



Courts Reform (Scotland) Act 2014

2014 asp 18

PART 1

SHERIFF COURTS

CHAPTER 1

SHERIFFDOMS, SHERIFF COURT DISTRICTS AND SHERIFF COURTS

1 Sheriffdoms, sheriff court districts and sheriff courts

- (1) For the purposes of the administration of justice, Scotland is to be divided into areas, each to be known as a “sheriffdom”.
- (2) A sheriffdom is to comprise one or more areas, each to be known as a “sheriff court district”.
- (3) Within each sheriff court district a place is to be designated at which the judiciary of the sheriffdom are to sit and hold court for the purpose of exercising their judicial functions; and such sittings are to be known as a “sheriff court”.
- (4) The sheriffdoms and sheriff court districts existing immediately before the date on which this section comes into force are to continue to exist on and after that date, and are accordingly the first sheriffdoms and sheriff court districts for the purposes of subsections (1) and (2).
- (5) On and after the date on which this section comes into force, sheriff courts are to continue to be held at the places at which they were held immediately before that date, and accordingly those places are the first places designated for the holding of sheriff courts for the purposes of subsection (3).
- (6) Subsections (4) and (5) are subject to an order under section 2.

2 Power to alter sheriffdoms, sheriff court districts and sheriff courts

- (1) The Scottish Ministers may, following submission of a proposal under subsection (2), by order do any of the following—

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- (a) alter the boundaries of sheriffdoms or sheriff court districts,
 - (b) abolish sheriffdoms or sheriff court districts,
 - (c) form new sheriffdoms or sheriff court districts,
 - (d) provide that sheriff courts are to be held, or to cease being held, at any place specified in the order.
- (2) The Scottish Courts and Tribunals Service may, with the agreement of the Lord President of the Court of Session, submit a proposal to the Scottish Ministers for the making of an order under subsection (1).
- (3) Before submitting a proposal to the Scottish Ministers, the Scottish Courts and Tribunals Service must consult such persons as it considers appropriate.
- (4) If, following submission of a proposal, the Scottish Ministers decide to make an order, they must have regard to the proposal in deciding what provision to make in the order.
- (5) The Scottish Ministers may make an order under subsection (1) only with the consent of—
- (a) the Lord President, and
 - (b) the Scottish Courts and Tribunals Service.
- (6) An order under subsection (1) may—
- (a) abolish any office in consequence of any provision made under subsection (1),
 - (b) modify any enactment (including this Act).

CHAPTER 2

JUDICIARY OF THE SHERIFFDOMS

Permanent and full-time judiciary

3 Sheriffs principal

- (1) For each sheriffdom, there is to continue to be a judicial officer to be known as the “sheriff principal” of the sheriffdom.
- (2) It is for Her Majesty to appoint an individual to the office of sheriff principal.
- (3) The First Minister may, under section 95(4) of the Scotland Act 1998, recommend to Her Majesty the appointment of an individual to the office of sheriff principal only if the individual is qualified for appointment (see section 14).
- (4) Subsection (3) does not affect the operation of section 11 of the Judiciary and Courts (Scotland) Act 2008 (recommendation by the Judicial Appointments Board for Scotland).
- (5) In addition to the jurisdiction and powers that attach specifically to the office of sheriff principal, the sheriff principal of a sheriffdom may also exercise in the sheriffdom the jurisdiction and powers that attach to the office of sheriff.
- (6) Subsection (5) is subject to any provision, express or implied, to the contrary in any other enactment.

4 Sheriffs

- (1) For each sheriffdom, there are to continue to be judicial officers each to be known as a “sheriff” of the sheriffdom.
- (2) It is for Her Majesty to appoint an individual to the office of sheriff.
- (3) The First Minister may, under section 95(4) of the Scotland Act 1998, recommend to Her Majesty the appointment of an individual to the office of sheriff only if the individual is qualified for appointment (see section 14).
- (4) Subsection (3) does not affect the operation of section 11 of the Judiciary and Courts (Scotland) Act 2008 (recommendation by the Judicial Appointments Board for Scotland).

