



Courts Reform (Scotland) Act 2014

2014 asp 18

PART 2

THE SHERIFF APPEAL COURT

CHAPTER 1

ESTABLISHMENT AND ROLE

46 The Sheriff Appeal Court

- (1) There is established a court of law to be known as the Sheriff Appeal Court.
- (2) The Court consists of judges each to be known as an Appeal Sheriff.

47 Jurisdiction and competence

- (1) The Sheriff Appeal Court has jurisdiction and competence to hear and determine appeals to such extent as is provided by or under—
 - (a) this Act, or
 - (b) any other enactment.
- (2) The Court's jurisdiction and competence is exercisable by one or more of the Appeal Sheriffs at sittings of the Court.
- (3) The Court has all such powers as are, under the law of Scotland, inherently possessed by a court of law for the purposes of the discharge of its jurisdiction and competence and giving full effect to its decisions.
- (4) Subsection (3) is subject to any other provision of this Act or any other enactment that restricts or excludes any power of the Court in determining or disposing of an appeal.

48 Status of decisions of the Sheriff Appeal Court in precedent

- (1) A decision of the Sheriff Appeal Court on the interpretation or application of the law is binding—

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- (a) in proceedings before a sheriff anywhere in Scotland,
 - (b) in proceedings before a justice of the peace court anywhere in Scotland,
 - (c) in proceedings before the Sheriff Appeal Court, except in a case where the Court hearing the proceedings is constituted by a greater number of Appeal Sheriffs than those constituting the Court which made the decision.
- (2) In subsection (1)(a), the reference to proceedings before a sheriff includes, in the case of criminal proceedings, a reference to solemn proceedings before a sheriff and jury.

CHAPTER 2

APPEAL SHERIFFS

49 Sheriffs principal to be Appeal Sheriffs

- (1) Each person who holds office as a sheriff principal also holds office as an Appeal Sheriff by virtue of this subsection.
- (2) A person holding office as a sheriff principal ceases to hold office as an Appeal Sheriff if the person ceases to hold office as a sheriff principal.
- (3) If a person holding office as a sheriff principal is suspended from that office for any period, the person is also suspended from office as an Appeal Sheriff for the same period.

50 Appointment of sheriffs as Appeal Sheriffs

- (1) The Lord President of the Court of Session may appoint persons holding the office of sheriff to hold office also as Appeal Sheriffs.
- (2) The Lord President may appoint as many Appeal Sheriffs under subsection (1) as the Lord President considers necessary for the purposes of the Sheriff Appeal Court.
- (3) A person may be appointed under subsection (1) only if the individual has held office as a sheriff for at least 5 years.
- (4) The appointment of a sheriff as an Appeal Sheriff does not affect the sheriff's appointment as a sheriff and the sheriff may accordingly continue to act in that capacity.
- (5) A person holding office as an Appeal Sheriff under this section ceases to hold that office if the person ceases to hold office as a sheriff.
- (6) If a person holding office as an Appeal Sheriff under this section is suspended from the office of sheriff for any period, the person is also suspended from office as an Appeal Sheriff for the same period.
- (7) The Lord President may, with the consent of a majority of the sheriffs principal, remove a sheriff from office as an Appeal Sheriff.
- (8) Removal of a sheriff from the office of Appeal Sheriff under subsection (7) does not affect the sheriff's appointment as a sheriff.

51 Re-employment of former Appeal Sheriffs

- (1) The Lord President of the Court of Session may appoint a qualifying former Appeal Sheriff to act as an Appeal Sheriff during such periods or on such occasions as the Lord President may determine.
- (2) The Lord President may make such an appointment only if the appointment appears to the Lord President to be expedient as a temporary measure in order to facilitate the disposal of business in the Sheriff Appeal Court.
- (3) A “qualifying former Appeal Sheriff” is an individual who—
 - (a) ceased to hold that office other than by virtue of—
 - (i) an order under section 25 (as read with sections 49(2) and 50(5)), or
 - (ii) removal from office under section 50(7), and
 - (b) has not reached the age of 75.
- (4) An individual appointed under subsection (1) is to be treated for all purposes (other than for the purposes of section 50) as an Appeal Sheriff and may exercise the jurisdiction and powers that attach to the office of Appeal Sheriff.
- (5) An individual’s appointment under subsection (1) ceases when the individual reaches the age of 75.
- (6) Despite the ending (whether by virtue of subsection (5) or otherwise) of an individual’s appointment under subsection (1)—
 - (a) the individual may continue to deal with, give judgment in or deal with an ancillary matter relating to, a case begun before the individual while acting under that appointment,
 - (b) so far as necessary for that purpose, and for the purpose of any subsequent proceedings arising out of the case or matter, the individual is to be treated as acting or, as the case may be, having acted under that appointment.
- (7) An individual appointed under subsection (1) is to be paid such remuneration as the Scottish Ministers may determine.
- (8) The Scottish Ministers may determine different amounts of remuneration for—
 - (a) different individuals so appointed, or
 - (b) different descriptions of individuals so appointed.
- (9) Remuneration under subsection (7) is to be paid by the Scottish Courts and Tribunals Service.

