

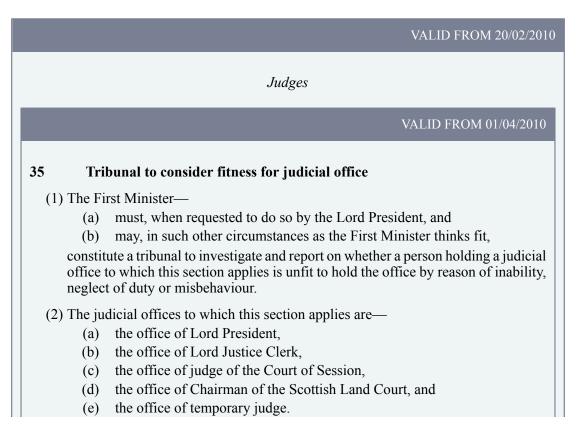
# Judiciary and Courts (Scotland) Act 2008 2008 asp 6

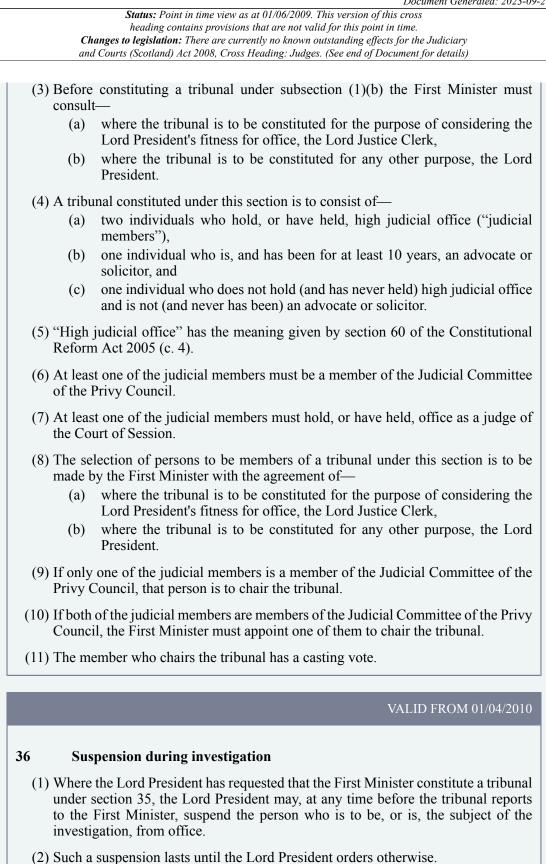
# PART 2

# THE JUDICIARY

# CHAPTER 5

## REMOVAL FROM OFFICE





Status: Point in time view as at 01/06/2009. This version of this cross heading contains provisions that are not valid for this point in time. Changes to legislation: There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Cross Heading: Judges. (See end of Document for details)

- (3) A tribunal constituted under section 35 may, at any time before the tribunal reports to the First Minister, recommend to the First Minister that the person who is the subject of the tribunal's investigation be suspended from office.
- (4) Such a recommendation must be in writing.
- (5) The First Minister on receiving such a recommendation may suspend the person from office.
- (6) Such a suspension lasts until the First Minister orders otherwise.
- (7) Suspension under this section from the office of Lord President, Lord Justice Clerk, judge of the Court of Session or Chairman of the Scottish Land Court does not affect any remuneration payable to, or in respect of, the office in respect of the period of suspension.

#### **37** Further provision about tribunals

- (1) A tribunal constituted under section 35 may require any person-
  - (a) to attend its proceedings for the purpose of giving evidence,
  - (b) to produce documents in the person's custody or under the person's control.
- (2) A person on whom such a requirement is imposed is not obliged to answer any question or produce any document which the person would be entitled to refuse to answer or produce in a court in Scotland.
- (3) Subsection (4) applies where a person on whom a requirement has been imposed under subsection (1)—
  - (a) refuses or fails, without reasonable excuse, to comply with the requirement,
  - (b) refuses or fails, without reasonable excuse, while attending the tribunal proceedings to give evidence, to answer any question, or
  - (c) deliberately alters, conceals or destroys any document which the person is required to produce.
- (4) The Court of Session may, on an application made to it by the tribunal—
  - (a) make such order for enforcing compliance as it sees fit, or
  - (b) deal with the matter as if it were a contempt of the Court.
- (5) The Court of Session may by act of sederunt make provision as to the procedure to be followed by and before tribunals constituted under section 35.
- (6) The Scottish Ministers may pay such remuneration to, and expenses of, members of tribunals constituted under section 35 as they think fit.
- (7) The Scottish Ministers must pay such expenses as they consider are reasonably required to be incurred to enable a tribunal constituted under section 35 to carry out its functions.

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VALID FROM 01/04/2010

## 38 Report of tribunal

(1) The report of a tribunal constituted under section 35 must-

- (a) be in writing,
- (b) contain reasons for its conclusion, and
- (c) be submitted to the First Minister.

(2) The First Minister must lay the report before the Scottish Parliament.

VALID FROM 01/04/2010

#### **39** Temporary judges: removal from office

- (1) Where subsection (2) applies, a person may be removed from office as a temporary judge by the First Minister.
- (2) This subsection applies if—
  - (a) a tribunal constituted under section 35 has reported to the First Minister that the person is unfit to hold that office by reason of inability, neglect of duty or misbehaviour, and
  - (b) the First Minister has laid the report before the Scottish Parliament.

## Status:

Point in time view as at 01/06/2009. This version of this cross heading contains provisions that are not valid for this point in time.

### Changes to legislation:

There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Cross Heading: Judges.