



# Courts Reform (Scotland) Act 2014

## 2014 asp 18

### PART 12

#### GENERAL

#### 132 Modifications of enactments

Schedule 5 makes minor modifications of enactments and modifications consequential on the provisions of this Act.

#### Commencement Information

- I1** S. 132 in force at 1.4.2015 for specified purposes by S.S.I. 2015/77, art. 2(2)(3), **Sch.**
- I2** S. 132 in force at 22.9.2015 for specified purposes by S.S.I. 2015/247, art. 2, **Sch.**
- I3** S. 132 in force at 19.10.2015 for specified purposes by S.S.I. 2015/336, **art. 2(c)**
- I4** S. 132 in force at 1.1.2016 for specified purposes by S.S.I. 2015/378, art. 2, **Sch.**
- I5** S. 132 in force at 1.4.2016 for specified purposes by S.S.I. 2016/13, art. 2, **Sch.**
- I6** S. 132 in force at 28.11.2016 for specified purposes by S.S.I. 2016/291, art. 2, **sch.**

#### 133 Subordinate legislation

- (1) Any power of the Scottish Ministers to make an order under this Act includes power to make—
  - (a) different provision for different purposes or areas,
  - (b) incidental, supplemental, consequential, transitional, transitory or saving provision.
- (2) The following orders are subject to the affirmative procedure—
  - (a) an order under section 2(1), 39(5), 44(3), 72(12), 81(1), 107(4) or 135(2) or paragraph 3(5) of schedule 4, or
  - (b) an order under section 137(1) containing provisions which add to, replace or omit any part of the text of an Act.
- (3) All other orders made by the Scottish Ministers under this Act are subject to negative procedure.

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(4) This section does not apply to an order under section 138(2).

### 134 References to “sheriff”

- (1) In this Act, references to a sheriff include references to any other member of the judiciary of a sheriffdom, so far as that member has the jurisdiction and competence that attaches to the office of sheriff.
- (2) So far as necessary for the purposes, or in consequence, of the exercise by a member of the judiciary of a sheriffdom other than a sheriff of the jurisdiction and competence of a sheriff, references in any other enactment to a sheriff are to be read as including references to any of the members of the judiciary of a sheriffdom.
- (3) Subsections (1) and (2) do not apply—
  - (a) to references to the office of sheriff,
  - (b) to any provision of this Act or any other enactment relating to—
    - (i) the appointment, retirement, removal or disqualification of sheriffs,
    - (ii) the tenure of office of, and oaths to be taken by, sheriffs,
    - (iii) the remuneration, allowances or pensions of sheriffs,
  - (c) where the context requires otherwise.

#### Commencement Information

**I7** S. 134 partly in force; s. 134(1)(3) in force at 11.11.2014, see s. 138(1)

**I8** S. 134(2) in force at 1.4.2015 by S.S.I. 2015/77, art. 2(2)(3), Sch.

### 135 Definition of “family proceedings”

- (1) In this Act, “family proceedings” means proceedings for or in relation to—
  - (a) divorce,
  - (b) separation,
  - (c) declarator of parentage,
  - (d) declarator of non-parentage,
  - (e) an order under section 11 of the Children (Scotland) Act 1995 (court orders relating to parental responsibilities, etc.) other than an application for the appointment of a judicial factor mentioned in subsection (2)(g) of that section to which Part 1 of the Act of Sederunt (Judicial Factors Rules) 1992 (S.I. 1992/272) applies,
  - (f) aliment (including affiliation and aliment),
  - (g) financial provision after a divorce or annulment in an overseas country within the meaning of Part 4 of the Matrimonial and Family Proceedings Act 1984 (financial provision in Scotland after overseas divorce, etc.),
  - (h) an order under the Matrimonial Homes (Family Protection) (Scotland) Act 1981,
  - (i) variation or recall of an order mentioned in section 8(1) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966 (variation and recall by the sheriff of certain orders made by the Court of Session),
  - (j) declarator of marriage,
  - (k) declarator of nullity of marriage,

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- (l) declarator of recognition, or non-recognition, of a relevant foreign decree within the meaning of section 7(9) of the Domicile and Matrimonial Proceedings Act 1973,
  - (m) an order under section 28(2) (financial provision where cohabitation ends otherwise than by death) or section 29(2) (application by survivor cohabitant for provision on intestacy) of the Family Law (Scotland) Act 2006,
  - (n) dissolution of civil partnership,
  - (o) separation of civil partners,
  - (p) declarator of nullity of civil partnership,
  - (q) an order under Chapter 3 (occupancy rights and tenancies) or Chapter 4 (interdicts) of Part 3 of the Civil Partnership Act 2004,
  - (r) a declarator or other order under section 127 of that Act (attachment),
  - (s) financial provision after overseas proceedings as provided for in Schedule 11 to that Act (financial provision in Scotland after overseas proceedings).
- (2) The Scottish Ministers may by order modify subsection (1).

## 136 Interpretation

- (1) In this Act, unless the context requires otherwise—
- “advocate” means a member of the Faculty of Advocates,
  - “all-Scotland sheriff court” is to be construed in accordance with section 42(7),
  - “civil proceedings” includes—
    - (a) proceedings under the Children's Hearings (Scotland) Act 2011, and
    - (b) proceedings for contempt of court where the contempt—
      - (i) arises in, or in connection with, civil proceedings, or
      - (ii) relates to an order made in civil proceedings,
  - “decision”, in relation to a sheriff, judge or court, includes interlocutor, order or judgment,
  - “final judgment” means a decision which, by itself, or taken along with previous decisions, disposes of the subject matter of proceedings, even though judgment may not have been pronounced on every question raised or expenses found due may not have been modified, taxed or decerned for,
  - “sheriff clerk” includes sheriff clerk depute,
  - “solicitor” means a solicitor enrolled in the roll of solicitors kept under section 7 of the Solicitors (Scotland) Act 1980.
- (2) In this Act, references to the judiciary of a sheriffdom are, in relation to a sheriffdom, references to the following—
- (a) the sheriff principal of the sheriffdom,
  - (b) any other sheriff principal so far as authorised under section 30 to perform the functions of the sheriff principal of the sheriffdom,
  - (c) any temporary sheriff principal appointed for the sheriffdom,
  - (d) the sheriffs and summary sheriffs of the sheriffdom,
  - (e) any other sheriffs or summary sheriffs so far as directed under section 31 to perform the functions of sheriff or summary sheriff in the sheriffdom,
  - (f) any part-time sheriffs and part-time summary sheriffs for the time being sitting in the sheriffdom,

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(g) any person appointed under section 12(1) to act as a sheriff or summary sheriff of the sheriffdom,

and references to a “member” of the judiciary of a sheriffdom are to be construed accordingly.

(3) In this Act, references to proceedings in the sheriff court are references to proceedings before any member of the judiciary of a sheriffdom.

### **137 Ancillary provision**

(1) The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.

(2) An order under this section may modify any enactment (including this Act), instrument or document.

### **138 Commencement**

(1) This Part, other than sections 132 and 134(2), comes into force on the day after Royal Assent.

(2) The remaining provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

(3) An order under subsection (2) may include transitional, transitory or saving provision.

### **139 Short title**

The short title of this Act is the Courts Reform (Scotland) Act 2014.

**Changes to legislation:**

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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\(8\)](#)