



Administration of Justice (Scotland) Act 1933

1933 CHAPTER 41 23 and 24 Geo 5

PART III

OFFICERS OF THE HIGH COURT OF JUSTICIARY AND OF THE COURT OF SESSION

23 Appointment of clerks in the Court of Justiciary.

- (1) The right of appointing any Depute, Assistant or other Clerk in the Justiciary Office shall be vested in the [^{F1}Scottish Court Service].
- (2) The duties of Clerk of the High Court of Justiciary when sitting in Edinburgh or elsewhere may be performed by the Principal Clerk or by such Depute, Assistant, or other Clerk in the Justiciary Office as the Lord Justice General may approve, and the said Principal Clerk and any such Depute, Assistant, or other Clerk shall perform such duties in relation to the business of the said High Court as the Lord Justice General may direct.

Textual Amendments

- F1** Words in s. 23(1) substituted (1.4.2010) by [Judiciary and Courts \(Scotland\) Act 2008 \(asp 6\), s. 76\(1\), Sch. 4 para. 1\(2\)](#); S.S.I. 2010/39, art. 2(b), Sch.

24 Appointment of officers of the Court of Session.

- (1) Any enactment in force at the passing of this Act as to the number or appointment of the Clerks of Court shall cease to have effect and the [^{F2}Scottish Court Service shall]appoint a Principal Clerk of Session and such other clerks and officers of the Court as [^{F3} it] may [^{F4} . . . determine to be necessary to discharge the duties devolving, according to the law and practice existing immediately prior to the passing of this Act, on the whole staff of clerks in the Inner and Outer Houses and in the Bill Chamber and on the clerks to the judges, and such other clerks and officers shall, subject to

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the directions of the Lord President, be under the general supervision of the Principal Clerk of Session, and shall, subject as aforesaid, perform such duties in relation to the business of the Court as the Principal Clerk may require.

- (2) There shall be a Central Office of the Court which shall comprise the clerks and officers appointed in pursuance of this section and which shall be divided into a General Department and a Petition Department. Causes initiated in the Court by petition shall be assigned to the Petition Department and there shall be assigned to the General Department—
 - (a) causes initiated by summons in the Court;
 - (b) special cases;
 - (c) causes brought before the Court by appeal, removal, remit, stated case or other like process; and
 - (d) Exchequer causes.
- (3) The Petition Department and the General Department shall be respectively responsible under the supervision of the Principal Clerk and subject to the directions of the Lord President, for the allocation among the Divisions of the Inner House or the Lords Ordinary, as the case may be, of the causes assigned to the said departments in pursuance of the foregoing subsection, and the General Department shall be responsible for the division of the causes initiated by summons among—
 - (a) the Ordinary Roll;
 - (b) the Admiralty and Commercial Roll; and
 - (c) the Consistorial Roll;
 in accordance with any Act of Sederunt made under section seventeen of this Act.
- (4) The clerks and officers appointed in pursuance of this section shall be assigned by the Principal Clerk, subject to the directions of the Lord President and the provisions of any Act of Sederunt, to one or other of the aforesaid departments, provided always that any clerk or officer in the Central Office shall be capable of performing, and shall perform, any duty in relation to the business of the Court as may be required by the Principal Clerk, subject to such directions and provisions as aforesaid.
- (5) Notwithstanding anything in the foregoing provisions of this section, it shall not be competent to allocate any Exchequer Cause to any Lord Ordinary other than the Lord Ordinary in Exchequer Causes.
- (6) Any provisions in an Act or an Act of Sederunt regarding the Principal Clerk of Session or the Clerks of Court shall apply to the Principal Clerk and to the clerks appointed in pursuance of this section in like manner as it applies to the Principal Clerk and to the clerks holding office at the passing of this Act, and any reference in any enactment to a depute, assistant or other clerk in the Court of Session or in the Bill Chamber, shall apply, in like manner as it applies to such depute, assistant or other clerk to the clerk required in pursuance of this section to perform the duties devolving on such depute, assistant or other clerk according to the law and practice existing immediately prior to the passing of this Act.
- (7) The right of appointing to the office of Macer, which in accordance with the law and practice existing immediately prior to the passing of this Act was vested in His Majesty, shall be transferred to and vested in the [F5Scottish Court Service], F6. . . , and it shall be competent to the [F5Scottish Court Service] in pursuance of the power so vested in [F7it] to appoint the same persons to be Macers in the High Court of Justiciary and in the Court of Session.

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Textual Amendments

- F2** Words in s. 24(1) substituted (1.4.2010) by [Judiciary and Courts \(Scotland\) Act 2008 \(asp 6\)](#), s. 76(1), [Sch. 4 para. 1\(3\)\(a\)\(i\)](#); S.S.I. 2010/39, art. 2(b), Sch.
- F3** Word in s. 24(1) substituted (1.4.2010) by [Judiciary and Courts \(Scotland\) Act 2008 \(asp 6\)](#), s. 76(1), [Sch. 4 para. 1\(3\)\(a\)\(ii\)](#); S.S.I. 2010/39, art. 2(b), Sch.
- F4** Words in s. 24(1) omitted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, [Sch. 2 Pt. 1 para. 15\(3\)\(a\)\(iii\)](#), Pt. IV
- F5** Words in s. 24(7) substituted (1.4.2010) by [Judiciary and Courts \(Scotland\) Act 2008 \(asp 6\)](#), s. 76(1), [Sch. 4 para. 1\(3\)\(b\)\(i\)](#); S.S.I. 2010/39, art. 2(b), Sch.
- F6** Words in s. 24(7) repealed (1.7.1999) by 1998 c. 46, s. 125(1)(2), Sch. 8 para. 4, [Sch. 9](#); S.I. 1998/3178, [art. 2\(1\)](#)
- F7** Word in s. 24(7) substituted (1.4.2010) by [Judiciary and Courts \(Scotland\) Act 2008 \(asp 6\)](#), s. 76(1), [Sch. 4 para. 1\(3\)\(b\)\(ii\)](#); S.S.I. 2010/39, art. 2(b), Sch.