5 Summary sheriffs

- (1) For each sheriffdom, there are to be judicial officers each to be known as a “summary sheriff” of the sheriffdom.
- (2) It is for Her Majesty to appoint an individual to the office of summary sheriff.
- (3) Her Majesty may appoint an individual only if the individual has been recommended for appointment by the First Minister.
- (4) The First Minister may recommend to Her Majesty the appointment of an individual only if the individual is qualified for appointment (see section 14).
- (5) Before making a recommendation under subsection (3), the First Minister must consult the Lord President of the Court of Session.
- (6) Subsection (4) does not affect the operation of section 11 of the Judiciary and Courts (Scotland) Act 2008 (recommendation by the Judicial Appointments Board for Scotland).

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—

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- (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
 - (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.

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- (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—
- (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.

Re-employment of former holders of certain judicial offices

12 Re-employment of former judicial office holders

- (1) A sheriff principal of a sheriffdom may appoint—
- (a) a qualifying former sheriff principal to act as a sheriff of the sheriffdom,
 - (b) a qualifying former sheriff to act as such a sheriff,
 - (c) a qualifying former part-time sheriff to act as such a sheriff,
 - (d) a qualifying former summary sheriff to act as a summary sheriff of the sheriffdom,
 - (e) a qualifying former part-time summary sheriff to act as such a summary sheriff.
- (2) An individual appointed to act as mentioned in any of paragraphs (a) to (e) of subsection (1) may so act only during such periods or on such occasions as the sheriff principal may determine.
- (3) A sheriff principal may make an appointment under subsection (1) only if it appears to the sheriff principal to be expedient as a temporary measure in order to facilitate the disposal of business in the sheriff courts of the sheriffdom.
- (4) 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.
- (5) A “qualifying former sheriff” is an individual who—

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- (a) ceased to hold that office other than—
 - (i) by virtue of an order under section 25, or
 - (ii) by being appointed as a sheriff principal, and
 - (b) has not reached the age of 75.
- (6) A “qualifying former part-time sheriff” is an individual who—
- (a) ceased to hold that office other than—
 - (i) by virtue of removal under section 25,
 - (ii) by virtue of not being reappointed to the office on either of the grounds mentioned in section 9(1)(b) and (c), or
 - (iii) by being appointed as a sheriff principal, and
 - (b) has not reached the age of 75.
- (7) A “qualifying former summary sheriff” is an individual who—
- (a) ceased to hold that office other than—
 - (i) by virtue of an order under section 25, or
 - (ii) by being appointed as a sheriff, and
 - (b) has not reached the age of 75.
- (8) A “qualifying former part-time summary sheriff” is an individual who—
- (a) ceased to hold that office other than—
 - (i) by virtue of removal under section 25,
 - (ii) by virtue of not being reappointed to the office on either of the grounds mentioned in section 11(1)(b) and (c), or
 - (iii) by being appointed as a sheriff, and
 - (b) has not reached the age of 75.

13 Re-employment of former judicial office holders: further provision

- (1) Subject to subsection (4), an individual’s appointment under section 12(1) lasts until the sheriff principal by whom the individual was appointed (or a successor to that sheriff principal) recalls the individual’s appointment.
- (2) An individual appointed under section 12(1) to act as a sheriff of a sheriffdom may exercise in the sheriffdom the jurisdiction and powers that attach to the office of sheriff, and does not need a commission for that purpose.
- (3) An individual appointed under section 12(1) to act as a summary sheriff of a sheriffdom may exercise in the sheriffdom the jurisdiction and powers that attach to the office of summary sheriff, and does not need a commission for that purpose.
- (4) An individual’s appointment under section 12(1) ceases when the individual reaches the age of 75.
- (5) Despite the ending (whether by virtue of subsection (4) or otherwise) of an individual’s appointment under section 12(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.

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Qualification and disqualification

14 Qualification for appointment

- (1) An individual is qualified for appointment to a judicial office mentioned in subsection (2) if the individual—
 - (a) immediately before the appointment, held any other judicial office specified in that subsection, or
 - (b) at the time of appointment—
 - (i) is legally qualified, and
 - (ii) has been so qualified throughout the period of 10 years immediately preceding the appointment.
- (2) The judicial offices are—
 - (a) sheriff principal,
 - (b) sheriff,
 - (c) summary sheriff,
 - (d) part-time sheriff,
 - (e) part-time summary sheriff.
- (3) For the purposes of subsection (1), an individual is legally qualified if the individual is a solicitor or an advocate.

