



# Sheriff Courts (Scotland) Act 1913

1913 CHAPTER 28 2 and 3 Geo 5

An Act to amend the Sheriff Courts (Scotland) Act 1907.

[7th March 1913]

1 ..... F1

## Textual Amendments

F1 S. 1 repealed by [Statute Law Revision Act 1927 \(c. 42\)](#), [Sch. Pt. I](#)

2 In lieu of section twenty-eight, there shall be inserted in the principal Act the following section:—

### “28 Appeal to the Court of Session.

- (1) Subject to the provisions of this Act, it shall be competent to appeal to the Court of Session against a judgement either of a sheriff or of a sheriff-substitute if the interlocutor appealed against is a final judgement or is an interlocutor—
- (a) Granting interim decree for payment of money other than a decree for expenses; or
  - (b) Sisting an action; or
  - (c) Refusing or reponing a note; or
  - (d) Against the sheriff or sheriff-substitute either *ex proprio motu* or on the motion of any party, grants leave to appeal:

Provided that no appeal shall be competent where the cause does not exceed fifty pounds in value exclusive of interest and expenses or is being tried as a summary cause unless the sheriff, after final judgement by him on an appeal on the motion of either party made within seven days of the date of the final interlocutor certifies the cause as suitable for appeal to the Court of Session:

*Changes to legislation: There are currently no known outstanding effects for the Sheriff Courts (Scotland) Act 1913. (See end of Document for details)*

(2) Nothing in this section nor in section twenty-seven of this Act contained shall affect any right of appeal or exclusion of such right provided by any Act of Parliament in force for the time being.”

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

**C1** The text of ss. 2, 3 and 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**3 Amendment of the principal Act.**

The principal Act shall be amended to the extent and effect shown in the First Schedule to this Act.

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

**C2** The text of ss. 2, 3 and 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**4 Amendment of the First Schedule to the principal Act.**

The First Schedule to the principal Act shall be amended to the extent and effect shown in the Second Schedule to this Act.

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

**C3** The text of ss. 2, 3 and 4 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

**5** ..... **F2**

**Textual Amendments**

**F2** S. 5 repealed by Statute Law Revision Act 1927 (c. 42), **Sch. Pt. I**

**6** ..... **F3**

**Textual Amendments**

**F3** S. 6 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55, SIF 36:3, 72:2), ss. 11, 28(2), **Sch. 3**

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**7 Short title and citation.**

This Act may be cited as the Sheriff Courts (Scotland) Act, 1913; and the principal Act and this Act may be cited together as the Sheriff Courts (Scotland) Act 1907 and 1913, and shall be read and construed together as one Act.

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## SCHEDULES

### FIRST SCHEDULE

Section 3.

#### [SECTION 3]

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

- C4** The text of Schs. 1 and 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

| <b>Session and Chapter.</b> | <b>Short Title.</b>                      | <b>Extent of Amendment.</b>   |
|-----------------------------|--|---|
| 7 Edw. 7. c. 51.            | The Sheriff Courts (Scotland) Act, 1907. | <p>Section three, after the word “action” occurring in subhead (d), insert the words “or cause” ; omit sub-head (i), and in lieu thereof insert “Summary cause includes actions (other than actions brought and conducted in the small debt court and claims under the Workmen’s Compensation Act) for payment of money not exceeding fifty pounds in amount, exclusive of interest and expenses, and all actions in which either the parties admit that the value of the action, exclusive of interest and expenses, does not exceed fifty pounds or which they consent at any stage shall be tried summarily” and at the end of the section insert— “(q) Employee includes the legal personal representative of an employee, and any person who, by the law of Scotland, may be entitled to solatium in respect of the death of an employee.”</p> <p>Section five, omit subsection (2), and in lieu</p> |

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thereof, insert— “(2) Actions of aliment, provided that as between husband and wife they are actions of separation and aliment, adherence and aliment, or interim aliment, and actions for regulating the custody of children.”

In the same section and in the last proviso thereof, omit the words from “action” to the end of the section, and in lieu thereof insert “mentioned in the second subsection of this section.”

