

2009 No. 2231

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
COURT OF SESSION
SCOTTISH COURT SERVICE

The Judiciary and Courts (Scotland) Act 2008 (Consequential Provisions and Modifications) Order 2009

Made - - - - *13th August 2009*

Laid before Parliament *20th August 2009*

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1), 113(2) and (5) and 114(1) of the Scotland Act 1998(a).

Citation and commencement

1.—(1) This Order may be cited as the Judiciary and Courts (Scotland) Act 2008 (Consequential Provisions and Modifications) Order 2009.

(2) Articles 2 and 3 come into force on the day that section 60(1) of the Judiciary and Courts (Scotland) Act 2008(b) (referred to in this Order as the “2008 Act”) comes into force.

(3) Otherwise this Order comes into force on 14th September 2009.

Status of the Scottish Court Service as part of the Scottish Administration

2. The Scottish Court Service established by section 60(1) of the 2008 Act is part of the Scottish Administration.

Construction of references to an office-holder in the Scottish Administration

3.—(1) Unless the context otherwise requires, references in the Scotland Act 1998 and any other enactment (except the Crown Suits (Scotland) Act 1857(c)) to an office-holder in the Scottish Administration are to be taken to include a reference to the Scottish Court Service established by section 60(1) of the 2008 Act.

(a) 1998 c.46.
(b) 2008 asp 6.
(c) 1857 c.44.

(2) Paragraph (1) applies whether or not the enactment defines the expression “office-holder in the Scottish Administration” by reference to the Scotland Act 1998 or any specific provision of that Act.

Chapter 2 of Part 2 of 2008 Act: extent

4. Chapter 2 of Part 2 of the 2008 Act (senior judiciary: vacancy, incapacity and suspension) extends to England and Wales and Northern Ireland.

ANN McKECHIN
Parliamentary Under Secretary of State
Scotland Office
Ministry of Justice

Dover House,
London
13th August 2009

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in consequence of the Judiciary and Courts (Scotland) Act 2008 (asp 6) (“the 2008 Act”). The 2008 Act creates a body corporate to be known as the Scottish Court Service. The 2008 Act also makes provision about the judiciary and the courts in Scotland.

Article 2 provides that the Scottish Court Service is part of the Scottish Administration.

Article 3 provides that references in the Scotland Act 1998 and any other enactment to an office-holder in the Scottish Administration, however it is defined, are to be taken to include references to the Scottish Court Service, unless the context otherwise requires. It also provides that the Crown Suits (Scotland) Act 1857 does not apply to the Scottish Court Service with the effect that the Lord Advocate cannot be sued in the place of the Scottish Court Service.

Article 4 extends Chapter 2 of Part 2 of the 2008 Act, which makes provision for vacancy, incapacity and suspension of senior Scottish judiciary, to England and Wales and Northern Ireland.

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