15 Disqualification from practice, etc.

- (1) An individual holding a judicial office mentioned in subsection (2) must not, for so long as the individual holds the office—
 - (a) engage, whether directly or indirectly, in practice as a solicitor or advocate or in any other business,
 - (b) be in partnership with, or employed by, a person so engaged, or
 - (c) act as agent for a person so engaged.
- (2) The judicial offices are—
 - (a) sheriff principal,
 - (b) sheriff,
 - (c) summary sheriff.
- (3) A part-time sheriff, or a part-time summary sheriff, who is a solicitor in practice must not carry out any function as a part-time sheriff or, as the case may be, a part-time summary sheriff in a sheriff court district in which his or her place of business as such solicitor is situated.

Remuneration and expenses

16 Remuneration

- (1) Each sheriff principal and sheriff is to be paid such salary as the Treasury may determine.
- (2) Such salary is to be paid quarterly or otherwise in every year, as the Treasury may determine.

- (3) Each summary sheriff is to be paid such remuneration as the Scottish Ministers may determine.
- (4) The Scottish Ministers may determine different amounts of remuneration for—
 - (a) different summary sheriffs, or
 - (b) different descriptions of summary sheriff.
- (5) Each judicial officer mentioned in subsection (7) is to be paid such remuneration as the Scottish Ministers may determine.
- (6) The Scottish Ministers may determine different amounts of remuneration for—
 - (a) different judicial officers mentioned in subsection (7), or
 - (b) different descriptions of such judicial officers.
- (7) The judicial officers are—
 - (a) a part-time sheriff,
 - (b) a part-time summary sheriff,
 - (c) an individual appointed to act as a sheriff or summary sheriff under section 12(1).
- (8) Subsection (9) applies in relation to—
 - (a) a sheriff principal of a sheriffdom authorised under section 30 to perform the functions of a sheriff principal in another sheriffdom, and
 - (b) a sheriff of a sheriffdom (“sheriffdom A”) directed under section 31 to perform the functions of sheriff in another sheriffdom in addition to sheriffdom A.
- (9) The sheriff principal or sheriff is to be paid, in respect of the additional functions, such remuneration as appears to the Secretary of State, with the consent of the Treasury, to be reasonable in all the circumstances.
- (10) Subsection (11) applies in relation to a summary sheriff of a sheriffdom (“sheriffdom B”) directed under section 31 to perform the functions of a summary sheriff in another sheriffdom in addition to sheriffdom B.
- (11) The summary sheriff is to be paid, in respect of the additional functions, such remuneration as appears to the Scottish Ministers to be reasonable in all the circumstances.
- (12) Salaries and remuneration under subsections (1) to (11) are to be paid by the Scottish Courts and Tribunals Service.
- (13) Sums required by the Scottish Courts and Tribunals Service for the payment of a salary under subsection (1) or remuneration under subsection (3) are charged on the Scottish Consolidated Fund.

17 Expenses

- (1) The Scottish Courts and Tribunals Service may pay to a judicial officer mentioned in subsection (3) such sums as it may determine in respect of expenses reasonably incurred by the officer in the performance of, or in connection with, the officer’s duties.
- (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—

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- (i) different judicial officers, or
 - (ii) different descriptions of judicial officers.
- (3) The judicial officers are—
- (a) a sheriff principal,
 - (b) a sheriff,
 - (c) a summary sheriff,
 - (d) a temporary sheriff principal,
 - (e) a part-time sheriff,
 - (f) a part-time summary sheriff,
 - (g) individuals appointed to act as a sheriff or summary sheriff under section 12(1).

Leave of absence

18 Leave of absence

- (1) The Lord President of the Court of Session may, for any sheriff principal or temporary sheriff principal, approve leave of absence for recreational or other purposes.
- (2) The sheriff principal of a sheriffdom may, for any sheriff or summary sheriff of the sheriffdom, approve leave of absence for recreational or other purposes.
- (3) The amount of leave for recreational purposes approved under this section for any sheriff principal, temporary sheriff principal, sheriff or summary sheriff must not exceed 7 weeks in any year.
- (4) That limit may be exceeded in any case with the permission of the Lord President.
- (5) The Lord President may grant permission under subsection (4) only if there are special reasons in the particular case that justify exceeding the limit.
- (6) The Lord President may delegate to a judge of the Court of Session a function conferred on the Lord President by this section.
- (7) In subsections (1) and (2), the references to leave of absence for purposes other than recreational purposes include (but are not limited to) references to sick leave, compassionate leave and study leave.

