

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is in consequence of the Judiciary and Courts (Scotland) Act 2008 (“the Act”).

Section 27 of the Act amends Part 2 of the Schedule to the Promissory Oaths Act 1868 to require sheriffs and part-time sheriffs to take the oath of allegiance to the Queen and the judicial oath on appointment. Article 2 amends section 2 of the Promissory Oaths Act 1871 to provide that this oath is to be taken by a sheriff before the sheriff principal for his or her sheriffdom and by a part-time sheriff before any sheriff principal, reflecting the fact that a part-time sheriff is not allocated to a particular sheriffdom. Justices of the peace (referred to in section 2 of the 1871 Act as “justices”) are required to take the oath of allegiance and judicial oath before the sheriff principal and judges and sheriffs principal are required to take those oaths before a judge or judges of the Court of Session.

Section 40 of the Act substitutes new sections 12A to 12F for section 12 of the Sheriff Courts (Scotland) Act 1971 (“the 1971 Act”) and subparagraph 2(3) of Schedule 5 to the Act repeals section 11C of the 1971 Act. Article 3(1) amends the cross reference in section 11B(4) of the 1971 Act to refer to the new section 12E.

Section 61 of the Act provides that the Scottish Court Service has the function of providing administrative support for the Scottish courts and judiciary. Article 3(2) amends section 19 of the 1971 Act to provide that the Scottish Court Service rather than Scottish Ministers is responsible for paying the travelling allowances of sheriffs principal.

Article 4 inserts four new entries into part 2 of schedule 4 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exemptions) (Scotland) Order 2003. The effect of this is to provide that the lay member of a tribunal constituted to consider the fitness for judicial office of a judge or a sheriff and lay members of the Scottish Court Service and of the Judicial Appointments Board for Scotland may be asked to disclose information about spent convictions.