



Courts Reform (Scotland) Act 2014

2014 asp 18

PART 1

SHERIFF COURTS

CHAPTER 2

JUDICIARY OF THE SHERIFFDOMS

Fitness for office

21 Tribunal to consider fitness for office

- (1) The First Minister must, if requested to do so by the Lord President of the Court of Session, constitute a tribunal to investigate and report on whether an individual holding a judicial office mentioned in subsection (3) is unfit to hold the office by reason of inability, neglect of duty or misbehaviour.
- (2) Subject to subsection (1), the First Minister may, in such circumstances as the First Minister thinks fit and after consulting the Lord President, constitute such a tribunal.
- (3) The judicial offices are—
 - (a) sheriff principal,
 - (b) sheriff,
 - (c) summary sheriff,
 - (d) part-time sheriff, and
 - (e) part-time summary sheriff.
- (4) A tribunal constituted under this section is to consist of—
 - (a) one individual who is a qualifying member of the Judicial Committee of the Privy Council,
 - (b) one individual who holds the relevant judicial office,
 - (c) one individual who is, and has been for at least 10 years—
 - (i) an advocate, or
 - (ii) a solicitor, and

Status: This is the original version (as it was originally enacted).

- (d) one individual who—
 - (i) is not and never has been a qualifying member of the Judicial Committee of the Privy Council,
 - (ii) does not hold and never has held a judicial office mentioned in subsection (3), and
 - (iii) is not and never has been an advocate or solicitor.
- (5) In subsection (4)—
 - “a qualifying member of the Judicial Committee of the Privy Council” means someone who is a member of that Committee by virtue of section 1(2)(a) of the Judicial Committee Act 1833 (that is, someone who holds or has held high judicial office),
 - “the relevant judicial office” means—
 - (a) in respect of an investigation into whether an individual is fit to hold the office of sheriff principal, that office,
 - (b) in respect of an investigation into whether an individual is fit to hold the office of sheriff or part-time sheriff, the office of sheriff,
 - (c) in respect of an investigation into whether an individual is fit to hold the office of summary sheriff or part-time summary sheriff, the office of summary sheriff.
- (6) It is for the First Minister, with the agreement of the Lord President, to select persons to be members of a tribunal constituted under this section.
- (7) The person who is an individual mentioned in subsection (4)(a) is to chair the tribunal and has a casting vote.

22 Tribunal investigations: suspension from office

- (1) Subsection (2) applies where the Lord President of the Court of Session has requested that the First Minister constitute a tribunal under section 21.
- (2) The Lord President may, at any time before the tribunal reports to the First Minister, suspend from office the individual who is, or is to be, the subject of the tribunal’s investigation.
- (3) Such a suspension lasts until the Lord President orders otherwise.
- (4) A tribunal constituted under section 21 may, at any time before the tribunal reports to the First Minister, recommend in writing to the First Minister that the individual who is the subject of the tribunal’s investigation be suspended from office.
- (5) On receiving such a recommendation, the First Minister may suspend the individual from office.
- (6) Such a suspension lasts until the First Minister orders otherwise.
- (7) Suspension of an individual from the office of sheriff principal, sheriff or summary sheriff under this section does not affect any remuneration payable to, or in respect of, the individual in respect of the period of suspension.

23 Further provision about tribunals

- (1) A tribunal constituted under section 21 may require any person—

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

- (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—
- (a) to answer any question which the person would be entitled to refuse to answer in a court in Scotland,
 - (b) to produce any document which the person would be entitled to refuse to produce in such a court.
- (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, to answer any question while attending the tribunal proceedings to give evidence,
 - (c) deliberately alters, conceals or destroys any document that 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 a tribunal constituted under section 21.
- (6) The Scottish Ministers—
- (a) must pay such expenses as they consider are reasonably required to be incurred to enable a tribunal constituted under section 21 to carry out its functions, and
 - (b) may pay such remuneration to, and such expenses of, the members of such a tribunal as they think fit.

24 Tribunal report

- (1) The report of a tribunal constituted under section 21 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.

25 Removal from office

- (1) The First Minister may remove an individual from the office of sheriff principal, sheriff, part-time sheriff, summary sheriff or part-time summary sheriff—
- (a) if a tribunal constituted under section 21 reports to the First Minister that the individual is unfit to hold that office by reason of inability, neglect of duty or misbehaviour, and
 - (b) only after the First Minister has laid the report before the Scottish Parliament under section 24(2).
- (2) The First Minister may remove a sheriff principal, sheriff or summary sheriff under subsection (1) only by order.

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

(3) Such an order is subject to the negative procedure.