Residence

19 Place of residence

- (1) The Lord President of the Court of Session may require a judicial officer mentioned in subsection (2) to reside ordinarily at such place as the Lord President may specify.
- (2) The judicial officers are—
 - (a) a sheriff principal,
 - (b) a sheriff,
 - (c) a summary sheriff.

Cessation of appointment

20 Cessation of appointment of judicial officers

- (1) A judicial officer mentioned in subsection (3) may resign at any time by giving notice to that effect to the Scottish Ministers.
- (2) An individual's appointment as such a judicial officer ends—
 - (a) when the individual resigns in accordance with subsection (1),
 - (b) when the individual retires from office,
 - (c) if the individual is removed from office as such under section 25, or
 - (d) if the individual is appointed as another such judicial officer.
- (3) The judicial officers are—
 - (a) a sheriff principal,
 - (b) a sheriff,
 - (c) a summary sheriff,
 - (d) a part-time sheriff,
 - (e) a part-time summary sheriff.

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
 - (d) one individual who—
 - (i) is not and never has been a qualifying member of the Judicial Committee of the Privy Council,

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(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—

- (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.

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

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Honorary sheriffs

26 Abolition of the office of honorary sheriff

The office of honorary sheriff is abolished.

CHAPTER 3

ORGANISATION OF BUSINESS

Sheriff principal's general responsibilities

27 Sheriff principal's responsibility for efficient disposal of business in sheriff courts

- (1) The sheriff principal of a sheriffdom is responsible for ensuring the efficient disposal of business in the sheriff courts of the sheriffdom.
- (2) The sheriff principal 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 sheriff principal may—
 - (a) provide for the allocation of business among the judiciary of the sheriffdom,
 - (b) make special provision of a temporary nature for the disposal of any business by any member of the judiciary of the sheriffdom in addition to or in place of that member's own duties.
- (4) If, in carrying out the responsibility imposed by subsection (1), the sheriff principal gives a direction of an administrative character to a person mentioned in subsection (5), the person must comply with the direction.
- (5) Those persons are—
 - (a) any other member of the judiciary of the sheriffdom,
 - (b) a member of the staff of the Scottish Courts and Tribunals Service.
- (6) Nothing in subsections (1) to (4) enables a member of the judiciary of the sheriffdom to dispose of any business which that member could not otherwise competently dispose of in the exercise of the jurisdiction and powers that attach to the member's office.
- (7) Subsections (1) to (4) are subject to section 2(2)(a) and (3) 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).

28 Sheriff principal's power to fix sittings of sheriff courts

- (1) The sheriff principal of a sheriffdom may by order prescribe—
 - (a) the number of sittings of sheriff courts to be held at each place designated for the holding of sheriff courts in the sheriffdom,
 - (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.

- (2) The sheriff principal must publish notice of the matters prescribed by an order under subsection (1) in such manner as the sheriff principal thinks appropriate in order to bring those matters to the attention of persons having an interest in them.
- (3) Subsection (1) is subject to section 2(2)(a) and (3) of the Judiciary and Courts (Scotland) Act 2008.

29 Lord President’s power to exercise functions under sections 27 and 28

- (1) Subsection (2) applies where in any case the Lord President of the Court of Session considers that the exercise by the sheriff principal of a sheriffdom of a function under section 27 or 28—
 - (a) is prejudicial to the efficient disposal of business in the sheriff courts of the sheriffdom,
 - (b) is prejudicial to the efficient organisation or administration of those courts, or
 - (c) is otherwise against the interest of the public.
- (2) The Lord President may in that case—
 - (a) rescind the sheriff principal’s exercise of the function, and
 - (b) exercise the function.
- (3) Subsections (1) and (2) apply in relation to a failure to exercise a function mentioned in subsection (1) as they apply to the exercise of such a function, but as if paragraph (a) of subsection (2) were omitted.
- (4) The exercise of a function by the Lord President by virtue of subsection (2)(b) is to be treated as if it were the exercise of the function by the sheriff principal.

Deployment of judiciary

30 Power to authorise a sheriff principal to act in another sheriffdom

- (1) Subsection (2) applies where, in relation to a sheriffdom (“sheriffdom A”)—
 - (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) The Lord President may authorise the sheriff principal of another sheriffdom (“sheriffdom B”) to perform the functions of sheriff principal in sheriffdom A (in addition to sheriffdom B) until the Lord President decides otherwise.
- (3) The authorisation may be made for the purpose of the performance of—
 - (a) all of the functions of the sheriff principal of sheriffdom A, or
 - (b) only those functions that that sheriff principal is unable to perform or is precluded from performing.
- (4) The Lord President may make an authorisation in the circumstances specified in subsection (1)(a) only if the Lord President considers such an authorisation to be necessary or expedient in order to avoid a delay in the administration of justice in sheriffdom A.

