



# Judiciary and Courts (Scotland) Act 2008

## 2008 asp 6

### PART 4

#### [<sup>F1</sup>THE SCOTTISH COURTS AND TRIBUNALS SERVICE]

##### Textual Amendments

- F1** Pt. 4 title substituted (1.4.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [Sch. 4 para. 1\(12\)\(a\)](#); [S.S.I. 2015/77](#), art. 2(2)(3), Sch.

##### *Establishment*

#### 60 [<sup>F2</sup>The Scottish Courts and Tribunals Service]

- (1) There is established a body corporate to be known as the Scottish [<sup>F3</sup>Courts and Tribunals] Service (referred to in this Part as “the [<sup>F4</sup>SCTS]”).
- (2) Schedule 3 makes further provision about the [<sup>F4</sup>SCTS].

##### Textual Amendments

- F2** S. 60 title substituted (1.4.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [Sch. 4 para. 1\(12\)\(b\)](#); [S.S.I. 2015/77](#), art. 2(2)(3), Sch.
- F3** Words in s. 60(1) substituted (1.4.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [Sch. 4 para. 1\(3\)](#); [S.S.I. 2015/77](#), art. 2(2)(3), Sch.
- F4** Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), [Sch. 4 para. 1\(2\)](#); [S.S.I. 2015/12](#), art. 2; [S.S.I. 2015/77](#), art. 2(2)(3), Sch.

##### Commencement Information

- I1** S. 60 partly in force; s. 60 not in force at Royal Assent see s. 76; s. 60(2) in force for specified purposes at 16.3.2009 by [S.S.I. 2009/83](#), [art. 2](#); s. 60(2) in force for further specified purposes at 1.6.2009 by [S.S.I. 2009/192](#), [art. 2](#), Sch.; s. 60(1) in force and s. 60(2) in force for further specified purposes at 1.10.2009 by [S.S.I. 2009/318](#), [art. 2](#), Sch.
- I2** S. 60(2) in force at 1.4.2010 for specified purposes by [S.S.I. 2010/39](#), [art. 2\(b\)](#), [Sch.](#)

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Part 4. (See end of Document for details)*

## *Functions*

### **61 Administrative support for the Scottish courts and judiciary**

- (1) The [<sup>F4</sup>SCTS] has the function of providing, or ensuring the provision of, the property, services, officers and other staff required for the purposes of—
  - (a) the Scottish courts, and
  - (b) the judiciary of those courts.
- (2) In carrying out that function, the [<sup>F4</sup>SCTS] must—
  - (a) take account, in particular, of the needs of members of the public and those involved in proceedings in the Scottish courts, and
  - (b) so far as practicable and appropriate, co-operate and co-ordinate activity with any other person having functions in relation to the administration of justice.
- (3) In this Part, “the Scottish courts” has the meaning given by section 2(6).

#### **Textual Amendments**

- F4** Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

#### **Commencement Information**

- I3** S. 61 in force at 1.4.2010 by [S.S.I. 2010/39](#), art. 2(b), **Sch.**

### **[<sup>F5</sup> 61A Administrative support for the Scottish Tribunals and their members etc.**

- (1) The SCTS has the function of providing, or ensuring the provision of, the property, services, officers and other staff required for the purposes of—
  - (a) the Scottish Tribunals,
  - (b) the members of those Tribunals, and
  - (c) such other tribunals (and their members) as the Scottish Ministers may by order specify.
- (2) In carrying out that function, the SCTS must—
  - (a) take account, in particular, of the needs of members of the public and those involved in proceedings in the tribunals, and
  - (b) so far as practicable and appropriate, co-operate and co-ordinate activity with any other person having functions in relation to the administration of justice.
- (3) In this Part, references to—
  - (a) the Scottish Tribunals are to the First-tier Tribunal for Scotland and the Upper Tribunal for Scotland,
  - (b) the members of the Scottish Tribunals are to be construed in accordance with the Tribunals (Scotland) Act 2014.]

