of the [<sup>F18</sup>sheriff principal]—
- (a) Where the defender (or when there are several defenders [<sup>F19</sup>over each of whom a sheriff court has jurisdiction in terms of this Act] where one of them) resides within the jurisdiction, or having resided there for at least forty days . . . <sup>F20</sup> has ceased to reside there for less than forty days [<sup>F20</sup>and has no known residence in Scotland];
  - (b) Where the defender carries on business, and has a place of business within the [<sup>F21</sup>jurisdiction], and is cited either personally or at such place of business;
  - (c) Where the defender is a person not otherwise subject to the jurisdiction of the courts of Scotland, and a ship or vessel of which he is owner or part owner or master, or goods, debts, money, or other moveable property belonging to him, have been arrested within the jurisdiction;
  - (d) Where the defender is the owner or part owner or tenant or joint tenant, whether individually or as a trustee, of heritable property within the jurisdiction, and the action relates to such property or to his interest therein;
  - (e) Where the action is for interdict against an alleged wrong being committed or threatened to be committed within the jurisdiction;
  - (f) Where the action relates to a contract the place of execution or performance of which is within the jurisdiction, and the defender is personally cited there:

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- (g) Where in an action of furthcoming or multiplepounding the fund or subject in medio is situated within the jurisdiction; or the arrestee or holder of the fund is subject to the jurisdiction of the court:
- (h) Where the party sued is the pursuer in any action pending within the jurisdiction against the party suing:
- [<sup>F22c</sup>(i) where the action is founded on delict, and the delict forming the cause of action was committed within the jurisdiction”.]
- (j) Where the defender prorogates the jurisdiction of the court.]

#### Textual Amendments

- F15** S. 6 repealed by [Administration of Justice Act 1956 \(c. 46\)](#), s. **45(6)** in relation to actions to which s. 45 of that Act applies
- F16** Words inserted by [Domicile and Matrimonial Proceedings Act 1973 \(c. 45\)](#), s. 12(7), **Sch. 4 para. 1**
- F17** Words inserted (S.) by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), s. 68(1), **Sch. 1 para. 3**
- F18** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), s. **4**
- F19** Words inserted by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1**
- F20** Words repealed by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1**
- F21** Words substituted by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1**
- F22** S. 6(i) substituted by [Law Reform \(Jurisdiction in Delict\) \(Scotland\) Act 1971 \(c. 55\)](#), s. **1(2)(3)**

#### Modifications etc. (not altering text)

- C2** S. 6 repealed in part by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), s. **20(3)**

#### Marginal Citations

- M2** 1973 c. 45.

## 7 <sup>X1</sup>Privative jurisdiction in causes under fifty pounds value.

.....<sup>F23</sup>.....<sup>F24</sup>, all causes not exceeding [<sup>F25</sup>one thousand five hundred pounds] in value exclusive of interest and expenses competent in the sheriff court shall be brought and followed forth in the sheriff court only, and shall not be subject to review by the Court of Session:

...<sup>F26</sup>Provided ...<sup>F26</sup> that nothing herein contained shall affect any right of appeal competent under any Act of Parliament in force for the time being.

#### Editorial Information

- X1** Unreliable marginal note

#### Textual Amendments

- F23** Words repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1980 \(c. 55, SIF 72:2\)](#), s. 28(2), **Sch. 3**
- F24** Words repealed by [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), **Sch. 2 Pt. II**
- F25** Words substituted by virtue of [S.I. 1988/1993](#), **art. 2**
- F26** Words repealed by [Sheriff Courts \(Scotland\) Act 1913 \(2 & 3 Geo. 5 c. 28\)](#), **Sch. 1**

#### Modifications etc. (not altering text)

- C3** S. 7 extended (2.10.2000) by [S.S.I. 2000/301](#), **rule 4**

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**8** ..... F27

.....  
**Textual Amendments**

**F27** S. 8 repealed by Sheriff Courts (Scotland) Act 1971 (c. 58), **Sch. 2 Pt. II**

**9** ..... F28

.....  
**Textual Amendments**

**F28** S. 9 repealed by Sheriff Courts (Scotland) Act 1913 (2 & 3 Geo. 5 c. 28), **s. 1**

**10** **Privilege not to exempt from jurisdiction.**

No person shall be exempt from the jurisdiction of the sheriff court on account of privilege by reason of being a member of the College of Justice.

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