



Sheriff Courts (Scotland) Act 1971

1971 CHAPTER 58

PART I

CONSTITUTION, ORGANISATION AND ADMINISTRATION

Functions of the Secretary of State in relation to sheriffs principal, sheriffs, etc.

9 Power of Secretary of State to give administrative directions

For the purpose of securing the efficient organisation and administration of the sheriff courts and, in particular, the speedy and efficient disposal of business in those courts, the Secretary of State may give such directions of an administrative nature as appear to him to be necessary or expedient, and any sheriff principal or sheriff, and any officer or servant engaged in the administration of the sheriff courts, to whom a direction is given under this section shall, subject to the provisions of this Act, give effect to that direction.

10 Secretary of State may authorise sheriff principal or direct sheriff to act in another sheriffdom

(1) Where—

- (a) the sheriff principal of any sheriffdom is by reason of illness or otherwise unable to perform his duties as sheriff principal, or
- (b) a vacancy occurs in the office of sheriff principal of any sheriffdom,

the Secretary of State may, if it appears to him expedient so to do in order to avoid delay in the administration of justice in that sheriffdom, authorise the sheriff principal of any other sheriffdom to perform the duties of sheriff principal in the first-mentioned sheriffdom (in addition to his own duties) until the Secretary of State otherwise decides.

(2) Where as regards any sheriffdom—

- (a) a sheriff is by reason of illness or otherwise unable to perform his duties as sheriff, or

Status: This is the original version (as it was originally enacted).

- (b) a vacancy occurs in the office of sheriff, or
- (c) for any other reason it appears to the Secretary of State expedient so to do in order to avoid delay in the administration of justice in that sheriffdom,

the Secretary of State may direct a sheriff appointed for any other sheriffdom to perform, in accordance with the terms of the direction, the duties of sheriff in the first-mentioned sheriffdom (in addition to or in place of his own duties) until otherwise directed by the Secretary of State, and any sheriff to whom a direction is given under this subsection shall give effect to that direction.

- (3) A sheriff principal authorised, or a sheriff directed, under this section to perform duties in any sheriffdom shall for that purpose, without the necessity of his receiving a commission in that behalf, have and be entitled to exercise the jurisdiction and powers attaching to the office of sheriff principal or, as the case may be, sheriff in that sheriffdom.
- (4) The Secretary of State may, with the approval of the Treasury, pay to a sheriff principal or a sheriff, in respect of any duties performed by that sheriff principal or sheriff (in addition to his own duties) in pursuance of an authority or direction under this section, such remuneration and allowances as may appear to the Secretary of State to be reasonable in all the circumstances.
- (5) In this section " sheriff " does not include an honorary sheriff.

11 Secretary of State may appoint temporary sheriffs principal and sheriffs

- (1) Where—
 - (a) the sheriff principal of any sheriffdom is by reason of illness or otherwise unable to perform his duties as sheriff principal, or
 - (b) a vacancy occurs in the office of sheriff principal of any sheriffdom,
 the Secretary of State may, if it appears to him expedient so to do in order to avoid delay in the administration of justice in that sheriffdom, appoint a person (to be known as a temporary sheriff principal) to act as sheriff principal of the sheriffdom.
- (2) Where as regards any sheriffdom—
 - (a) a sheriff is by reason of illness or otherwise unable to perform his duties as sheriff, or
 - (b) a vacancy occurs in the office of sheriff, or
 - (c) for any other reason it appears to the Secretary of State expedient so to do in order to avoid delay in the administration of justice in that sheriffdom,
 the Secretary of State may appoint a person (to be known as a temporary sheriff) to act as a sheriff for the sheriffdom.
- (3) A person shall not be appointed to be a temporary sheriff principal or a temporary sheriff unless he is legally qualified, and has been so qualified—
 - (a) in the case of an appointment as a temporary sheriff principal, for at least ten years ;
 - (b) in the case of an appointment as a temporary sheriff, for at least five years.

For the purposes of this subsection, a person shall be legally qualified if he is an advocate or a solicitor.

- (4) The appointment of a temporary sheriff principal or of a temporary sheriff shall subsist until recalled by the Secretary of State.

- (5) If the Secretary of State, on appointing any person to be a temporary sheriff principal or a temporary sheriff, so directs, the provisions of section 6(1) of this Act shall apply in relation to that person as they apply in relation to a person holding the office of sheriff.
- (6) A person appointed to be temporary sheriff principal of, or a temporary sheriff for, any sheriffdom shall for the purposes of his appointment, without the necessity of his receiving a commission in that behalf, have and be entitled to exercise the jurisdiction and powers attaching to the office of sheriff principal or, as the case may be, sheriff in that sheriffdom.
- (7) The appointment of any person holding the office of sheriff to be a temporary sheriff principal shall not affect the commission held by that person as sheriff, but he shall not, while his appointment as a temporary sheriff principal subsists, perform any duties by virtue of the said commission.
- (8) The Secretary of State may pay to any person appointed to be a temporary sheriff principal or a temporary sheriff such remuneration and allowances as the Treasury, on the recommendation of the Secretary of State, may determine.

