



Sheriff Courts (Scotland) Act 1971

1971 CHAPTER 58

PART I

CONSTITUTION, ORGANISATION AND ADMINISTRATION

Sheriffs principal and sheriffs

4 Offices of sheriff principal and sheriff

- (1) The office of sheriff (that is to say, the office known formerly as the office of sheriff depute, but known immediately before the commencement of this Act as the office of sheriff) shall be known as the office of sheriff principal, the office of sheriff substitute shall be known as the office of sheriff, and the office of honorary sheriff substitute shall be known as the office of honorary sheriff.
- (2) Accordingly, any enactment or other document in force or having effect at the commencement of this Act which refers whether expressly or by implication, or which falls to be construed as referring, or as including a reference, to the office of sheriff (as defined in subsection (1) above), or to the office of sheriff substitute, or to the office of honorary sheriff substitute, or to the holder of any of the said offices, shall be construed in accordance with subsection (1) above.
- (3) Section 28 of the Interpretation Act 1889 (which provides that the expression " sheriff " shall, as respects Scotland, include a sheriff substitute) shall have effect as if for the words " sheriff substitute " there were substituted the words " sheriff principal " ; and the said section 28 shall not apply for the interpretation of this Act.

5 Qualification for offices of sheriff principal and sheriff

- (1) A person shall not be appointed to the office of sheriff principal or sheriff unless he is, and has been for at least ten years, legally qualified.

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

Status: This is the original version (as it was originally enacted).

- (2) Without prejudice to section 11(3) of this Act, in this section "sheriff principal" does not include a temporary sheriff principal and "sheriff" does not include a temporary sheriff or an honorary sheriff.

6 Disqualification of sheriffs principal and sheriffs

- (1) A sheriff principal to whom this subsection applies, or a sheriff, shall not, so long as he holds office as such—
- (a) engage, whether directly or indirectly, in any private practice or business, or be in partnership with or employed by, or act as agent for, any person so engaged; or
 - (b) accept appointment to any office, except such office as may by statute be attached to the office of sheriff principal or sheriff, as the case may be.
- (2) Subsection (1) above shall apply to any person holding the office of sheriff principal who is appointed to that office after the commencement of this Act and on whose appointment the Secretary of State directs that that subsection shall apply to him.
- (3) The sheriff principal of any sheriffdom, not being either a sheriff principal who is restricted by the terms of his appointment from engaging in private practice or a sheriff principal to whom subsection (1) above applies, shall not, so long as he holds office as such, advise, or act as an advocate in any court, in any cause civil or criminal arising within or coming from that sheriffdom.
- (4) Any reference in any enactment passed before the commencement of this Act to a sheriff principal who is restricted by the terms of his appointment from engaging in private practice shall be construed as including a reference to a sheriff principal to whom subsection (1) above applies.
- (5) Without prejudice to the giving of any direction under section 11(5) of this Act, in this section "sheriff principal" does not include a temporary sheriff principal and "sheriff" does not include a temporary sheriff or an honorary sheriff.

7 Jurisdiction of sheriff

For removal of doubt it is hereby declared that a sheriff, by virtue of his appointment as such, has and is entitled to exercise the jurisdiction and powers attaching to the office of sheriff in all parts of the sheriffdom for which he is appointed.

8 Sheriff may be appointed to assist Secretary of State

Notwithstanding anything in section 6 of this Act, a person holding the office of sheriff principal or sheriff may, without relinquishing that office, be appointed by the Secretary of State to assist him to discharge the functions vested in him in relation to the organisation and administration of the sheriff courts, but a person so appointed shall not perform his duties as the holder of the office of sheriff principal or sheriff, as the case may be, while he retains that appointment.