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Part 4. (See end of Document for details)*

#### Textual Amendments

**F5** S. 61A inserted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), ss. 130(2), 138(2); S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

#### Modifications etc. (not altering text)

**C1** S. 61A applied (temp.) (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), Sch. 4 para. 3(1); S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

## 62 Administrative support for other persons

- (1) The [F4SCTS] has the function of providing, or ensuring the provision of, the property, services and staff required for the purposes of—
- (a) the Lord President in the carrying out of—
    - (i) functions conferred on the Lord President as Head of the Scottish Judiciary, and
    - [F6(ia) functions conferred on the Lord President as Head of the Scottish Tribunals,]
    - (ii) other non-judicial functions of the Lord President,
  - (b) any judicial office holder in the carrying out of functions delegated to the office holder by the Lord President,
  - [F7(ba) the President of the Sheriff Appeal Court in the carrying out of functions under section 56 of the Courts Reform (Scotland) Act 2014,]
  - (c) the sheriffs principal in the carrying out of their functions under [F8sections 27 and 28 of the Courts Reform (Scotland) Act 2014],
  - [F9(ca) the President of the Scottish Tribunals in the carrying out of—
    - (i) functions delegated to the President of the Scottish Tribunals by the Lord President as Head of the Scottish Tribunals, and
    - (ii) other non-judicial functions of the President of the Scottish Tribunals,]
  - (d) the Public Guardian (established by section 6 of the Adults with Incapacity (Scotland) Act 2000 (asp 4)),
  - [F10(e) . . . . .]
  - [F11(ea) the Scottish Civil Justice Council,]
  - (f) the Criminal Courts Rules Council,
  - [F12(g) . . . . .]
  - (h) such other persons, or persons of such description, as the Scottish Ministers may by order specify.
- (2) Before making an order under subsection (1)(h), the Scottish Ministers must consult the Lord President.

#### Textual Amendments

**F4** Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), Sch. 4 para. 1(2); S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Part 4. (See end of Document for details)*

- F6** S. 62(1)(a)(ia) inserted (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(4)(a)**; S.S.I. 2015/77, art. 2(2)(3), Sch.
- F7** S. 62(1)(ba) inserted (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 16(4)**; S.S.I. 2015/77, art. 2(2)(3), Sch.
- F8** Words in s. 62(1)(c) substituted (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(5)**; S.S.I. 2015/77, art. 2(2)(3), Sch.
- F9** S. 62(1)(ca) inserted (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(4)(b)**; S.S.I. 2015/77, art. 2(2)(3), Sch.
- F10** S. 62(1)(e) repealed (28.5.2013) by Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), **ss. 15(3)(b), 25(2)**; S.S.I. 2013/124, art. 2 (with art. 3)
- F11** S. 62(1)(ea) inserted (28.5.2013) by Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), **ss. 15(3)(a), 25(2)**; S.S.I. 2013/124, art. 2 (with art. 3)
- F12** S. 62(1)(g) repealed (28.5.2013) by Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (asp 3), **ss. 15(3)(b), 25(2)**; S.S.I. 2013/124, art. 2 (with art. 3)

#### Commencement Information

- I4** S. 62 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

### 63 Appointment etc. of office holders

- (1) The Scottish Ministers' functions in relation to the officers mentioned in subsection (2) are transferred to the [F<sup>4</sup>SCTS].
- (2) Those officers are the holders of the following offices—
- (a) Accountant of Court,
  - (b) Principal Clerk of Session,
  - (c) other Clerk or officer of the Court of Session,
  - (d) Principal Clerk of Justiciary,
  - (e) Depute, Assistant or other Clerk in the Justiciary Office of the High Court of Justiciary,
  - (f) Macer in the Court of Session and Macer in the High Court of Justiciary,
  - (g) sheriff clerk,
  - (h) sheriff clerk depute, and
  - (i) clerk or assistant clerk of a justice of the peace court.
- (3) Those officers are also members of the staff of the [F<sup>4</sup>SCTS] and, accordingly, references in this Act to the staff of the [F<sup>4</sup>SCTS] include, except where the context requires otherwise, reference to those officers.
- (4) Schedule 4 contains amendments of enactments consequential on this section.

