
EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order amends the Judicial Pensions and Retirement Act 1993 (“the 1993 Act”) by adding entries for the offices of part-time sheriff, stipendiary magistrate and justice of the peace to the list of relevant offices in Schedule 5 to that Act. Persons holding an office listed in Schedule 5 are subject to the retirement provisions set out in section 26 of that Act.

Section 26(1) of the 1993 Act provides that persons holding these offices shall retire at age 70. Articles 3(2)(a), 4(2) and 4(5) therefore alter the wording of the existing provision which sets the retirement date for these offices.

Section 26(4) to (6) of the 1993 Act provides for persons holding these offices to continue in office after the age of 70 if the Scottish Ministers consider it desirable in the public interest. These continuations can be authorised for up to a year at a time until the office-holder is 75.

This Order also provides for the persons holding these offices to be authorised by a sheriff principal to be able to return to act in these offices after they have left office.

Article 3(3) amends section 14A of the Sheriff Courts (Scotland) Act 1971 (“the 1971 Act”) to provide that the terms of that section, which allows the re-employment of former sheriffs to act as such, also apply to former holders of the office of part-time sheriff.

Article 4(4) inserts new sections 71A and 71B into the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the 2007 Act”). These sections provide that justices of the peace may be re-employed to act as such, on the same basis as former sheriffs. Article 4(6) amends section 75 of the 2007 Act, which applies these provisions to the office of stipendiary magistrate, so that these new sections apply to that office, with the necessary modifications.

This Order also repeals provisions which do not require certain judicial office-holders to be automatically re-appointed if their term in office ends when they are aged 69. Article 3(2)(b) repeals section 11B(6)(b) of the 1971 Act, which applied to part-time sheriffs. Article 4(3) repeals section 70(2)(b) of the 2007 Act, which applied to justices of the peace (and, as applied by section 75, stipendiary magistrates).

No business regulatory impact assessment has been prepared for this Order as no impact upon businesses, charities or voluntary bodies is foreseen.