

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 2 - Sheriff Appeal Court

Chapter 2 – Appeal sheriffs

Section 49 – Sheriffs principal to be Appeal Sheriffs

87. This section makes provision for sheriffs principal to automatically become Appeal Sheriffs without the need for formal appointment. Sheriffs principal will thus hold two offices. Holding office as an Appeal Sheriff is dependent upon the sheriff principal continuing to hold office as a sheriff principal; suspension from the office of sheriff principal will mean suspension from the office of Appeal Sheriff.

Section 50 – Appointment of sheriffs as Appeal Sheriffs

88. [Section 50](#) provides that sheriffs who have held office as such for at least five years may be appointed by the Lord President to be Appeal Sheriffs. The Act makes no distinction between Appeal Sheriffs who hold office as such by virtue of section 49 or 50 in terms of the judicial functions of Appeal Sheriffs or judicial authority. Accordingly an Appeal Sheriff holding office as such by virtue of section 49 is not to be treated as a more senior Appeal Sheriff to an Appeal Sheriff appointed under section 50.
89. Appeal Sheriffs appointed under this section may continue to act as sheriffs. The number of appointed Appeal Sheriffs will be a matter for the Lord President. In a similar way to section 49, holding office as an Appeal Sheriff is dependent upon the sheriff continuing to hold office as a sheriff, and suspension from the office of sheriff will mean suspension from the office of Appeal Sheriff.

Section 51 – Re-employment of former Appeal Sheriffs

90. [Section 51](#) enables the Lord President to appoint retired Appeal Sheriffs to sit in the Sheriff Appeal Court in the same way and under the same conditions as retired sheriffs principal, sheriffs and summary sheriffs may be re-employed in the sheriff court. Accordingly, it provides that the Lord President may appoint as a temporary measure, in order to facilitate the disposal of business, former Appeal Sheriffs to act as Appeal Sheriffs. In order to be able to be appointed, the former Appeal Sheriff must not have been removed from office under sections 25 or 50(7), nor be aged 75 or over. Subsections (7) to (9) make provision for the Scottish Ministers to determine the amounts to be paid to re-employed Appeal Sheriffs by the SCTS.

Section 52 – Expenses

91. This section allows the SCTS, as it sees fit, to pay expenses to Appeal Sheriffs which are reasonably incurred in the performance of their duties as Appeal Sheriffs.

*These notes relate to the Courts Reform (Scotland) Act 2014
(asp 18) which received Royal Assent on 10 November 2014*

Section 53 – Temporary provision

92. **Section 53** introduces schedule 2 to the Act. This schedule makes provision for the Lord President of the Court of Session to appoint Senators of the College of Justice to act as Appeal Sheriffs in the Sheriff Appeal Court. The intention is that Senators will be able to assist the Appeal Sheriffs in the new court with appellate work. The appointment of Senators to act as Appeal Sheriffs will only be possible for a period of three years from the commencement of the provisions establishing the Sheriff Appeal Court