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- (5) A sheriff principal authorised under this section to perform the functions of sheriff principal in another sheriffdom may exercise the jurisdiction and powers that attach to the office of sheriff principal in the other sheriffdom and does not need a commission for that purpose.
- (6) References in this section to the sheriff principal of a sheriffdom include references to any temporary sheriff principal of the sheriffdom.

31 Power to direct a sheriff or summary sheriff to act in another sheriffdom

- (1) The Lord President of the Court of Session may direct a sheriff or summary sheriff of a sheriffdom (“sheriffdom A”) to perform the functions of sheriff or, as the case may be, summary sheriff in another sheriffdom (“sheriffdom B”) until the Lord President decides otherwise.
- (2) The direction may require the sheriff or summary sheriff to perform the functions in sheriffdom B either in addition to or instead of performing the functions in sheriffdom A.
- (3) The Lord President may at any time give a further direction to the sheriff or summary sheriff directing the sheriff or, as the case may be, summary sheriff to perform the functions of sheriff or, as the case may be, summary sheriff in another sheriffdom until the Lord President decides otherwise.
- (4) Where a further direction is given under subsection (3) requiring functions to be carried out in another sheriffdom, the direction may require the sheriff or summary sheriff to perform the functions in that other sheriffdom in addition to or instead of performing the functions—
 - (a) in sheriffdom A, or
 - (b) in any other sheriffdom by virtue of—
 - (i) a direction under subsection (1), or
 - (ii) a further direction under subsection (3).
- (5) A sheriff or summary sheriff directed under this section to perform the functions of sheriff or summary sheriff in another sheriffdom may exercise the jurisdiction and powers that attach to the office of sheriff or, as the case may be, summary sheriff in the other sheriffdom and does not need a commission for that purpose.

32 Power to re-allocate sheriffs principal, sheriffs and summary sheriffs between sheriffdoms

- (1) The Lord President of the Court of Session may direct that—
 - (a) the sheriff principal of a sheriffdom is to cease to be the sheriff principal of that sheriffdom and is instead to be sheriff principal of such other sheriffdom as is specified in the direction,
 - (b) a sheriff of a sheriffdom is to cease to be a sheriff of that sheriffdom and is instead to be a sheriff of such other sheriffdom as is specified in the direction,
 - (c) a summary sheriff of a sheriffdom is to cease to be a summary sheriff of that sheriffdom and is instead to be a summary sheriff of such other sheriffdom as is specified in the direction.
- (2) A direction under subsection (1) takes effect on such date as is specified in the direction.

- (3) The reference in subsection (1) to the sheriff principal, a sheriff or summary sheriff of a sheriffdom is to one—
 - (a) appointed for the sheriffdom, or
 - (b) who is the sheriff principal, a sheriff or, as the case may be, summary sheriff of the sheriffdom by virtue of a previous direction under subsection (1).
- (4) A sheriff principal, sheriff or summary sheriff directed under subsection (1) to be the sheriff principal, a sheriff or summary sheriff of another sheriffdom may exercise the jurisdiction and powers that attach to the office of sheriff principal, sheriff or, as the case may be, summary sheriff in the other sheriffdom and does not need a commission for that purpose.

33 Allocation of sheriffs and summary sheriffs to sheriff court districts

- (1) On the appointment of a sheriff or summary sheriff of a sheriffdom, the Lord President of the Court of Session must give the sheriff or summary sheriff a direction designating the sheriff court district or districts in which the sheriff or summary sheriff is to sit and perform the functions of sheriff or, as the case may be, summary sheriff.
- (2) The Lord President may at any time give a further direction to the sheriff or summary sheriff designating a different sheriff court district in which the sheriff or summary sheriff is to sit and perform the functions of sheriff or, as the case may be, summary sheriff.
- (3) A direction given to a sheriff or summary sheriff of a sheriffdom under this section is subject to any direction given under section 27 to the sheriff or summary sheriff by the sheriff principal of the sheriffdom for the purpose of giving effect to special provision made under subsection (3)(b) of that section.
- (4) Subsection (1) applies in the case where a direction under section 32(1) is made in relation to a sheriff or summary sheriff as it applies in the case where a sheriff or, as the case may be, summary sheriff is appointed.