#### Textual Amendments

- F4** Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

#### Commencement Information

- I5** S. 63 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Part 4. (See end of Document for details)*

## 64 Payment of remuneration etc. of certain judicial office holders

- <sup>F13</sup>(1) .....
- <sup>F13</sup>(2) .....
- <sup>F14</sup>(3) .....
- <sup>F14</sup>(4) .....

### Textual Amendments

- F13** S. 64(1)(2) repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(d)**; S.S.I. 2015/77, art. 2(2)(3), Sch.; S.S.I. 2015/77, art. 2(2)(3), Sch.
- F14** S. 64(3)(4) repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 38(3)**; S.S.I. 2015/77, art. 2(2)(3), Sch.; S.S.I. 2015/77, art. 2(2)(3), Sch.

### Commencement Information

- I6** S. 64 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

## *Provision of advice etc. to the Scottish Ministers*

## 65 Provision of advice etc. to the Scottish Ministers

- (1) The [<sup>F4</sup>SCTS] may give information or advice, or make proposals, to the Scottish Ministers on matters relating to—
- (a) the functions of the [<sup>F4</sup>SCTS], or
  - (b) the administration of justice in Scotland.
- (2) The Scottish Ministers must have regard to such information, advice or proposals.
- (3) This section is without prejudice to paragraph 15(2)(c) of schedule 3.

### Textual Amendments

- F4** Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

### Commencement Information

- I7** S. 65 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

## *Plan and report*

## 66 Corporate plan

- (1) The [<sup>F4</sup>SCTS] must, before the beginning of each planning period, prepare and submit to the Scottish Ministers for approval a corporate plan describing how the [<sup>F4</sup>SCTS] proposes to carry out its functions during the period.
- (2) The plan must—

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- (a) be prepared in such form,
  - (b) contain such information, and
  - (c) be submitted by such time,
- as the Scottish Ministers may direct.
- (3) The Scottish Ministers may approve the plan subject to such modifications as may be agreed between them and the [F<sup>4</sup>SCTS].
- (4) The [F<sup>4</sup>SCTS] must, as soon as possible after the approval of a corporate plan—
- (a) lay before the Scottish Parliament a copy of the plan as approved, and
  - (b) publish the plan in such manner as it thinks fit.
- (5) During the planning period to which a corporate plan relates, the [F<sup>4</sup>SCTS]—
- (a) may, or
  - (b) if the Scottish Ministers so direct, must,
- review the plan and submit a revised corporate plan to the Scottish Ministers for approval.
- (6) In carrying out its functions in any planning period, the [F<sup>4</sup>SCTS] must have regard to the corporate plan for the period.
- (7) Subsections (2) to (6) apply to a revised corporate plan as they apply to a corporate plan.
- (8) In this section, “planning period” means—
- (a) the period beginning with the day on which section 61 comes into force and ending on a date specified by order made by the Scottish Ministers, and
  - (b) each subsequent period of 3 years.
- (9) The Scottish Ministers may by order substitute for the period specified in subsection (8)(b) such other period as they consider appropriate.

#### Textual Amendments

- F4** Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

## 67 Annual report

- (1) As soon as practicable after the end of each financial year, the [F<sup>4</sup>SCTS] must—
- (a) prepare and publish a report on the carrying out of its functions during that year,
  - (b) send a copy of the report to the Scottish Ministers, and
  - (c) lay a copy of the report before the Scottish Parliament.
- (2) It is for the [F<sup>4</sup>SCTS] to determine the form and content of each report and the manner in which it is to be published.
- (3) In subsection (1), “financial year” means—
- (a) the period beginning with the establishment of the [F<sup>4</sup>SCTS] and ending on 31 March next occurring, and

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- (b) each subsequent period of a year ending on 31 March.