12 Removal from office, and suspension, of sheriff principal or sheriff

- (1) The Lord President of the Court of Session and the Lord Justice Clerk may of their own accord and shall, if they are requested so to do by the Secretary of State, undertake jointly an investigation into the fitness for office of any sheriff principal or sheriff and, as soon as practicable after completing that investigation, shall report in writing to the Secretary of State either—
 - (a) that the sheriff principal or sheriff is fit for office, or
 - (b) that the sheriff principal or sheriff is unfit for office by reason of inability, neglect of duty or misbehaviour,and shall in either case include in their report a statement of their reasons for so reporting.
- (2) The Secretary of State may, if a report is made to him under subsection (1) above to the effect that any sheriff principal or sheriff is unfit for office by reason of inability, neglect of duty or misbehaviour, make an order removing that sheriff principal or sheriff from office.
- (3) An order under subsection (2) above—
 - (a) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament,
 - (b) shall not be made so as to come into operation before the expiry, in relation to the order, of the period of forty days mentioned in section 5(1) of the Statutory Instruments Act 1946.
- (4) The Lord President of the Court of Session and the Lord Justice Clerk may, on undertaking an investigation under subsection (1) above or at any time during the course of such an investigation, if they think it proper so to do, recommend in writing to the Secretary of State that the sheriff principal or sheriff who is the subject of the investigation be suspended from office, and the Secretary of State may, on receiving such a recommendation as aforesaid, suspend that sheriff principal or sheriff from office.

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

- (5) A sheriff principal or a sheriff suspended from office under subsection (4) above shall remain so suspended until the Secretary of State otherwise directs.
- (6) The suspension from office of a sheriff principal or a sheriff under subsection (4) above shall not affect the payment to him of his salary in respect of the period of his suspension.
- (7) In this section " sheriff principal" does not include a temporary sheriff principal and " sheriff " does not include a temporary sheriff or an honorary sheriff.

13 Functions of Secretary of State with respect to residence and leave of absence of sheriffs principal

- (1) The Secretary of State may require any sheriff principal (being a sheriff principal who is restricted by the terms of his appointment from engaging in private practice or to whom section 6(1) of this Act applies) to reside ordinarily at such place as the Secretary of State may specify.
- (2) The Secretary of State may approve such leave of absence for any sheriff principal (being a sheriff principal who is restricted by the terms of his appointment from engaging in private practice or to whom section 6(1) of this Act applies) as appears to the Secretary of State to be proper, but the amount of leave so approved (other than leave granted on account of ill-health) shall not, unless the Secretary of State for special reasons otherwise permits, exceed seven weeks in any year.

14 Functions of Secretary of State with respect to number, residence and place of duties of sheriffs

- (1) The Secretary of State may, with the approval of the Treasury, by order prescribe the number of sheriffs to be appointed for each sheriffdom.
- (2) The Secretary of State may require any sheriff to reside ordinarily at such place as the Secretary of State may specify.
- (3) The Secretary of State—
 - (a) shall, on the appointment of a person to hold the office of sheriff for any sheriffdom,
 - (b) may, at any subsequent time while the said person holds that office,
 give to that person a direction designating the sheriff court district or districts in which he is to perform his duties as sheriff.

Provided that a direction given to a sheriff under this subsection shall be subject to any instruction given to that sheriff under section 15 of this Act by the sheriff principal of the sheriffdom, being an instruction given for the purpose of giving effect to any special provision made by the sheriff principal under section 16(1)(b) of this Act.

- (4) If for the purpose of securing the efficient organisation and administration of the sheriff courts, and after consultation with the Lord President of the Court of Session, the Secretary of State by order so directs, a person holding the office of sheriff for any sheriffdom shall, on such date as may be specified in the order, cease to hold that office and shall, on and after that date, without the necessity of his receiving a commission in that behalf, hold instead the office of sheriff for such other sheriffdom as may be so specified; and on making an order under this subsection with respect to any person the Secretary of State shall give to that person a direction under subsection (3) above

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

designating the sheriff court district or districts in which he is to perform his duties as sheriff.

- (5) In this section "sheriff" does not include an honorary sheriff, and in subsections (1) and (4) above does not include a temporary sheriff.