Section six (a), after the word “defenders” insert the words “over each of whom a sheriff court has jurisdiction in terms of this Act”; omit the words “immediately prior to the raising of the action”; omit the words “and whose present residence in Scotland is unknown,” and insert “and has no known residence in Scotland.”

Section six (b), omit “sheriffdom,” and insert “jurisdiction.”

Section seven, omit the first proviso and the word “also.”

Section eight, after the word “party,” insert “made before the examination of witnesses is begun” ; omit the last sentence.

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Section twenty-seven after “(E)” insert “refusing a reponing note; or (F),” and at the end of the section insert the words, “It shall be competent for hte sheriff when the action is before him on appeal on any point, to open the record *proprio motu*, if the record shall

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appear to him not to have been properly made up, or to allow further proof.”

Section thirty, after “1880,” where first occurring, insert “or at common law.”

Section thirty-one, after “1880,” insert “or at common law.”

In the same section omit the words “under head (1),” and also the words “under the other heads before mentioned.”

Section forty, omit the first proviso and the word “also.”

#### Textual Amendments

- F4** Provisions amending section twenty-one of the Sheriff Courts (Scotland) Act 1907 repealed by Representation of the People Act 1949 (c. 68), s. 175, **Sch. 9**

## SECOND SCHEDULE

Section 4

### [SECTION 4.]

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

- C5** The text of Schs. 1 and 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

7 Edw. 7. c. 51.

The Sheriff Courts (Scotland) Act 1907

First Schedule, omit Rule 2, and in lieu thereof insert—  
 “2. There shall be annexed to the initial writ a statement (in the form of an articulate condensation) of the facts which form the ground of action, and a note of the pursuer’s pleas-in-law, which condensation and note of pleas-in-law shall be held to constitute part of the initial writ.”

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Omit Rule 11, and in lieu thereof insert— “11. Any individual or individuals, or any corporation or association, carrying on business under a firm or trading or descriptive name may sue or be sued in such name without the addition of the name or names of such individual or individuals or any of them, or of any member or official of such corporation or association, and any extract of a decree pronounced in the Sheriff Court, or of a decree proceeding upon any deed, decree arbitral, bond, protest of a bill, promissory note or bankers note, or upon any other obligation or document on which execution may competently proceed, recorded in the Sheriff Court books against such individual or individuals or against such corporation or association, under such firm, trading or descriptive name, shall be valid warrant for diligence against such corporation, association, or firm, and such individual or individuals. Citation in any action may be made at the principal place where such business is carried on (including the place of business or office of the clerk or secretary of any corporation or association) when such place is within the jurisdiction of the Sheriff Court in which such action is brought or otherwise at any place of business or office at which such business is carried within the jurisdiction of such Sheriff Court.”

16. At end insert “All remedies (including caption)

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competent to enforce the return of a borrowed process may proceed on the warrant of the court from whose custody the process was obtained, and that whether the borrower is or is not resident within the jurisdiction.”

22. Omit “lodge with the Sheriff Clerk,” and insert “exhibit to the Sheriff Clerk the service copy of the writ and lodge with him.”

Omit Rule 23, and in lieu thereof insert— “23. If the defender does not lodge a notice of appearance, or does not answer, the sheriff may, at any time after the expiry of the induciae, upon a written craving being endorsed on the initial writ by the pursuer or his agent, decern in terms of the crave of the initial writ, and, at the same time or thereafter, for expenses as the same may be certified by a note endorsed by the initial writ by the auditor of the court subject to any restriction so endorsed or set forth in a minute by the pursuer or his agent: provided that this rule shall not apply to actions of separation and aliment, adherence and aliment, or interim aliment, or to actions regulating the custody of children.”

33. Omit the words “upon a reponing note or.”

Omit Rule 41, and in lieu thereof insert— “41. In a summary cause the Sheriff may order defences if he thinks fit or may make or certify a note upon the writ or separately of the defender’s pleas, and may appoint a diet for the trial



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of the cause, or may order such other procedure as the circumstances seem to him to require.”

Omit Rules 42 to 46 inclusive, and in lieu thereof insert—

42. In all other defended actions the defender shall, at the tabling of the action or within six days thereafter, lodge defences.

