



# Judiciary and Courts (Scotland) Act 2008

## 2008 asp 6

### PART 3

#### THE COURTS

##### *The Court of Session*

#### **44 Maximum number of judges**

- (1) Section 1 (number of judges of the Court) of the Court of Session Act 1988 (c. 36) is amended as follows.
- (2) In subsection (1), after “(3)” insert “, (3A)”.
- (3) In subsection (3), for the words from “Parliament” in the first place it appears to the end substitute “ and approved by resolution of the Scottish Parliament. ”.
- (4) After subsection (3) insert—

“(3A) The Lord President must be consulted before any draft of an Order under this section is laid before the Parliament.”.

#### **45 Number of judges of the First and Second Divisions of the Inner House**

In section 2(2A) (composition of the Court) of the Court of Session Act 1988 (c. 36), after “may” insert “, after consulting the Lord President, ”.

#### **46 Divisions of the Inner House**

- (1) The Court of Session Act 1988 (c. 36) is amended as follows.
- (2) In section 2 (composition of the Court)—
  - (a) for subsection (3) substitute—

“(3) The Lord President may from time to time constitute, from among the judges of the Court, an extra Division of the Inner House for the purpose of hearing and disposing of causes pending before the Inner House; and any reference in this Act or in any other enactment

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to a Division of the Inner House shall be construed as including a reference to such an extra Division.”, and

(b) in subsection (4), at beginning, insert “ Subject to section 5(ba) below, ” .

(3) In section 5 (power to regulate procedure etc. in the Court of Session by act of sederunt), after paragraph (b) insert—

“(ba) to make provision as to the quorum for a Division of the Inner House considering solely procedural matters, and, in the case of an extra Division, to make provision as to which judge is to preside and to sign any judgment or interlocutor pronounced by the extra Division;”.

*Sheriff courts*

**F1 47 Sheriff principal's responsibility**

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**Textual Amendments**

**F1** Ss. 47-56 repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(c)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

**F1 48 Repeal of certain responsibilities of Scottish Ministers**

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**Textual Amendments**

**F1** Ss. 47-56 repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(c)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

**F1 49 Lord President's default power**

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**Textual Amendments**

**F1** Ss. 47-56 repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(c)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

**F1 50 Alteration of boundaries of sheriffdoms**

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**Textual Amendments**

**F1** Ss. 47-56 repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(c)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

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**F1 51 Sheriff court districts and places where sheriff courts are to be held**

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**Textual Amendments**

**F1** Ss. 47-56 repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(c)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

**F1 52 Repeal of power to appoint sheriff to assist Scottish Ministers**

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**Textual Amendments**

**F1** Ss. 47-56 repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(c)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

**F1 53 Sheriffs principal and sheriffs acting in other sheriffdoms**

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**Textual Amendments**

**F1** Ss. 47-56 repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(c)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

**F1 54 Residence and leave of absence of sheriffs principal**

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**Textual Amendments**

**F1** Ss. 47-56 repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(c)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

**F1 55 Number, residence and deployment of sheriffs**

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**Textual Amendments**

**F1** Ss. 47-56 repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(c)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

**F1 56 Leave of absence of sheriffs**

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### Textual Amendments

- F1** Ss. 47-56 repealed (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 5 para. 9(2)(c)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

### *Justice of the peace courts*

#### **57 Establishment, constitution etc.**

- (1) The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6) is amended as follows.
- (2) In section 59 (establishing justice of the peace courts)—
- (a) subsection (1) is repealed,
  - (b) in subsection (4), for “Scottish Ministers determine” substitute “ Lord President of the Court of Session determines ”,
  - (c) in subsection (5), for “Scottish Ministers” substitute “ Lord President ”, and
  - (d) for subsection (7) substitute—
 

“(7) The Scottish Ministers may make an order under subsection (2) or (6) only with the consent of—

    - (a) the Lord President, and
    - (b) the Scottish Court Service.

(7A) Before consenting to the making of such an order—

    - (a) the Lord President must consult the sheriff principal for the sheriffdom in which the JP court is, or is to be, located, and
    - (b) the Scottish Court Service must consult such persons as it considers appropriate.”.

(3) In section 63 (constitution and powers etc. of justice of the peace courts)—

    - (a) after subsection (2) insert—
 

“(2A) The Scottish Ministers may make an order under subsection (2) only on the recommendation of the Lord President of the Court of Session.”, and
    - (b) in subsection (5)(b), for “Scottish Ministers” substitute “ Lord President ”.

### Commencement Information

- II** S. 57 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

#### **58 Sheriff principal's responsibility**

- (1) The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6) is amended as follows.
- (2) For section 61 substitute—

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### **“61 Efficient disposal of business in JP courts**

- (1) The sheriff principal of each sheriffdom is responsible for securing the efficient disposal of business in JP courts in that sheriffdom.
  - (2) If, in carrying out that responsibility, the sheriff principal gives a direction of an administrative character to a person mentioned in subsection (3), the person must comply with the direction.
  - (3) Those persons are—
    - (a) a justice of the peace, or stipendiary magistrate, appointed for the sheriffdom,
    - (b) a member of staff of the Scottish Court Service.
  - (4) Subsections (1) and (2) are subject to section 2(2)(a) and (3) of the Judiciary and Courts (Scotland) Act 2008 (asp 6) (which make the Head of the Scottish Judiciary responsible for maintaining arrangements for securing the efficient disposal of business in the Scottish courts and require compliance with directions given in pursuance of that responsibility).”.
- (3) In section 74(3) (pre-condition for appointment of stipendiary magistrate), for the words “administration of” substitute “disposal of business in”.

#### **Commencement Information**

**I2** S. 58 in force at 1.4.2010 by [S.S.I. 2010/39](#), art. 2(b), [Sch.](#)

### *Court holidays*

#### **59 Court holidays in sheriff courts and justice of the peace courts**

- (1) Section 8 (sittings of sheriff and justice of the peace courts) of the Criminal Procedure (Scotland) Act 1995 (c. 46) is amended as follows.
- (2) In subsections (2) and (3), for “10” substitute “ 11 ”.

**Status:**

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**Changes to legislation:**

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