

COURTS REFORM (SCOTLAND) ACT 2014

EXPLANATORY NOTES

THE ACT

Part 7 – Judges of the Court of Session

Section 123 – Appointment of Court of Session judges, etc

246. **Section 123** re-enacts (without significant modification), the previous law relating to the appointment of:

- judges;
- temporary judges; and
- re-employed former judges,

in the Court of Session. The previous law was set out in the Law Reform (Miscellaneous Provisions) (Scotland) Acts 1985 and 1990. In particular this re-enacts and repeals:

- the provisions of the 1985 Act which relate to what is called in that Act “re-employed retired judges”;
- the provisions of the 1990 Act which relate to qualification for appointment as a Court of Session judge; and
- the provisions of the 1990 Act relating to the appointment of temporary judges of the Court of Session,

The re-enacted provisions are inserted into the Judiciary and Courts (Scotland) Act 2008 which already contains a range of provisions about the judiciary.

247. Section 20A restates paragraphs 1-3 of Schedule 4 to the 1990 Act. In section 20A(1) (a), the wording of sub-paragraph (ii) ensures that a person who has been a sheriff principal for less than 5 years, but was a sheriff before being appointed sheriff principal, is eligible for appointment if the person had a total combined service as a sheriff and sheriff principal of at least 5 years prior to the appointment. Sections 20B-20D (and 20G) largely reflect paragraphs 5-11 of Schedule 4 to the 1990 Act. Section 20D(2) (b) simply provides for the appointment to end when the individual retires. Sections 20E, 20F and 20G re-state section 22 of the 1985 Act. Section 20E provides for the re-employment of former Court of Session and Supreme Court judges. Section 20F and makes further provision for the re-employment of former judges. Section 20G provides for both the remuneration and expenses of temporary and former judges.