STATUTORY INSTRUMENTS

# 2015 No. 700

# CONSTITUTIONAL LAW
# DEVOLUTION, SCOTLAND
# COURT OF SESSION
# SHERIFF COURT

## The Courts Reform (Scotland) Act 2014 (Consequential Provisions and Modifications) Order 2015

*Made - - - - 11th March 2015*

*Coming into force in accordance with article 1*

The Secretary of State, in exercise of the powers conferred by sections 104, 112(1), 113(2), (3), (5) and (7) and 114(1) of the Scotland Act 1998(**1**), makes the following Order.

In accordance with paragraphs 1, 2 and 3 of Schedule 7 to that Act a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

**Citation, interpretation, commencement and extent**

**1.**—(1) This Order may be cited as the Courts Reform (Scotland) Act 2014 (Consequential Provisions and Modifications) Order 2015.

(2) In this Order, "the 2014 Act" means the Courts Reform (Scotland) Act 2014(**2**).

(3) This article comes into force on the day after the day on which this Order is made.

(4) Article 2 comes into force on the same day as that on which section 2 of the 2014 Act comes into force.

(5) Article 3 comes into force on the same day as that on which section 34 of the 2014 Act comes into force.

(6) Article 4 comes into force on the same day as that on which section 39(2) of the 2014 Act comes into force.

(7) Article 5 comes into force on the same day as that on which section 41 of the 2014 Act comes into force.

(**1**) 1998 c.46.
(**2**) 2014 asp 18.

(8) Articles 6 and 7 come into force on the same day as that on which section 89 of the 2014 Act comes into force.

(9) Article 8 comes into force on the same day as that on which (the earliest of) section 103, 104, 105 or 106 of the 2014 Act comes into force.

(10) Article 9 comes into force on the same day as that on which section 130(1) of the 2014 Act comes into force.

(11) Article 10 comes into force—

(a) for the purposes of paragraph 1 of the Schedule to this Order, on the same day as that on which section 100 of the 2014 Act comes into force;

(b) for the purposes of paragraph 2 of the Schedule to this Order, on the same day as that on which paragraph 28 of schedule 5 to the 2014 Act comes into force;

(c) for the purposes of paragraphs 3 and 4 of the Schedule to this Order, on the same day as that on which section 26 of the 2014 Act comes into force;

(d) for the purposes of paragraph 5 of the Schedule to this Order, on the same day as that on which paragraph 42 of schedule 5 to the 2014 Act comes into force;

(e) for the purposes of paragraph 6 of the Schedule to this Order, on the same day as that on which paragraph 6(2) of schedule 5 to the 2014 Act comes into force;

(f) for the purposes of paragraph 7 of the Schedule to this Order, on the same day as that on which paragraph 35 of schedule 5 to the 2014 Act comes into force;

(g) for the purposes of paragraphs 8 and 9 of the Schedule to this Order, on the same day as that on which (the earlier of) section 5 or 10 of the 2014 Act comes into force;

(h) for the purposes of paragraph 10 of the Schedule to this Order, on the same day as that on which section 134(2) and (3) of the 2014 Act comes into force;

(i) for the purposes of paragraph 11(1) of the Schedule to this Order, on the day after the day on which this Order is made;

(j) for the purposes of paragraph 11(2) of the Schedule to this Order, on the same day as that on which paragraph 7 of schedule 5 to the 2014 Act comes into force;

(k) for the purposes of paragraph 11(3) of the Schedule to this Order, on the same day as that on which paragraph 13 of schedule 5 to the 2014 Act comes into force;

(l) for the purposes of paragraph 12 of the Schedule to this Order, on the same day as that on which section 104 of the 2014 Act comes into force;

(m) for the purposes of paragraph 13 of the Schedule to this Order, on the same day as that on which section 117 of the 2014 Act (appeals to the Supreme Court) comes into force;

(n) for the purposes of paragraph 14 of the Schedule to this Order, on the same day as that on which section 130(1) of the 2014 Act comes into force.

(12) Articles 2 to 6, 8 and 9, and paragraph 12(3) of the Schedule to this Order extend to Scotland only.

(13) Paragraphs 1, 2, 5, 6, 7, 11 and 13 of the Schedule to this Order do not extend to Scotland.

(14) Paragraphs 4 and 12(1) and (2) of the Schedule to this Order extend to England, Wales and Scotland.

**Compensation for loss of office etc. on abolition of sheriffdom etc.**

**2.**—(1) The Scottish Courts and Tribunals Service(**3**) may pay such compensation as the Secretary of State may determine to a person who suffers loss of employment or loss or diminution of emoluments as a consequence of an order under section 2(1) of the 2014 Act.

(2) Paragraph (1) does not permit a payment to a person mentioned in section 51(2)(**4**) of the Scotland Act 1998 (non-ministerial office-holders in, and members of the staff of, the Scottish Administration).

(3) Sections 2(3) and 3(4) of the Sheriff Courts (Scotland) Act 1971(**5**) are repealed.

