



# Court of Session Act 1988

## 1988 CHAPTER 36

### PART I

#### CONSTITUTION AND ADMINISTRATION OF THE COURT

#### **2 Composition of Court.**

The Court shall be composed of an Inner House and an Outer House constituted in accordance with the following provisions of this section.

- (2) Subject to subsection (3) below, the Inner House shall be composed of two Divisions, namely, the First Division comprising the Lord President and [<sup>F1</sup>four] senior judges of the Court, and the Second Division comprising the Lord Justice Clerk and [<sup>F2</sup>five] other senior judges of the Court.

[<sup>F3</sup>(2A) The Scottish Ministers may [<sup>F4</sup>, after consulting the Lord President,] from time to time by order amend subsection (2) above so as to alter or further alter the number of senior judges in the two Divisions.

<sup>F3</sup>(2B) The power conferred by subsection (2A) above may be exercised—

- (a) in relation only to one; or
- (b) differently in relation to each,

of the two Divisions.

<sup>F3</sup>(2C) An order under this section shall be made by statutory instrument.

<sup>F3</sup>(2D) No order shall be made under this section unless a draft of the instrument containing it has been laid before and approved by resolution of the Scottish Parliament.]

[<sup>F5</sup>(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 to a Division of the Inner House shall be construed as including a reference to such an extra Division.]

*Status: Point in time view as at 01/06/2009. This version of this provision has been superseded.*

*Changes to legislation: Court of Session Act 1988, Section 2 is up to date with all changes known to be in force on or before 14 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) [<sup>F6</sup>Subject to section 5(ba) below,] the quorum for a Division of the Inner House shall be three judges.
- (5) The Outer House shall be composed of the judges of the Court (other than the judges of the Inner House while they are sitting in the Inner House) sitting singly, and any reference in this Act or in any other enactment to a Lord Ordinary shall be construed as a reference to a judge sitting singly in the Outer House.
- [<sup>F7</sup>(6) Subject to [<sup>F8</sup>subsections (7) and (8)]below, where a vacancy arises in a Division of the Inner House the Lord President and the Lord Justice Clerk, with the consent of the Secretary of State and after such consultation with judges as appears to them to be appropriate in the particular circumstances, shall appoint a Lord Ordinary to fill that vacancy.]
- (7) Subsection (6) above shall not apply in the case of such a vacancy arising by reason of the death or resignation of the Lord President or the Lord Justice Clerk.
- [<sup>F9</sup>(8) The Scottish Ministers shall not give their consent under subsection (6) above to an appointment filling a vacancy in one of the two Divisions of the Inner House unless they are satisfied that the state of business in the Inner House requires that the vacancy be filled.]

#### Textual Amendments

- F1** Words in s. 2(2) substituted (26.2.2001) by S.S.I. 2001/41, **art. 2**
- F2** Word in s. 2(2) substituted (22.3.2007) by The Number of Inner House Judges (Variation) Order 2007 (S.S.I. 2007/258), arts. 1, **2**
- F3** S. 2(2A)-(2D) inserted (9.8.2000) by 2000 asp 9, s. **5(a)**
- F4** Words in s. 2(2A) inserted (1.6.2009) by Judiciary and Courts (Scotland) Act 2008 (asp. 6), **ss. 45, 76; S.S.I. 2008/192, art. 2, Sch.**
- F5** S. 2(3) substituted (1.6.2009) by Judiciary and Courts (Scotland) Act 2008 (asp. 6), **ss. 46(2)(a), 76; S.S.I. 2008/192, art. 2, Sch.**
- F6** Words in s. 2(4) inserted (1.6.2009) by Judiciary and Courts (Scotland) Act 2008 (asp. 6), **ss. 46(2)(b), 76; S.S.I. 2008/192, art. 2, Sch.**
- F7** S. 2(6) substituted (*1.4.1991*) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40, SIF 36:1), s. 35(2), **Sch. 4 para. 4(2)(b)**; S.I. 1991/822, art. 3, **Schedule**
- F8** Words in s. 2(6) substituted (9.8.2000) by 2000 asp 9, s. **5(b)**
- F9** S. 2(8) inserted (9.2.2000) by 2000 asp 9, s. **5(c)**

**Status:**

Point in time view as at 01/06/2009. This version of this provision has been superseded.

**Changes to legislation:**

Court of Session Act 1988, Section 2 is up to date with all changes known to be in force on or before 14 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.