



# Courts Reform (Scotland) Act 2014

## 2014 asp 18

### PART 1

#### SHERIFF COURTS

#### CHAPTER 2

#### JUDICIARY OF THE SHERIFFDOMS

##### *Temporary and part-time judiciary*

#### **6 Temporary sheriff principal**

- (1) Subsection (2) applies where, in relation to a sheriffdom—
  - (a) a vacancy occurs in the office of sheriff principal,
  - (b) the Lord President of the Court of Session believes that the sheriff principal is unable to perform all or some of the functions of the office, or
  - (c) the sheriff principal rules that he or she is precluded from performing all or some of those functions.
- (2) If the Lord President so requests, the Scottish Ministers must appoint—
  - (a) a person holding the office of sheriff (whether of the same or another sheriffdom), or
  - (b) a qualifying former sheriff principal (whether of the same or another sheriffdom),to act as sheriff principal of the sheriffdom.
- (3) A “qualifying former sheriff principal” is an individual who—
  - (a) ceased to hold that office other than by virtue of an order under section 25, and
  - (b) has not reached the age of 75.
- (4) The appointment may be made for the purposes of the exercise of—
  - (a) all of the sheriff principal’s functions, or

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- (b) only those functions that the sheriff principal is unable to perform or is precluded from performing.
- (5) An individual appointed under subsection (2) is to be known as a “temporary sheriff principal”.
- (6) The Lord President may request the appointment of a temporary sheriff principal for a sheriffdom in the circumstances specified in subsection (1)(a) only if the Lord President considers such an appointment to be necessary or expedient in order to avoid a delay in the administration of justice in the sheriffdom.

## **7 Temporary sheriff principal: further provision**

- (1) Subject to subsection (3), an individual’s appointment as a temporary sheriff principal lasts until recalled under subsection (2).
- (2) The Scottish Ministers must, if requested to do so by the Lord President of the Court of Session, recall the appointment of a temporary sheriff principal.
- (3) A sheriff’s appointment as a temporary sheriff principal ceases if the sheriff—
  - (a) ceases to hold office as sheriff, or
  - (b) is suspended from office as sheriff.
- (4) Subject to section 6(4)(b), a temporary sheriff principal of a sheriffdom may exercise the jurisdiction and powers that attach to the office of sheriff principal of the sheriffdom, and does not need a commission for that purpose.
- (5) The appointment of a sheriff as a temporary sheriff principal does not affect the sheriff’s appointment as sheriff.
- (6) Where a sheriff of one sheriffdom (“sheriffdom A”) is appointed as temporary sheriff principal of another sheriffdom (“sheriffdom B”)—
  - (a) the sheriff must not, while remaining temporary sheriff principal of sheriffdom B, act in the capacity of sheriff of sheriffdom A, but
  - (b) in addition to the jurisdiction and powers that attach specifically to the office of sheriff principal, the sheriff, by virtue of the appointment as temporary sheriff principal of sheriffdom B, may also exercise in that sheriffdom the jurisdiction and powers that attach to the office of sheriff of that sheriffdom.

## **8 Part-time sheriffs**

- (1) The Scottish Ministers may appoint individuals to act as sheriffs; and individuals so appointed are to be known as “part-time sheriffs”.
- (2) The Scottish Ministers may appoint an individual only if—
  - (a) the individual is qualified for appointment (see section 14), and
  - (b) the Scottish Ministers have consulted the Lord President of the Court of Session before making the appointment.
- (3) Subject to section 20, an appointment as a part-time sheriff lasts for 5 years.
- (4) A part-time sheriff may exercise the jurisdiction and powers that attach to the office of sheriff in every sheriffdom, and does not need a commission for that purpose.

- (5) A part-time sheriff is subject to such instructions, arrangements and other provisions as may be made under this Act by the sheriff principal of the sheriffdom in which the part-time sheriff is for the time being sitting.
- (6) In carrying out their functions under this Act, sheriffs principal must together have regard to the desirability of securing that every part-time sheriff—
  - (a) is given the opportunity of sitting on not fewer than 20 days in each successive period of 12 months beginning with the day of the part-time sheriff's appointment, and
  - (b) does not sit for more than 100 days in each such successive period.

## **9 Reappointment of part-time sheriffs**

- (1) A part-time sheriff whose appointment comes to an end by virtue of the expiry of the 5 year period mentioned in section 8(3) is to be reappointed unless—
  - (a) the part-time sheriff declines reappointment,
  - (b) a sheriff principal has made a recommendation to the Scottish Ministers against the reappointment, or
  - (c) the part-time sheriff has sat for fewer than 50 days in total in that 5 year period.
- (2) Section 8 (apart from subsection (2)) applies to a reappointment under subsection (1) as it applies to an appointment.
- (3) A part-time sheriff whose appointment comes to an end by resignation under section 20 may be reappointed.
- (4) Section 8 applies to a reappointment under subsection (3) as it applies to an appointment.

## **10 Part-time summary sheriffs**

- (1) The Scottish Ministers may appoint individuals to act as summary sheriffs; and individuals so appointed are to be known as “part-time summary sheriffs”.
- (2) The Scottish Ministers may appoint an individual only if—
  - (a) the individual is qualified for appointment (see section 14), and
  - (b) the Scottish Ministers have consulted the Lord President of the Court of Session before making the appointment.
- (3) Subject to section 20, an appointment as a part-time summary sheriff lasts for 5 years.
- (4) A part-time summary sheriff may exercise the jurisdiction and powers that attach to the office of summary sheriff in every sheriffdom, and does not need a commission for that purpose.
- (5) A part-time summary sheriff is subject to such instructions, arrangements and other provisions as may be made under this Act by the sheriff principal of the sheriffdom in which the part-time summary sheriff is for the time being sitting.
- (6) In carrying out their functions under this Act, sheriffs principal must together have regard to the desirability of securing that every part-time summary sheriff—

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- (a) is given the opportunity of sitting on not fewer than 20 days in each successive period of 12 months beginning with the day of the part-time summary sheriff's appointment, and
- (b) does not sit for more than 100 days in each such successive period.

## **11 Reappointment of part-time summary sheriffs**

- (1) A part-time summary sheriff whose appointment comes to an end by virtue of the expiry of the 5 year period mentioned in section 10(3) is to be reappointed unless—
  - (a) the part-time summary sheriff declines reappointment,
  - (b) a sheriff principal has made a recommendation to the Scottish Ministers against the reappointment, or
  - (c) the part-time summary sheriff has sat for fewer than 50 days in total in that 5 year period.
- (2) Section 10 (apart from subsection (2)) applies to a reappointment under subsection (1) as it applies to an appointment.
- (3) A part-time summary sheriff whose appointment comes to an end by resignation under section 20 may be reappointed.
- (4) Section 10 applies to a reappointment under subsection (3) as it applies to an appointment.