



Scotland Act 1998

1998 CHAPTER 46

PART V

MISCELLANEOUS AND GENERAL

Miscellaneous

95 Appointment and removal of judges

- (1) It shall continue to be for the Prime Minister to recommend to Her Majesty the appointment of a person as Lord President of the Court of Session or Lord Justice Clerk.
- (2) The Prime Minister shall not recommend to Her Majesty the appointment of any person who has not been nominated by the First Minister for such appointment.
- (3) Before nominating persons for such appointment the First Minister shall consult the Lord President and the Lord Justice Clerk (unless, in either case, the office is vacant).
- (4) It is for the First Minister, after consulting the Lord President, to recommend to Her Majesty the appointment of a person as—
 - (a) a judge of the Court of Session (other than the Lord President or the Lord Justice Clerk), or
 - (b) a sheriff principal or a sheriff.
- (5) The First Minister shall comply with any requirement in relation to—
 - (a) a nomination under subsection (2), or
 - (b) a recommendation under subsection (4),imposed by virtue of any enactment.
- (6) A judge of the Court of Session and the Chairman of the Scottish Land Court may be removed from office only by Her Majesty; and any recommendation to Her Majesty for such removal shall be made by the First Minister.

Status: This is the original version (as it was originally enacted).

- (7) The First Minister shall make such a recommendation if (and only if) the Parliament, on a motion made by the First Minister, resolves that such a recommendation should be made.
- (8) Provision shall be made for a tribunal constituted by the First Minister to investigate and report on whether a judge of the Court of Session or the Chairman of the Scottish Land Court is unfit for office by reason of inability, neglect of duty or misbehaviour and for the report to be laid before the Parliament.
- (9) Such provision shall include provision—
- (a) for the constitution of the tribunal by the First Minister when requested by the Lord President to do so and in such other circumstances as the First Minister thinks fit, and
 - (b) for the appointment to chair the tribunal of a member of the Judicial Committee who holds or has held any of the offices referred to in section 103(2),
- and may include provision for suspension from office.
- (10) The First Minister may make a motion under subsection (7) only if—
- (a) he has received from a tribunal constituted in pursuance of subsection (8) a written report concluding that the person in question is unfit for office by reason of inability, neglect of duty or misbehaviour and giving reasons for that conclusion,
 - (b) where the person in question is the Lord President or the Lord Justice Clerk, he has consulted the Prime Minister, and
 - (c) he has complied with any other requirement imposed by virtue of any enactment.
- (11) In subsections (8) to (10)—
- “provision” means provision by or under an Act of the Scottish Parliament,
 - “tribunal” means a tribunal of at least three persons.