



Criminal Proceedings etc. (Reform) (Scotland) Act 2007

2007 asp 6

PART 4

JP COURTS AND JPS

Appointment of JPs etc.

74 Appointment of stipendiary magistrates

- (1) Stipendiary magistrates are to be appointed by name on behalf of and in the name of Her Majesty by instrument under the hand of the Scottish Ministers.
- (2) A stipendiary magistrate is to be appointed for a sheriffdom.
- (3) But a stipendiary magistrate may be appointed only if the Scottish Ministers, on the advice of a sheriff principal, consider that the appointment is necessary or expedient for the purposes of the efficient administration of any or all of the JP courts in that sheriff principal's sheriffdom.
- (4) A stipendiary magistrate may be appointed as a full-time or part-time magistrate.
- (5) A person is not to be appointed as a stipendiary magistrate unless the person is, and has been for at least 5 years, a solicitor or advocate.
- (6) A stipendiary magistrate may, by reason of holding that office—
 - (a) exercise judicial and signing functions in the same manner as a JP, and
 - (b) use the title of office of JP in relation to the exercise of those functions.
- (7) An appointment of—
 - (a) a full-time stipendiary magistrate is to be without limit of time,
 - (b) a part-time stipendiary magistrate is to be for a term of 5 years.
- (8) However, a stipendiary magistrate—
 - (a) may resign from office by giving notice to the Scottish Ministers,
 - (b) ceases to hold office on reaching the age of 70 years.

- (9) In making appointments of stipendiary magistrates, except—
- (a) appointments under subsection (12)(b),
 - (b) reappointments by virtue of section 75(3)(b) as it relates to section 70(2),
- the Scottish Ministers must comply with such provision as to procedure and consultation as they may by order make.
- (10) Provision in an order under subsection (9) may, in particular, relate to—
- (a) the participation in the appointments process of persons who are not—
 - (i) legally qualified,
 - (ii) involved in the administration of the law or of government,
 - (b) the manner in which vacancies in office are publicised.
- (11) In making an appointment of a part-time stipendiary magistrate, the Scottish Ministers must have regard to the desirability of the magistrate having the opportunity of sitting on not fewer than 20 days, and not more than 100 days, in each successive period of 12 months beginning with the day of appointment.
- (12) A person who, on the coming into force of this section, holds the office of stipendiary magistrate under the 1975 Act—
- (a) ceases to hold that office under that Act on such day as the Scottish Ministers may by order specify for the purpose of this subsection, and
 - (b) is, on the day so specified, to be appointed as a stipendiary magistrate under subsection (1) unless the person declines the appointment.