



# Bail, Judicial Appointments etc. (Scotland) Act 2000

2000 asp 9

## PART 2

### JUDICIAL APPOINTMENTS

#### CHAPTER 3

##### JUSTICES OF THE PEACE

## 8 Appointment of justices

In section 9 (appointment and removal of justices) of the District Courts (Scotland) Act 1975 (c. 20) (the “1975 Act”)—

(a) after subsection (2), there is inserted—

“(2A) That instrument shall specify whether the appointment is as a full justice or as a signing justice, and the name of any signing justice so appointed shall be entered in the supplemental list.

(2B) A signing justice may, subject to sections 9A, 12 and 15(1) of this Act, be appointed under subsection (2) above as a full justice.”;

(b) after subsection (8), there is inserted—

“(8A) In making appointments of justices of the peace, the Scottish Ministers shall comply with such requirements as to procedure and consultation as may be prescribed by regulations made by them.

(8B) Regulations under subsection (8A) above shall be made by statutory instrument.

(8C) No such regulations shall be made unless laid in draft before, and approved by resolution of, the Scottish Parliament.”; and

(c) after subsection (11), there is inserted—

“(12) In this section—

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a “full justice” means a justice of the peace who is qualified as a justice to do any act (including any function of a judicial nature) or to be a member of any committee or other body; and  
 a “signing justice” means a justice of the peace who is qualified only to do all or any of the acts as a justice set out in section 15(9) of this Act.”.

## 9 Removal, restriction of functions and suspension of justices

(1) After section 9 of the 1975 Act there is inserted—

### “9A Removal and restriction of functions of justices

- (1) A full justice may be removed from office or be restricted to having the functions of a signing justice by, and only by, order of the tribunal constituted by and under subsection (3) below (the “tribunal”); but this subsection is without prejudice to sections 9(4) (as read with (6)) and (7), 12(2) and 15(1) of this Act.
- (2) The tribunal may make an order under subsection (1) above only if, after investigation carried out at the request of the Scottish Ministers, it finds that the full justice is, by reason of inability, neglect of duty or misbehaviour—
  - (a) unfit for office as such; or, as the case may be,
  - (b) unfit for performing functions of a judicial nature.
- (3) The tribunal shall consist of the following three members, who shall be appointed by the Lord President of the Court of Session—
  - (a) a sheriff principal (who shall preside);
  - (b) a person who is, and has been for at least ten years, legally qualified within the meaning of section 5(2) of this Act; and
  - (c) one other person.
- (4) Except in a case to which subsection (5) below applies, the sheriff principal shall be the sheriff principal for the sheriffdom which includes the commission area for which the justice who is the subject of the investigation was appointed.
- (5) This subsection applies where it appears to the Lord President of the Court of Session to be inappropriate for that sheriff principal to be a member of the tribunal.
- (6) The sheriff principal referred to in subsection (3)(a) above shall not be a temporary sheriff principal.
- (7) Regulations, made by the Scottish Ministers—
  - (a) may make provision enabling the tribunal, at any time during an investigation, to suspend a full justice from office or from performing functions of a judicial nature and providing as to the effect and duration of such suspension;
  - (b) shall make such further provision as respects the tribunal as the Scottish Ministers consider necessary or expedient, including provision for the procedure to be followed by and before it.
- (8) Regulations under subsection (7) above shall be made by statutory instrument.

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*Status: This is the original version (as it was originally enacted).*

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- (9) No such regulations shall be made unless laid in draft before, and approved by resolution of, the Scottish Parliament.
  - (10) A person who has been removed under subsection (1) above from the office of justice shall be ineligible for re appointment; and a justice whose functions have been restricted under that subsection to those of a signing justice shall be ineligible for re appointment as a full justice.
  - (11) The name of a person who is the subject of an order under subsection (1) above, restricting that person's functions to those of a signing justice, shall be entered in the supplemental list.
  - (12) The Scottish Ministers shall send a copy of each order under subsection (1) above to the clerk of the peace for the commission area for which the justice who is the subject of the order was appointed.
  - (13) In this section, "full justice" and "signing justice" have the same meanings as in section 9 of this Act."
- (2) In section 9 of the 1975 Act, after subsection (2), there is inserted—
- “(2C) A signing justice may, in the name of Her Majesty and by instrument under the hand of the Scottish Ministers, be removed from office.”.
- (3) The modifications made by this section and paragraph 2(1) of the schedule to this Act have effect as respects justices appointed before this section comes into force (as well as those appointed thereafter).

## **10 Restriction of functions of justices who are councillors etc**

For section 12 (disqualification in certain cases of justices who are members of local authorities) of the 1975 Act there is substituted—

### **“12 Restriction of functions of justices who are councillors etc**

- (1) A member of a local authority—
    - (a) shall not be appointed to hold office as a full justice;
    - (b) may be appointed as a signing justice.
  - (2) A full justice who—
    - (a) at the coming into force of section 9 of the Bail, Judicial Appointments etc. (Scotland) Act 2000 (asp 9) is; or
    - (b) at any time thereafter becomes,
- (1) a member of a local authority, shall thereupon become a signing justice.
- (3) The name of a person—
    - (a) appointed as a justice under subsection (1)(b) above;
    - (b) who becomes a signing justice by virtue of the operation of subsection (2) above,shall be entered in the supplemental list.
  - (4) In subsection (1) above—

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“local authority” includes the Service Authority for the National Criminal Intelligence Service;

“full justice” and “signing justice” have the same meanings as in section 9 of this Act.”.