52 Expenses

- (1) The Scottish Courts and Tribunals Service may pay to an Appeal Sheriff such sums as it may determine in respect of expenses reasonably incurred by the Appeal Sheriff in the performance of, or in connection with, the Appeal Sheriff’s duties as such.
- (2) The Scottish Courts and Tribunals Service may—
 - (a) determine the circumstances in which such sums may be paid, and
 - (b) determine different circumstances for different Appeal Sheriffs.

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53 Temporary provision

Schedule 2 (which makes further provision, for a temporary period, in relation to Appeal Sheriffs) has effect.

CHAPTER 3

ORGANISATION OF BUSINESS

President and Vice President

54 President and Vice President of the Sheriff Appeal Court

- (1) The Lord President of the Court of Session is to appoint, in accordance with this section—
 - (a) one of the sheriffs principal to be the President of the Sheriff Appeal Court, and
 - (b) another sheriff principal to be the Vice President of the Court.
- (2) A sheriff principal holds office as President or Vice President for such period as the Lord President may determine.
- (3) The President or Vice President may at any time resign office by giving notice in writing to the Lord President.
- (4) The Lord President may at any time remove a sheriff principal from office as President or Vice President.
- (5) If a person holding office as President or Vice President is suspended from office as a sheriff principal for any period, the person is also suspended from office as President or, as the case may be, Vice President for the same period.

55 President and Vice President: incapacity and suspension

- (1) Subsection (2) applies during any period when the President of the Sheriff Appeal Court—
 - (a) is unable (for any reason) to carry out the functions of the office, or
 - (b) is suspended from office.
- (2) During such a period—
 - (a) the functions of the President are to be carried out instead by the Vice President, and
 - (b) anything that falls to be done in relation to the President falls to be done instead in relation to the Vice President.
- (3) Subsection (4) applies during any period when—
 - (a) subsection (2) would, but for subsection (4), apply, and
 - (b) the Vice President of the Sheriff Appeal Court—
 - (i) is unable (for any reason) to carry out the functions of the President, or
 - (ii) is suspended from office.
- (4) During such a period, subsection (2) does not apply and, instead—

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- (a) the functions of the President are to be carried out instead by such sheriff principal (other than the President or Vice President) as the Lord President of the Court of Session may appoint to act in place of the President, and
- (b) anything that falls to be done in relation to the President falls to be done instead in relation to that sheriff principal.

Disposal of business

56 President's responsibility for efficient disposal of business

- (1) The President of the Sheriff Appeal Court is responsible for ensuring the efficient disposal of business in the Sheriff Appeal Court.
- (2) The President must make such arrangements as appear necessary or expedient for the purpose of carrying out the responsibility imposed by subsection (1).
- (3) In particular, the President may provide for the allocation of business among the Appeal Sheriffs.
- (4) If, in carrying out the responsibility imposed by subsection (1), the President gives a direction of an administrative character to a person specified in subsection (5), the person must comply with the direction.
- (5) Those persons are—
 - (a) an Appeal Sheriff,
 - (b) a member of the staff of the Scottish Courts and Tribunals Service.
- (6) This section is subject to section 2(2)(a) and (2A) of the Judiciary and Courts (Scotland) Act 2008 (the Head of the Scottish Judiciary's responsibility for efficient disposal of business in the Scottish courts).

Sittings

57 Sittings of the Sheriff Appeal Court

- (1) Sittings of the Sheriff Appeal Court may be held at any place in Scotland designated by virtue of this Act for the holding of sheriff courts.
- (2) More than one sitting of the Court may take place at the same time, and at different places.
- (3) The President of the Sheriff Appeal Court may by order prescribe—
 - (a) the number of sittings of the Court that are to be held at each place at which they may be held,
 - (b) the days on which, and the times at which, those sittings are to be held, and
 - (c) the descriptions of business to be disposed of at those sittings.
- (4) The President must publish notice of the matters prescribed by an order under subsection (3) in such manner as the President thinks appropriate in order to bring those matters to the attention of persons having an interest in them.
- (5) Subsection (3) is subject to section 2(2)(a) and (2A) of the Judiciary and Courts (Scotland) Act 2008.

