

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 7 – Judges of the Court of Session

Section 123 – Appointment of Court of Session judges, etc

246. **Section 123** re-enacts (without significant modification), the previous law relating to the appointment of:

- judges;
- temporary judges; and
- re-employed former judges,

in the Court of Session. The previous law was set out in the Law Reform (Miscellaneous Provisions) (Scotland) Acts 1985 and 1990. In particular this re-enacts and repeals:

- the provisions of the 1985 Act which relate to what is called in that Act “re-employed retired judges”;
- the provisions of the 1990 Act which relate to qualification for appointment as a Court of Session judge; and
- the provisions of the 1990 Act relating to the appointment of temporary judges of the Court of Session,

The re-enacted provisions are inserted into the Judiciary and Courts (Scotland) Act 2008 which already contains a range of provisions about the judiciary.

247. Section 20A restates paragraphs 1-3 of Schedule 4 to the 1990 Act. In section 20A(1) (a), the wording of sub-paragraph (ii) ensures that a person who has been a sheriff principal for less than 5 years, but was a sheriff before being appointed sheriff principal, is eligible for appointment if the person had a total combined service as a sheriff and sheriff principal of at least 5 years prior to the appointment. Sections 20B-20D (and 20G) largely reflect paragraphs 5-11 of Schedule 4 to the 1990 Act. Section 20D(2) (b) simply provides for the appointment to end when the individual retires. Sections 20E, 20F and 20G re-state section 22 of the 1985 Act. Section 20E provides for the re-employment of former Court of Session and Supreme Court judges. Section 20F and makes further provision for the re-employment of former judges. Section 20G provides for both the remuneration and expenses of temporary and former judges.

Section 124 – Payment of salaries of Court of Session judges

248. **Section 124** provides for the payment of the salaries of Court of Session judges (that is, Senators of the College of Justice) to be made by the SCTS. Senators’ salaries have previously been paid by the Scottish Ministers and administered by the Scottish Government. Determination of the level of these salaries remains reserved to Westminster (see section 9 of the Administration of Justice Act 1973).

*These notes relate to the Courts Reform (Scotland) Act 2014
(asp 18) which received Royal Assent on 10 November 2014*

Section 125 – Expenses

249. [Section 125](#) provides for the SCTS to pay Senators' expenses.