43. Defences shall be in the form of articulate answers to the condescence and shall have appended a note of the defender’s pleas-in-law and, where necessary, or where a counter-claim is made, a separate statement of the facts founded on by the defender which shall be set forth succinctly.

44. Every statement of fact made by one party shall be answered by the other party, and, if a statement made by one party of a fact within the knowledge of the other party is not denied by that other party, the latter shall be held as admitting the fact so stated.

45. . . . F5

46. . . . F5

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F5

76. Omit “confidentially” and insert “confidentiality.”

86. At the end of rule, insert “provided that an interlocutor granting interim interdict may be appealed within fourteen days from the date of intimation thereof”

89, 90. Omit “reclaiming note” and insert “reclaiming petition.”

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Omit Rule 119, and in lieu thereof insert— “119. Except as hereinafter provided, such action for summary removing shall be conducted and disposed of in the summary manner in which proceedings are conducted under the Small Debts Acts, and shall not be subject to review.”

Omit Rule 121, and in lieu thereof insert— “121. In all such actions for summary removing where the defender has found caution for violent profits, or where such caution has been dispensed with, he shall be entitled to give in written answers.”

Omit Rule 127, and in lieu thereof insert— “127. An arrestment on the dependence of an action used prior to service shall fall unless the action shall have been served within twenty days from the date of execution of arrestment ; and in the case of the defended actiones tables within twenty days of the first ordinary court day, occurring subsequent to the expiry of the induciae, and in the case of undefended actions decree in absence to be taken within twenty days of the expiry of the induciae, and, when such an arrestment has been executed, the party using it or his agent shall forthwith report the execution to the sheriff clerk.”

Omit Rule 136.

Omit Rule 140.

Omit Rule 144.

Omit Rule 151, and in lieu thereof insert— “151. It shall be competent to charge any corporation or association or any individual

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or individuals carrying on a business under a firm or trading or descriptive name at the principal place where such business is carried on (including in the case of a corporation or association the place of business or office of their clerk or secretary) or where such principal place of business is furth of Scotland, at any place in Scotland at which such business is carried on.”

152. Omit “sheriffdom,” and insert “county.”

153. Omit “sheriffdom” and insert “county and district.”

158. Omit “sheriffdom” and insert “county.”

Omit Form A, and in lieu thereof insert—

FORM A.

Sheriffdom of at *A.B* [*design him; if he sues in any special character set that forth; also, where necessary, set forth relationship to defender, e.g., wife, creditor, &c*], *Pursuer*,  
AGAINST

*C.D* [*design him ; if sued in any special character set that forth, e.g., as trustee, vituous intromitter, &c*], *Defender*.

The pursuer craves the Court [*here set forth the specific decree, warrant or order asked*]

(to be signed) *A.B.*, Pursuer ;

Omit Form M, and in lieu thereof insert—

FORM M.

At the jury trial in the action at the instance of *A.B* [*design him*] pursuer, against *C.D.* [*design him*], defender, held at before sheriff of

The verdict of the jury was [*here quote the recorder verdict setting forth, where*

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*the sheriff has proponed to the jury a question or questions of fact, such question or questions and the answer or answers there to returned to the jury.]*

The interlocutor of the sheriff applying the verdict was pronounced on and was in these terms :—

*[here quote the interlocutor.]*

The *[state party appealing]* appeals to the Division of the Court of Session upon the ground *[here state the grounds conform to section 31 of the Act]*.

(a) That in the interlocutor complained of the verdict was erroneously applied.  
 (b) That the verdict of the jury was contrary to evidence in respect *[here set forth clearly and succinctly the particulars in which it is alleged the evidence led and the verdict returned are inconsistent]*.

(c) That evidence was unduly admitted *[or rejected]* in regard to *[here set forth shortly the fact in regard to which the evidence was admitted or rejected]*.

(d) That the sheriff misdirected the jury in regard to *[here state shortly the point of law alleged to be mis-direction]*.

(e) That the damages awarded by the jury were excessive. *M.P., pursuer [or other party].Agent for the*

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#### **Textual Amendments**

- F5** Provisions relating to Rules 45, 46 and 52 in the First Schedule to the Sheriff Courts (Scotland) Act 1907 repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2. c. 5\)](#), [Sch. 1](#)

**Changes to legislation:**

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