

JUDICIARY AND COURTS (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT

Part 4 – the Scottish Court Service

Functions

Section 61– Administrative support for the Scottish courts and judiciary

116. This section provides for the SCS's principal function of running the court service in Scotland. In doing so the section also provides that they must take into account, in particular, the needs of members of the public and those involved in proceedings in courts and that they must co-operate with others involved in the administration of justice. This latter requirement would cover, for example, cooperation with the Crown Office and Procurator Fiscal Service over the scheduling of criminal cases. The courts covered by this function are the Court of Session, the High Court of Justiciary, the Registration Appeals Court, the Election Court, the Lands Valuation Appeal Court, the sheriff courts, JP courts and such other courts as may be specified by the Scottish Ministers by order.

Section 62 - Administrative support for other persons

117. This section provides that the SCS also has the function of providing administrative support for various other persons. In particular subsection (1)(a) provides that the SCS has the function of providing administrative support for the functions conferred on the Lord President as head of the Scottish judiciary under section 2 of the Act and support for the Lord President's other non-judicial functions. The latter covers the functions carried out by the Lord President's Private Office in providing support to the Lord President in carrying out a range of statutory and other functions such as powers of appointment, removal and rule-making or rule approval in relation to tribunals and in respect of the Law Society of Scotland, the Scottish Legal Complaints Commission and university ordinances. Subsection (1)(b) provides that the SCS has the function of providing administrative support to the delegate where the Lord President has delegated one or more of his or her functions as head of the Scottish judiciary in section 2 under section 3. Subsection (1)(c) provides that the SCS has the function of providing administrative support to sheriffs principal in carrying out their functions of ensuring the efficient disposal of business in sheriff courts and of the timetabling of business in the sheriff courts in their sheriffdoms.

Section 63 – Appointment etc. of office holders

118. This section transfers the function of appointing various statutory office holders from the Scottish Ministers to the new SCS. Schedule 4 makes the necessary consequential modifications. These office holders are employed by the existing Executive Agency

*These notes relate to the Judiciary and Courts (Scotland) Act
2008 (asp 6) which received Royal Assent on 29 October 2008*

and will transfer to the new body corporate by virtue of paragraph 18 of schedule 3 to the Act.

Section 64 – Payment of remuneration etc. of certain judicial office holders

119. This section amends the 1971 Act, the 1985 Act and the 1990 Act to provide that the SCS will pay remuneration and allowances to temporary sheriffs principal, part-time sheriffs, re-employed retired judges and temporary judges, with the responsibility for determining the level of that remuneration and those allowances remaining with the Scottish Ministers. This is because budgetary responsibility for the use of temporary judges and sheriffs will rest with the SCS.