

# JUDICIARY AND COURTS (SCOTLAND) ACT 2008

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## EXPLANATORY NOTES

### THE ACT

#### *Schedule 4 – Appointment Etc. of Office Holders: Consequential Amendments*

173. This schedule makes the necessary modifications to enactments required by section 63.
174. [Paragraph 1\(1\) to \(4\)](#) amends the Administration of Justice (Scotland) Act 1933 (“the 1933 Act”) to transfer from the Scottish Ministers to the SCS the power to appoint clerks in the Court of Justiciary (section 23(1)); officers of the Court of Session (section 24 (1) and (7)); and the Principal Clerk of Justiciary (section 25).
175. [Paragraph 1\(5\)](#) amends section 27 the 1933 Act in respect of the remuneration of officers of the High Court of Justiciary and the Court of Session to insert a provision that the remuneration shall be of such amounts as the SCS may determine. It removes the exemption of the office of the Auditor of the Court of Session from this determination, meaning that the remuneration of that office will continue to be paid by the Scottish Ministers.
176. [Paragraph 2](#) amends the Sheriff Courts and Legal Officers (Scotland) Act 1927 (“the 1927 Act”).
177. [Paragraphs 2\(2\) to \(3\)](#) amend the 1927 Act to transfer from the Scottish Ministers to the SCS the power to appoint, remove from office and transfer sheriff clerks (section 1); and to appoint sheriff clerk deposes (section 2).
178. [Paragraph 2\(4\)](#) amends section 3 of the 1927 Act to transfer from the Scottish Ministers to the SCS the power to determine that the office of sheriff clerk shall be a full time office and no person appointed to the office may engage directly or indirectly in practice as a law agent or other employment which will in the opinion of the SCS interfere with the discharge of the duties of the office.
179. [Paragraph 2\(5\)](#) amends section 4 of the 1927 Act to transfer from the Scottish Ministers to the SCS the power to give directions for the discharge during a period of vacancy or incapacity of the duties of a sheriff clerk or sheriff clerk depute to another officer.
180. [Paragraph 2\(6\)](#) amends section 5 of the 1927 Act to transfer from the Scottish Ministers to the SCS the power to appoint whole time clerks or assistants to a sheriff clerk.
181. [Paragraph 2\(7\)](#) amends section 8 of the 1927 Act to transfer from the Scottish Ministers to the SCS the power to issue instructions as regards sheriff clerks.
182. [Paragraph 2\(8\)](#) amends section 9 of the 1927 Act to transfer from the Scottish Ministers to the SCS the requirement to consent to a deputation to a fit person to act as a depute sheriff clerk.