



# Judiciary and Courts (Scotland) Act 2008

## 2008 asp 6

### PART 2

#### THE JUDICIARY

### CHAPTER 3

#### JUDICIAL APPOINTMENTS

##### *Other Court of Session judges*

#### **21 Eligibility of solicitors for appointment as judges**

In paragraph 1(b) (appointment of solicitors as judges of the Court of Session) of Schedule 4 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)—

- (a) for “both” substitute “either”, and
- (b) for “and” substitute “or”.

#### **22 Temporary judges: tenure**

(1) Paragraph 5 (temporary judges) of Schedule 4 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40) is amended as follows.

(2) In sub-paragraph (1), the words from “for” in the second place it appears to the end are repealed.

(3) For sub-paragraph (2) substitute—

“(2) A person’s appointment as a temporary judge lasts for 5 years, subject to the following provisions of this paragraph and paragraph 9 below.

(3) A person’s appointment as a temporary judge comes to an end on the date on which the person reaches the age of 70.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Sub-paragraph (3) above is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (c. 8) (power to authorise continuance in office up to the age of 75).
- (5) A person's appointment as a temporary judge comes to an end if the person is removed from office under section 39 of the Judiciary and Courts (Scotland) Act 2008 (asp 6) (temporary judges: removal from office).
- (6) A person appointed as a temporary judge may resign at any time by giving notice to that effect to the Scottish Ministers.
- (7) Where a person's appointment as a temporary judge comes to an end by virtue of sub-paragraph (2) above, the person is to be reappointed under the said section 35(3), unless—
  - (a) the person has declined reappointment,
  - (b) the person has reached the age of 70,
  - (c) the person has sat as a temporary judge on fewer than 50 days during the period of appointment, or
  - (d) the Lord President has recommended to the Scottish Ministers that the person should not be reappointed.
- (8) A person whose appointment as a temporary judge comes to an end by resignation under sub-paragraph (6) above may be reappointed under the said section 35(3).
- (9) The provisions of this paragraph, and paragraphs 6 to 11 below, apply to a reappointment as they apply to an appointment.”.

## **23 Re-employment of retired judges**

In section 22(1) (re-employment of retired judges) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73)—

- (a) the words “, with the consent of the Scottish Ministers,” are repealed, and
- (b) in paragraph (a), after “Session” insert “(and did not cease to hold that office by virtue of section 95(6) of the Scotland Act 1998 (c. 46))”.