Judicial specialisation

34 Determination of categories of case for purposes of judicial specialisation

- (1) The Lord President of the Court of Session may, by direction, determine categories of sheriff court case that the Lord President considers to be suited to being dealt with by judicial officers that specialise in the category of case.
- (2) The Lord President may determine categories of case under subsection (1) by reference to subject matter, value or such other criteria as the Lord President considers appropriate.
- (3) The Lord President may issue different directions under subsection (1) in relation to different types of judicial officer.
- (4) The Lord President may vary or revoke any direction made under subsection (1).
- (5) In this section—

“judicial officer” means—

 - (a) a sheriff,

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- (b) a summary sheriff,
 - (c) a part-time sheriff,
 - (d) a part-time summary sheriff,
- “sheriff court case” means any type of proceedings (whether civil or criminal) that may competently be brought in the sheriff court.

35 Designation of specialist judiciary

- (1) This section applies where the Lord President of the Court of Session has made a direction under section 34.
- (2) The sheriff principal of a sheriffdom may—
 - (a) in relation to any category of case determined in the direction that may competently be dealt with by a sheriff, designate one or more sheriffs of the sheriffdom as specialists in that category of case,
 - (b) in relation to any category of case determined in the direction that may competently be dealt with by a summary sheriff, designate one or more summary sheriffs of the sheriffdom as specialists in that category of case.
- (3) The sheriff principal may designate the same sheriff or summary sheriff in relation to more than one category of case determined in the direction.
- (4) The sheriff principal of a sheriffdom may at any time withdraw a designation made (whether by that sheriff principal or another) under subsection (2) in relation to any sheriff, or summary sheriff, of the sheriffdom.
- (5) The Lord President may—
 - (a) in relation to any category of case determined in the direction that may competently be dealt with by a part-time sheriff, designate one or more part-time sheriffs as specialists in that category,
 - (b) in relation to any category of case determined in the direction that may competently be dealt with by a part-time summary sheriff, designate one or more part-time summary sheriffs as specialists in that category.
- (6) The Lord President may at any time withdraw a designation made under subsection (5).
- (7) The designation of a sheriff, summary sheriff, part-time sheriff or part-time summary sheriff (a “designated judicial officer”) under this section does not affect—
 - (a) the designated judicial officer’s competence to deal with any category of case other than the one in relation to which the designation is made, or
 - (b) the competence of any other sheriff, summary sheriff, part-time sheriff or part-time summary sheriff to deal with the category of case in relation to which the designation is made.

36 Allocation of business to specialist judiciary

- (1) Subsection (2) applies where the Lord President of the Court of Session or the sheriff principal of a sheriffdom is exercising any function relating to the allocation of business among the judiciary of a sheriffdom.
- (2) The Lord President or, as the case may be, the sheriff principal must have regard to the desirability of ensuring that cases falling within a category determined under

section 34 are dealt with by sheriffs, summary sheriffs, part-time sheriffs or, as the case may be, part-time summary sheriffs designated under section 35 as specialists in that category of case.

37 Saving for existing powers to provide for judicial specialisation

Sections 34 to 36 do not affect any power that the Lord President of the Court of Session has apart from those sections to provide for judicial specialisation in the sheriff courts.

CHAPTER 4

COMPETENCE AND JURISDICTION

Sheriffs: civil competence and jurisdiction

38 Jurisdiction and competence of sheriffs

- (1) A sheriff continues to have the jurisdiction and competence that attached to the office of sheriff in relation to civil proceedings immediately before this section comes into force.
- (2) Without limiting that generality, a sheriff has competence as respects proceedings for or in relation to—
 - (a) declarator,
 - (b) aliment or separation,
 - (c) recovery of maintenance arising out of an application under section 31(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972,
 - (d) divorce,
 - (e) division of commonalty and division, or division and sale, of common property,
 - (f) questions of heritable right or title, including declarator of irritancy and removing,
 - (g) reduction, other than reduction of a decree of any court,
 - (h) proving the tenor,
 - (i) suspension of charges or threatened charges upon decrees of court granted by a sheriff or upon decrees of registration proceeding upon bonds, bills, contracts or other obligations registered in the books of a sheriff court or the Books of Council and Session,
 - (j) all civil maritime proceedings formerly competent in the High Court of Admiralty in Scotland.
- (3) For the purpose of subsection (2)(e), the Division of Commonalties Act 1695 has effect as if it conferred the same competence on a sheriff as it confers on the Court of Session.

