



Senior Judiciary (Vacancies and Incapacity) (Scotland) Act 2006

2006 asp 9

2 Functions of the Lord Justice Clerk during vacancy or incapacity

- (1) Subsection (2) applies during any period when—
 - (a) the office of Lord Justice Clerk is vacant; or
 - (b) the Lord Justice Clerk is incapacitated.
- (2) During such a period—
 - (a) any function of the Lord Justice Clerk (including any function exercisable by virtue of section 1) is exercisable instead by the senior judge of the Inner House;
 - (b) anything that falls to be done in relation to the Lord Justice Clerk (whether or not by virtue of that section) falls to be done instead in relation to the senior judge of the Inner House;
 - (c) any function exercisable by the senior judge of the Inner House by virtue of that section is exercisable instead by the second senior judge of the Inner House; and
 - (d) anything that falls to be done in relation to the senior judge of the Inner House by virtue of that section falls to be done instead in relation to the second senior judge of the Inner House.
- (3) For the purposes of this section—
 - (a) the Lord Justice Clerk is to be regarded as incapacitated only if the First Minister has received a declaration in writing signed by at least 5 judges of the Inner House declaring that they are satisfied that the Lord Justice Clerk is incapacitated;
 - (b) in such a case, the Lord Justice Clerk is to be regarded for the purposes of this section as incapacitated until the First Minister has received a declaration in writing signed by at least 5 judges of the Inner House declaring that they are satisfied that the Lord Justice Clerk is no longer incapacitated.
- (4) Except in any period during which section 1(2) applies, the judges of the Inner House mentioned in subsection (3)(a) and (b) must include the Lord President.

Status: This is the original version (as it was originally enacted).

- (5) The First Minister must send a copy of a declaration received under subsection (3)(a) or (b) to the Presiding Officer of the Scottish Parliament.