**Judicial specialisation**

**3.**—(1) The powers referred to in paragraph (2) may be exercised in relation to a category of sheriff court case (within the meaning of section 34(5) of the 2014 Act) that relates to a reserved matter.

(2) Those powers are—

(a) the powers of the Lord President of the Court of Session under section 34 of the 2014 Act (determination of categories of sheriff court case suited to being dealt with by specialist judicial officers);

(b) the powers of the sheriff principal of a sheriffdom and of the Lord President under section 35 of that Act (designation of specialist judiciary).

**Proceedings for winding up of companies**

**4.** Section 39 of the 2014 Act (exclusive competence) does not apply to proceedings for the winding up of a company, even if an order of value (within the meaning of subsection (6) of that section) is sought in those proceedings.

**Power to confer all-Scotland jurisdiction for specified cases**

**5.** An order under section 41(1) of the 2014 Act (power to confer all-Scotland jurisdiction for specified cases) may specify a type of civil proceedings which relates to a reserved matter.

**Permission to apply for review of decision of Upper Tribunal**

**6.**—(1) Section 27B of the Court of Session Act 1988(**6**) (requirement for permission) is amended as follows.

(2) In subsection (3), for the words from "a decision" to "2014" substitute "a relevant Upper Tribunal decision".

(3) After subsection (5), insert—

"(6) In this section, "a relevant Upper Tribunal decision" means—

(a) a decision of the Upper Tribunal for Scotland in an appeal from the First-tier Tribunal for Scotland under section 46 of the Tribunals (Scotland) Act 2014,

(b) a decision of the Upper Tribunal in an appeal from the First-tier Tribunal under section 11 of the Tribunals, Courts and Enforcement Act 2007(**7**).".

(**3**) The Scottish Court Service was established by section 60(1) of the Judiciary and Courts (Scotland) Act 2008. It was renamed the Scottish Courts and Tribunals Service by section 130 of the Courts Reform (Scotland) Act 2014.
(**4**) Words were substituted by the Constitutional Reform and Governance Act 2010 (c.25), Schedule 2(1), paragraph 9(2).
(**5**) 1971 c.58.
(**6**) 1988 c.36; section 27B of the Court of Session Act 1988 was inserted by section 89 of the Courts Reform (Scotland) Act 2014.
(**7**) 2007 c.15. Section 11 was amended by the Crime and Security Act 2010 (c.17), Schedule 2, paragraph 5.

**Procedural steps where judicial review application transferred from the Court of Session**

**7.** After section 20 of the Tribunals, Courts and Enforcement Act 2007 (transfer of judicial review applications from the Court of Session), insert—

"**Procedural steps where application transferred**

**20A.**—(1) This section applies where the Court of Session transfers an application under section 20(1)(**8**).

(2) It is for the Upper Tribunal to determine—

(a) whether the application has been made timeously, and

(b) whether to grant permission for the application to proceed under section 27B of the Court of Session Act 1988 ("the 1988 Act") (requirement for permission).

(3) Accordingly—

(a) the Upper Tribunal has the same powers in relation to the application as the Court of Session would have had in relation to it under sections 27A to 27C of the 1988 Act(**9**),

(b) sections 27C and 27D of that Act apply in relation to a decision of the Upper Tribunal under section 27B(1) of that Act as they apply in relation to such a decision of the Court of Session.

(4) The references in section 27C(3) and (4) of the 1988 Act (oral hearings where permission refused) to a different Lord Ordinary from the one who granted or refused permission are to be read as references to different members of the Tribunal from those of whom it was composed when it refused or granted permission.".

**Powers to regulate court procedure etc.**

**8.**—(1) The powers referred to in paragraph (2) may be exercised in order to make provision which relates to a reserved matter or which modifies the law on reserved matters.

(2) Those powers are the powers of the Court of Session under—

(a) sections 103 and 105 of the 2014 Act (powers to regulate procedure etc. and fees in the Court of Session);

(b) sections 104 and 106 of the 2014 Act (powers to regulate procedure etc. and fees in the sheriff court and the Sheriff Appeal Court).

**Pensions Appeal Tribunal for Scotland**

**9.**—(1) The functions of the Scottish Ministers(**10**) referred to in paragraph (2) are transferred to the Scottish Courts and Tribunals Service.

(2) Those functions are—

(**8**) Section 20(1) was amended by the Borders, Citizenship and Immigration Act 2009 (c.11), Part 4, section 53(3)(a) and by the Crime and Courts Act 2013 (c.22), Part 2, section 22(2).

(**9**) Sections 27A to 27D of the Court of Session Act 1988 were inserted by section 89 of the Courts Reform (Scotland) Act 2014.

(**10**) The functions referred to in this article were transferred to the Scottish Ministers by virtue of article 5 of, and paragraph 2 of Schedule 4 to, the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750). Paragraph 1 of the Schedule of the Pensions Appeal Tribunals Act 1943 was substituted by section 15(1) of, and paragraphs 24 and 28(1) and (2) of Schedule 4 to, the Constitutional Reform Act 2005 (c.4) and amended by the Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), Schedule 3, paragraph 21(2). There are other amendments to the Schedule not relevant to this Order.