



Administration of Justice (Scotland) Act 1933

1933 CHAPTER 41

PART IV

SHERIFFS AND SHERIFF COURT

31 Number of sheriffs and sheriffdoms

- (1) On the occurrence of a vacancy in the office of the Sheriff of Chancery that office shall be united with the office of the sheriff in whose sheriffdom the city of Edinburgh is included.
- (2) It shall be lawful for the Secretary of State, from time to time, as vacancies in the office of sheriff occur, by order, to form new sheriffdoms by uniting into one sheriffdom two or more counties, or parts of counties, whether the counties affected by any such order form, at the passing of this Act, separate sheriffdoms or are united with other counties into one sheriffdom.
- (3) Any union into one sheriffdom effected by an order under the last foregoing subsection shall, notwithstanding anything in any Act, have effect as a complete union as regards the jurisdiction, powers and duties of the sheriff and his substitutes, and the powers, duties, rights and privileges of solicitors practising in the sheriff courts.
- (4) An order made under this section shall be laid before each House of Parliament forthwith and shall not come into force until it has been approved by a resolution of each House.
- (5) When a vacancy shall occur in the office of sheriff of any sheriffdom the Secretary of State may, if he deems it expedient to do so, pending the consideration of the question whether an order under this section affecting such sheriffdom should be made, or the coming into force of any such order, appoint a sheriff of some other sheriffdom, or an advocate of not less than five years' standing, to act as interim sheriff of such sheriffdom or of any part thereof, and on such interim appointment being made the

Status: This is the original version (as it was originally enacted).

Treasury may, on the recommendation of the Secretary of State, allow such interim sheriff such remuneration as they think fit out of moneys to be provided by Parliament.

- (6) In this section the expressions "sheriff" shall not include a sheriff-substitute.

32 Amendment of 7 Edw. VII. c. 51, s. 15

Where the Secretary of State in pursuance of section fifteen of the Sheriff Courts (Scotland) Act, 1907, appoints an interim sheriff to act in the place and during the absence on leave, granted on account of temporary illness, of a sheriff who is restricted by the terms of his appointment from engaging in private practice, the provisions of the said section with regard to payment to the interim sheriff shall not apply and it shall be lawful for the Treasury to allow to any interim sheriff so appointed such remuneration as they think fit out of moneys to be provided by Parliament, and in the event of a vacancy in the office of such sheriff prior to the expiry of the period of leave of absence so granted to him, the appointment of the interim sheriff shall have effect as an appointment to act as sheriff until such vacancy shall be filled.

33 Sheriffs not to be entitled to annuity unless restricted from private practice

- (1) Section twenty of the Sheriff Courts (Scotland) Act, 1907 (which relates to annuities to sheriffs and salaried sheriffs-substitute), shall not apply to any sheriff (other than a sheriff holding office at the passing of this Act) unless he is restricted by the terms of his appointment from engaging in private practice.
- (2) In this section the expression "sheriff" shall not include a sheriff-substitute.

34 Court of Session may regulate procedure in the Sheriff Court

- (1) The Court of Session shall have power by Act of Sederunt—
- (a) to regulate and prescribe the procedure and practice to be followed in any proceedings in the sheriff court or in execution or diligence following thereon and any matters incidental or relating to any such procedure or practice including (but without prejudice to the foregoing generality) the manner in which, the time within which, and the conditions on which any application to the sheriff court or anything required or authorised to be done in relation to any such proceedings shall or may be made or done;
 - (b) to prescribe the form of any petition, writ, pleading or other document to be used in, or for the purposes of, any such proceedings as aforesaid, or in, or for the purposes of, any execution or diligence following on such proceedings, and the manner in which, and the person by whom, any such petition, writ, pleading or document shall be signed or authenticated;
 - (c) to provide for the admission, on such conditions as may be prescribed, of affidavits in lieu of parole evidence;
 - (d) to modify, amend or repeal any enactments relating to matters with respect to which an Act of Sederunt is made under this section.
- (2) Section forty of the Sheriff Courts (Scotland) Act, 1907, shall, except in so far as it relates to the regulation of fees, cease to have effect, provided always that any regulations under the said section (other than regulations relating to fees) which shall be in force at the passing of this Act shall continue in full force and effect unless and except in so far as they may be repealed or amended by Act of Sederunt under this section.

35 Sheriff Court Rules Council

- (1) There shall be established a Rules Council for the sheriff court, consisting of the Lord President ex officio, two sheriffs and four sheriffs-substitute to be appointed by the Lord President, one member of the Faculty of Advocates to be appointed by the Faculty and six solicitors to be appointed by the General Council of Solicitors in Scotland, provided that in the event of the said Rules Council being established before the first day of March, nineteen hundred and thirty-four, the first appointment of solicitors to be members thereof shall be made by the Lord President. The provisions of subsections (2), (3), and (4) of section eighteen of this Act with regard to the Rules Council appointed under that section shall apply to the Rules Council appointed under this section with the substitution of matters relating to the sheriff court for matters relating to the Court of Session, and with any other necessary modifications.
- (2) In this section the expression " sheriff " shall not include a sheriff-substitute.
- (3) A person appointed a member of the Rules Council under section eighteen of this Act may also be appointed a member of the Rules Council under this section.

36 Commencement of this Part of this Act

This Part of this Act (except sections thirty-four and thirty-five) shall come into operation on the passing thereof.