39 Exclusive competence

- (1) This section applies to any civil proceedings—
 - (a) which a sheriff has competence to deal with, and
 - (b) in which—

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- (i) one or more orders of value are sought, and
 - (ii) the aggregate total value of all such orders sought, exclusive of interest and expenses, does not exceed £100,000.
- (2) The proceedings may be brought only in the sheriff court and may not be brought in any other court.
- (3) This section does not apply to family proceedings unless the only order sought in the proceedings is an order for payment of aliment.
- (4) Subsection (2) is subject to section 92(7) (remit of cases in exceptional circumstances to the Court of Session).
- (5) The Scottish Ministers may by order substitute another sum for the sum for the time being specified in subsection (1)(b)(ii).
- (6) For the purposes of this Act, an order is an order of value if it is—
 - (a) an order for payment of money, or
 - (b) an order determining rights in relation to property.
- (7) Provision may be made by the Court of Session by act of sederunt for determining, for the purposes of this Act—
 - (a) the value of an order,
 - (b) the aggregate total value of all the orders of value sought in any proceedings.
- (8) An act of sederunt under subsection (7) may make different provision for different purposes.

40 Territorial jurisdiction

- (1) This section applies for the purpose of determining the territorial extent of the jurisdiction of a sheriff of a sheriffdom in relation to matters other than criminal matters.
- (2) The sheriff's jurisdiction extends throughout the sheriffdom and includes all of the following so far as located in or adjoining the sheriffdom—
 - (a) navigable rivers,
 - (b) ports,
 - (c) harbours,
 - (d) creeks,
 - (e) shores,
 - (f) anchoring grounds.
- (3) Where two sheriffdoms are separated by a river, firth or estuary, the sheriffs of each sheriffdom on either side have concurrent jurisdiction over the intervening space occupied by the water.
- (4) This section does not affect any other enactment or rule of law that has effect for the purpose of determining the territorial extent of the jurisdiction of a sheriff of a sheriffdom, whether generally or in relation to a particular case or description of case.
- (5) This section is subject to an order under section 41(1).

41 Power to confer all-Scotland jurisdiction for specified cases

- (1) The Scottish Ministers may by order provide that the jurisdiction of a sheriff of a specified sheriffdom sitting at a specified sheriff court extends territorially throughout Scotland for the purposes of dealing with specified types of civil proceedings.
- (2) In subsection (1), “specified” means specified in an order under that subsection.
- (3) An order under subsection (1) may be made only with the consent of the Lord President of the Court of Session.
- (4) An order under subsection (1) does not affect—
 - (a) in relation to the sheriffdom specified in the order, the jurisdiction or competence of a sheriff of any other sheriffdom to deal with proceedings of the type specified in the order, or
 - (b) in relation to the sheriff court specified in the order, the jurisdiction or competence of a sheriff sitting at any other sheriff court to deal with such proceedings.
- (5) This section does not apply in relation to proceedings under the Children’s Hearings (Scotland) Act 2011.

42 All-Scotland jurisdiction: further provision

- (1) This section applies in relation to a sheriff sitting at a sheriff court specified in an order under section 41(1) (referred to in this section as a “specified sheriff court”).
- (2) The sheriff’s all-Scotland jurisdiction is concurrent with, and alternative to, the sheriff’s local jurisdiction.
- (3) The sheriff’s “all-Scotland jurisdiction” is the extended jurisdiction in relation to specified proceedings that the sheriff has by virtue of the order under section 41(1).
- (4) The sheriff’s “local jurisdiction” is the jurisdiction that the sheriff would have in relation to specified proceedings apart from the order under section 41(1).
- (5) A party bringing specified proceedings in the specified sheriff court must indicate, at the time the proceedings are brought, whether they are for determination in the exercise of a sheriff’s all-Scotland jurisdiction or a sheriff’s local jurisdiction.
- (6) Subsection (5) does not affect any power that a sheriff has to decline jurisdiction in any case.
- (7) In this Act, references to an “all-Scotland sheriff court” are references to a specified sheriff court so far as the court is constituted by a sheriff sitting in the exercise of the sheriff’s all-Scotland jurisdiction.
- (8) For the purposes of any provision of this Act, or any other enactment, relating to the transfer or remit of proceedings between courts, a specified sheriff court is, when constituted as an all-Scotland sheriff court, taken to be a separate sheriff court from the court as constituted by a sheriff sitting in the exercise of the sheriff’s local jurisdiction.
- (9) In this section, “specified proceedings” means, in relation to a specified sheriff court, civil proceedings of a type that are specified in relation to that court in the order under section 41(1).