#### Textual Amendments

- F4** Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

#### Commencement Information

- I8** S. 67 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

### *Ministerial powers*

## **68 Provision of information**

The [F<sup>4</sup>SCTS] must provide the Scottish Ministers with such information relating to the carrying out of its functions as the Scottish Ministers may require.

#### Textual Amendments

- F4** Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

#### Commencement Information

- I9** S. 68 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

## **69 Guidance**

The [F<sup>4</sup>SCTS] must, in carrying out its functions, have regard to any guidance issued by the Scottish Ministers.

#### Textual Amendments

- F4** Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

#### Commencement Information

- I10** S. 69 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

## **70 Default power**

(1) Subsection (2) applies if the Scottish Ministers consider—

(a) that the [F<sup>4</sup>SCTS] is—

(i) failing to carry out its functions to such an extent that there is a significant risk to the efficient and effective functioning of the Scottish courts [F<sup>15</sup>or the Scottish Tribunals], or

*Status: Point in time view as at 01/04/2015.*

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- (ii) is carrying them out in such a way that there is such a risk, and
  - (b) that in order to avoid or mitigate that risk it is necessary that the functions be carried out instead by them.
- (2) Where this subsection applies, the Scottish Ministers may by order provide for the functions of the [F<sup>4</sup>SCTS] to be carried out instead by them.
- (3) So far as necessary for the purpose of the carrying out by the Scottish Ministers of the functions of the [F<sup>4</sup>SCTS] by virtue of subsection (2)—
- (a) references in any enactment to the [F<sup>4</sup>SCTS] are to be read as references to the Scottish Ministers,
  - (b) staff of the [F<sup>4</sup>SCTS] are to be treated as if they were staff of the Scottish Ministers, and
  - (c) property and liabilities of the [F<sup>4</sup>SCTS] are to be treated as property and liabilities of the Scottish Ministers.
- (4) Subsection (3) is subject to any provision made in an order under subsection (2).
- (5) A statutory instrument containing an order under subsection (2) (other than one to which subsection (7) applies)—
- (a) is to be laid before the Scottish Parliament after being made, and
  - (b) unless earlier revoked, ceases to have effect at the end of the period of 40 days beginning with the day on which it is made if it is not by then approved by resolution of the Parliament.
- (6) Subsection (7) applies to a statutory instrument containing an order under subsection (2) consisting only of—
- (a) provision revoking an earlier order under subsection (2), or
  - (b) such provision and provision made by virtue of section 71(2).
- (7) A statutory instrument to which this subsection applies is subject to annulment in pursuance of a resolution of the Parliament.
- (8) If an order under subsection (2) ceases to have effect by virtue of subsection (5)(b)—
- (a) that does not affect—
    - (i) the validity of anything done by or in relation to the Scottish Ministers by virtue of the order, or
    - (ii) the power to make a further order under subsection (2), and
  - (b) the Scottish Ministers may by order make such consequential provision as they consider necessary or expedient.
- (9) In calculating a period of 40 days for the purpose of subsection (5)(b), no account is to be taken of any time during which the Parliament is—
- (a) dissolved, or
  - (b) in recess for more than 4 days.

#### Textual Amendments

- F4** Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.
- F15** Words in s. 70(1)(a)(i) inserted (1.4.2015) by [Courts Reform \(Scotland\) Act 2014 \(asp 18\)](#), s. 138(2), **Sch. 4 para. 1(5)**; S.S.I. 2015/77, art. 2(2)(3), Sch.



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*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the  
Judiciary and Courts (Scotland) Act 2008, Part 4. (See end of Document for details)*

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**Modifications etc. (not altering text)**

- C2** S. 70 applied (temp.) (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 3(1)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

**Commencement Information**

- I11** S. 70 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

**Status:**

Point in time view as at 01/04/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Part 4.