Modifications etc. (not altering text)

- C1** Ss. 9–11, 13–18, 24(5) repealed (S.) by [Court of Session Act 1988 \(c. 36, SIF 36:1\)](#), s. 52(2), [Sch. 2 Pt. I](#) (and re-enacted in part as referred to in Sch. 2 Pt. II of that Act)

[^{F8}25 Appointment of Principal Clerk of Justiciary etc.

- (1) The right of appointing to the offices of Principal Clerk of Justiciary and Accountant of Court shall be vested in the Scottish Court Service.
- (2) The right of appointing to the office of Auditor of the Court of Session shall be vested in the Scottish Ministers.]

Textual Amendments

- F8** S. 25 substituted (1.4.2010) by [Judiciary and Courts \(Scotland\) Act 2008 \(asp 6\)](#), s. 76(1), [Sch. 4 para. 1\(4\)](#); S.S.I. 2010/39, art. 2(b), Sch.

26 Age limit for officers of High Court of Justiciary and Court of Session.

A person appointed, in pursuance of the powers vested in the [^{F9}Scottish Ministers] by this Part of this Act, to [^{F10}the office of Auditor of the Court of Session] shall vacate his office on attaining the age of sixty-five years:

Provided that, where the [^{F9}Scottish Ministers] after consultation with the Lord President [^{F11}consider] it desirable in the public interest to retain any such person in office after he attains the age of sixty-five years, [^{F9}they] may ^{F12}. . . authorise the continuance in office of such person, up to such later age, not exceeding seventy years, as [^{F9}they] may think fit.

Textual Amendments

- F9** Words in s. 26 substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, [Sch. 2 Pt. 1 para. 15\(5\)\(a\)\(d\)](#)
- F10** Words in s. 26 substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, [Sch. 2 Pt. 1 para. 15\(5\)\(b\)](#)
- F11** Word in s. 26 substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, [Sch. 2 Pt. 1 para. 15\(5\)\(c\)](#)
- F12** Words in s. 26 omitted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, [Sch. 2 Pt. 1 para. 15\(5\)\(e\)](#), Pt. IV

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27 Remuneration of officers of High Court of Justiciary and Court of Session.

(1) The remuneration of the persons appointed to any office in pursuance of the powers vested in the [F13Scottish Ministers] by this Part of this Act, . . . F14shall be of such amounts as the [F13Scottish Ministers] may, after consultation with the Lord President [F15, from time to time determine].

[F16(1A) The remuneration of the persons appointed to any office in pursuance of the powers vested in the Scottish Court Service by this Part of this Act, shall be of such amounts as the Scottish Court Service may determine.]

(2) The sole remuneration of the persons holding any office mentioned in the immediately preceding subsection F17... shall be the remuneration determined in pursuance of the said subsection, and any fee or other sum paid or received, by virtue of his office, to or by any such person, other than such remuneration, shall be paid over and accounted for in such manner as the [F18Scottish Court Service] may direct.

Textual Amendments

- F13 Words in s. 27(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. 1 para. 15(6)(a)(i)
- F14 Words repealed by Statute Law (Repeals) Act 1981 (c. 19), s. 1(1), Sch. 1 Pt. I
- F15 Words in s. 27(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. 1 para. 15(6)(a)(ii)
- F16 S. 27(1A) inserted (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), s. 76(1), Sch. 4 para. 1(5)(a); S.S.I. 2010/39, art. 2(b), Sch.
- F17 Words in s. 27(2) repealed (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), s. 76(1), Sch. 4 para. 1(5)(b)(i); S.S.I. 2010/39, art. 2(b), Sch.
- F18 Words in s. 27(2) substituted (1.4.2010) by Judiciary and Courts (Scotland) Act 2008 (asp 6), s. 76(1), Sch. 4 para. 1(5)(b)(ii); S.S.I. 2010/39, art. 2(b), Sch.

28 Regulations for admission of officers of High Court of Justiciary and Court of Session.

The [F19Scottish Ministers] may, after consultation with the Lord President F20. . . , make regulations prescribing the manner in which persons are to be admitted to [F21the office of Auditor of the Court of Session].

Textual Amendments

- F19 Words in s. 28 substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. 1 para. 15(7)(a)
- F20 Words in s. 28 omitted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. 1 para. 15(7)(b), Pt. IV
- F21 Words in s. 28 substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. 1 para. 15(7)(c)

F22 29

Textual Amendments

- F22 S. 29 repealed by Superannuation Act 1972 (c. 11), s. 29, Sch. 8

F23 30

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Textual Amendments

F23 S. 30 repealed by [Court of Session Act 1988 \(c. 36, SIF 36:1\)](#), s. 52(2), **Sch. 2 Pt. I**

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Changes to legislation:

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