58 Rehearing of pending case by a larger Court

- (1) Subsection (2) applies where, in relation to any appeal pending before the Sheriff Appeal Court—
 - (a) the Appeal Sheriff or Appeal Sheriffs constituting the Court consider the appeal to be one of particular difficulty or importance, or
 - (b) where the Court is constituted by more than one Appeal Sheriff, they are equally divided on any matter, whether of fact or law.
- (2) The Appeal Sheriff or Appeal Sheriffs may appoint the appeal to be reheard at another sitting of the Court constituted by such larger number of Appeal Sheriffs as may be necessary for the proper disposal of the appeal.

CHAPTER 4

ADMINISTRATION

Clerks

59 Clerk of the Sheriff Appeal Court

- (1) The Scottish Courts and Tribunals Service must appoint a person holding office as a sheriff clerk also to hold the office of Clerk of the Sheriff Appeal Court.
- (2) A person's appointment as Clerk of the Sheriff Appeal Court does not affect the person's appointment as a sheriff clerk.
- (3) A person holding office as Clerk of the Sheriff Appeal Court ceases to hold that office if the person ceases to hold office as a sheriff clerk.
- (4) Otherwise, a person's appointment as Clerk of the Sheriff Appeal court—
 - (a) lasts for such period, and
 - (b) is on such other terms and conditions,
 as the Scottish Courts and Tribunals Service may determine.
- (5) In this section, "sheriff clerk" does not include sheriff clerk depute.

60 Deputy Clerks of the Sheriff Appeal Court

- (1) The Scottish Courts and Tribunals Service may appoint individuals to be Deputy Clerks of the Sheriff Appeal Court.
- (2) The number of Deputy Clerks is for the Scottish Courts and Tribunals Service to determine.
- (3) An individual's appointment as Deputy Clerk—
 - (a) lasts for such period, and
 - (b) is on such other terms and conditions,
 as the Scottish Courts and Tribunals Service may determine.
- (4) An individual may hold office as a Deputy Clerk of the Sheriff Appeal Court at the same time as holding office as clerk, or deputy or assistant clerk, of another court.

61 Clerk and Deputy Clerks: further provision

- (1) The Clerk and Deputy Clerks of the Sheriff Appeal Court are also members of staff of the Scottish Courts and Tribunals Service.
- (2) Accordingly, a reference in any enactment to the staff of the Scottish Courts and Tribunals Service includes, except where the context requires otherwise, a reference to the Clerk and Deputy Clerks of the Sheriff Appeal Court.
- (3) The Clerk of the Sheriff Appeal Court may, with the consent of the Scottish Courts and Tribunals Service, delegate the carrying out of any of the Clerk’s functions to—
 - (a) a Deputy Clerk of the Sheriff Appeal Court, or
 - (b) any other member of staff of the Scottish Courts and Tribunals Service.
- (4) Subsection (5) applies in relation to any period during which—
 - (a) the office of Clerk of the Sheriff Appeal Court is vacant, or
 - (b) the holder of that office is for any reason unable to carry out the functions of the office.
- (5) The Scottish Courts and Tribunals Service may make arrangements for the functions of the Clerk of the Sheriff Appeal Court to be carried out during the period referred to in subsection (4) by—
 - (a) a Deputy Clerk of the Sheriff Appeal Court, or
 - (b) any other member of staff of the Scottish Courts and Tribunals Service.
- (6) The Scottish Courts and Tribunals Service may give such instructions to the Clerk of the Sheriff Appeal Court, or a person carrying out the Clerk’s functions under subsection (5), as it considers necessary for the purposes of this Act; and the Clerk or, as the case may be, such person must comply with any such instructions.

Records

62 Records of the Sheriff Appeal Court

- (1) A record of the Sheriff Appeal Court is authenticated by being signed by—
 - (a) an Appeal Sheriff, or
 - (b) the Clerk of the Court.
- (2) A record authenticated in accordance with subsection (1), or a certified copy of such a record or of an extract of such a record, is sufficient evidence of the facts recorded in the record.
- (3) The Sheriff Appeal Court may keep (and produce) records in electronic form.
- (4) For the purposes of this section, a reference to a record or a copy of a record being signed or, as the case may be, certified, includes a reference to the record or copy being authenticated by means of—
 - (a) an electronic signature, or
 - (b) such other means of authentication as may be specified for that purpose by an act of sederunt under section 104(1).
- (5) In this section—

“certified copy” means a copy certified by the Clerk of the Sheriff Appeal Court as a true copy,

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“electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000, but includes a version of an electronic signature which is reproduced on a paper document,
“record” means any interlocutor, decree, minute or other document by which the proceedings and decisions of the Sheriff Appeal Court are recorded.