

# **JUDICIARY AND COURTS (SCOTLAND) ACT 2008**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 2 – the Judiciary**

#### *Chapter 3 - Judicial Appointments*

#### *Section 10 - Judicial offices within the Board's remit*

36. The judicial offices within the Board's remit are listed at subsection (1). Two of the offices listed ("office of temporary judge" and "office of part-time sheriff") are defined by reference to statutory provision in section 72. The Board's remit does not extend to the offices of Lord President and the Lord Justice Clerk for which separate provision is made at sections 19 and 20. Subsection 1(c) provides that the office of temporary judge falls within the Board's remit except where a candidate already holds or has held a judicial office as set out in subsection (1A). This means that a person who has already been or is a judge in the Court of Justice of the European Communities in Luxembourg, a judge in the European Court of Human Rights in Strasbourg, a sheriff, a sheriff principal or the Chairman of the Scottish Land Court may be appointed as a temporary judge without having to be interviewed or selected by the Board.
37. Subsection (1)(g) enables the Scottish Ministers by order to add other judicial offices to the Board's remit only in so far as either the First Minister or the Scottish Ministers are able to make appointments to that office or nominate or recommend individuals for appointments to that office. Under subsection (3) the judicial offices that may be added to the Board's remit by way of this order-making power include tribunal membership, part-time offices and temporary offices.