



# Judiciary and Courts (Scotland) Act 2008

2008 asp 6

## PART 2

### THE JUDICIARY

#### CHAPTER 3

##### JUDICIAL APPOINTMENTS

###### *Sheriffs principal, sheriffs and part-time sheriffs*

#### **24 Appointment of temporary sheriffs principal**

- (1) Section 11 (appointment of temporary sheriffs principal) of the 1971 Act is amended as follows.
- (2) In subsection (1), for the words from “Secretary of State” to “sheriffdom,” in the second place that word appears substitute “Scottish Ministers must, if the Lord President of the Court of Session so requests,”.
- (3) After that subsection insert—

“(1ZA) The Lord President may request the appointment of a person to act as a sheriff principal under subsection (1) only if it appears to him expedient that such an appointment be made in order to avoid delay in the administration of justice in the sheriffdom concerned.”.
- (4) In subsection (1A), for “Secretary of State may” substitute “Scottish Ministers must, if the Lord President so requests,”.
- (5) In subsection (4), for “Secretary of State” substitute “Scottish Ministers, at the request of the Lord President”.
- (6) After that subsection insert—

“(4ZA) The Scottish Ministers must comply with any request made by the Lord President under subsection (4) above.”.

(7) In subsection (5)—

- (a) for “Secretary of State” substitute “Scottish Ministers”, and
- (b) for “directs” substitute “direct”.

## 25 Re-employment of retired sheriffs principal and sheriffs

After section 14 of the 1971 Act insert—

### “14A Re-employment of retired sheriffs principal and sheriffs

- (1) A sheriff principal may, if it appears to him to be expedient as a temporary measure in order to facilitate the disposal of business in the sheriff courts of the sheriffdom, appoint a qualifying former sheriff principal or sheriff to act as a sheriff of that sheriffdom during such period or on such occasions as the sheriff principal thinks fit.
- (2) A qualifying former sheriff principal is someone who—
  - (a) ceased to hold that office other than by virtue of an order under section 12E of this Act, and
  - (b) has not reached the age of 75 years.
- (3) A qualifying former sheriff is someone who—
  - (a) ceased to hold that office other than by virtue of an order under section 12E of this Act or by being appointed as a sheriff principal, and
  - (b) has not reached the age of 75 years.
- (4) A person appointed under subsection (1) above is not to be treated as a sheriff for the purposes of any statutory provision or rule of law relating to—
  - (a) the appointment, retirement, removal or disqualification of sheriffs,
  - (b) the tenure of office and oaths to be taken by sheriffs, or
  - (c) the remuneration, allowances or pensions of sheriffs.
- (5) But, otherwise, such a person is to be treated for all purposes as a sheriff of the sheriffdom for which the person is appointed (and so may perform any of the functions of a sheriff of that sheriffdom).
- (6) The Scottish Court Service may pay to, or in respect of, a person appointed under subsection (1) above such remuneration or allowances as the Scottish Ministers may determine.
- (7) Despite subsection (1), the period during which or an occasion on which a person appointed under that subsection may act under that appointment does not extend beyond, or (as the case may be) is not to be after, the date on which the person reaches the age of 75 years.
- (8) Despite the expiry (whether by virtue of subsection (7) above or otherwise) of any period for which a person is appointed under subsection (1) above—
  - (a) the person may attend at a sheriff court for the purpose of continuing to deal with, giving judgment in, or dealing with any matter relating to, any case begun before the person while acting under that appointment, and

---

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

---

- (b) for that purpose, and for the purpose of any proceedings arising out of any such case or matter, the person is to be treated as acting or, as the case may be, having acted under that appointment.

(9) In this section—

“sheriff principal”, where it first occurs in subsection (1), includes temporary sheriff principal, and  
“sheriff” does not include part-time sheriff or honorary sheriff.”.

## **26 Appointment of part-time sheriffs**

In subsection (3) of section 11A (appointment of part-time sheriffs: requirements) of the 1971 Act—

(a) after “unless” insert—

“(a) the person is”, and

(b) at the end of the subsection add “and

(b) the Scottish Ministers have consulted the Lord President of the Court of Session about the proposed appointment.”.

## **27 Sheriffs and part-time sheriffs: official oaths**

In the Promissory Oaths Act 1868 (c. 72), in the second part of the Schedule (persons to take oath of allegiance and judicial oath), after “sheriffdoms,” insert “sheriffs, part-time sheriffs”.