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43 Jurisdiction over persons, etc.

- (1) Subsection (2) applies for the purpose of determining the jurisdiction of a sheriff in relation to any civil proceedings that may competently be dealt with by a sheriff.
- (2) The proceedings may be brought before the sheriff of a particular sheriffdom if—
- (a) the defender (or, where there is more than one defender, one of them) resides in the sheriffdom,
 - (b) the defender (or, where there is more than one defender, one of them) formerly resided in the sheriffdom for at least 40 days and the defender—
 - (i) has ceased to reside there for fewer than 40 days, and
 - (ii) has no known residence in Scotland,
 - (c) the defender—
 - (i) carries on business in the sheriffdom,
 - (ii) has a place of business in the sheriffdom, and
 - (iii) is cited in the sheriffdom, either personally or at the place of business,
 - (d) where the defender is not otherwise subject to the jurisdiction of any court in Scotland, there has been arrested in the sheriffdom—
 - (i) a ship or vessel of which the defender is an owner or part-owner, demise charterer or master, or
 - (ii) goods, debts, money or other moveable property belonging to the defender,
 - (e) any property of which the defender is (either individually or as trustee) the owner, part-owner, tenant or joint tenant is located in the sheriffdom and the proceedings relate to such property or to the defender's interest in it,
 - (f) in proceedings for interdict, the alleged wrong is being committed or threatened to be committed in the sheriffdom,
 - (g) in proceedings relating to a contract—
 - (i) the place of execution or performance of the contract is located in the sheriffdom, and
 - (ii) the defender is personally cited in the sheriffdom,
 - (h) in actions of furthcoming or multiplepoinding—
 - (i) the fund or property that is the subject of the proceedings is located in the sheriffdom, or
 - (ii) the sheriff otherwise has jurisdiction over the arrestee or holder of the fund or property that is the subject of the proceedings,
 - (i) the party sued is the pursuer in any proceedings pending in the sheriffdom against the party suing,
 - (j) where the proceedings are founded in delict, the delict was committed in the sheriffdom,
 - (k) the defender has prorogated the jurisdiction of the sheriff or courts of the sheriffdom.
- (3) Subsection (2) is subject to—
- (a) section 8 of, and Schedule 1B to, the Domicile and Matrimonial Proceedings Act 1973,
 - (b) the Civil Jurisdiction and Judgments Act 1982,
 - (c) Chapter 3 of Part 1 of the Family Law Act 1986, and

- (d) any other enactment or rule of law that applies for the purpose of determining the jurisdiction of a sheriff in relation to persons or subject-matter.

Summary sheriffs: civil and criminal competence and jurisdiction

44 Summary sheriff: civil competence and jurisdiction

- (1) A summary sheriff may, in relation to civil proceedings in the sheriff court, exercise the jurisdiction and powers that attach to the office of sheriff, but only in relation to the proceedings and other matters listed in schedule 1.
- (2) This section does not affect the jurisdiction and competence of a sheriff in relation to the proceedings and other matters listed in schedule 1.
- (3) The Scottish Ministers may by order modify schedule 1.

45 Summary sheriff: criminal competence and jurisdiction

- (1) A summary sheriff may, in relation to criminal investigations and proceedings (whether summary or solemn proceedings), exercise the jurisdiction and powers that attach to the office of sheriff.
- (2) Without limiting the generality of subsection (1), the jurisdiction and powers exercisable by a summary sheriff under that subsection include, in particular, those of a sheriff under the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”).
- (3) Despite subsections (1) and (2), a summary sheriff does not have jurisdiction or power to do any of the following in solemn criminal proceedings—
 - (a) to preside at any of the following diets, other than for the purpose of adjourning the diet—
 - (i) a first diet,
 - (ii) a diet under section 76(1) of the 1995 Act,
 - (iii) a trial diet,
 - (b) to pass sentence on an offender, or make any other order or disposal in respect of the conviction of an offender of an offence,
 - (c) to review, vary, revoke or discharge any sentence or such other order or disposal.
- (4) This section does not affect the jurisdiction and competence of a sheriff in relation to any matter mentioned in subsection (1).