



Bail, Judicial Appointments etc. (Scotland) Act 2000

2000 asp 9

PART 2

JUDICIAL APPOINTMENTS

CHAPTER 3

JUSTICES OF THE PEACE

9 Removal, restriction of functions and suspension of justices

(1) After section 9 of the 1975 Act there is inserted—

“9A Removal and restriction of functions of justices

- (1) A full justice may be removed from office or be restricted to having the functions of a signing justice by, and only by, order of the tribunal constituted by and under subsection (3) below (the “tribunal”); but this subsection is without prejudice to sections 9(4) (as read with (6)) and (7), 12(2) and 15(1) of this Act.
- (2) The tribunal may make an order under subsection (1) above only if, after investigation carried out at the request of the Scottish Ministers, it finds that the full justice is, by reason of inability, neglect of duty or misbehaviour—
 - (a) unfit for office as such; or, as the case may be,
 - (b) unfit for performing functions of a judicial nature.
- (3) The tribunal shall consist of the following three members, who shall be appointed by the Lord President of the Court of Session—
 - (a) a sheriff principal (who shall preside);
 - (b) a person who is, and has been for at least ten years, legally qualified within the meaning of section 5(2) of this Act; and
 - (c) one other person.

Status: This is the original version (as it was originally enacted).

- (4) Except in a case to which subsection (5) below applies, the sheriff principal shall be the sheriff principal for the sheriffdom which includes the commission area for which the justice who is the subject of the investigation was appointed.
- (5) This subsection applies where it appears to the Lord President of the Court of Session to be inappropriate for that sheriff principal to be a member of the tribunal.
- (6) The sheriff principal referred to in subsection (3)(a) above shall not be a temporary sheriff principal.
- (7) Regulations, made by the Scottish Ministers—
 - (a) may make provision enabling the tribunal, at any time during an investigation, to suspend a full justice from office or from performing functions of a judicial nature and providing as to the effect and duration of such suspension;
 - (b) shall make such further provision as respects the tribunal as the Scottish Ministers consider necessary or expedient, including provision for the procedure to be followed by and before it.
- (8) Regulations under subsection (7) above shall be made by statutory instrument.
- (9) No such regulations shall be made unless laid in draft before, and approved by resolution of, the Scottish Parliament.
- (10) A person who has been removed under subsection (1) above from the office of justice shall be ineligible for re appointment; and a justice whose functions have been restricted under that subsection to those of a signing justice shall be ineligible for re appointment as a full justice.
- (11) The name of a person who is the subject of an order under subsection (1) above, restricting that person's functions to those of a signing justice, shall be entered in the supplemental list.
- (12) The Scottish Ministers shall send a copy of each order under subsection (1) above to the clerk of the peace for the commission area for which the justice who is the subject of the order was appointed.
- (13) In this section, "full justice" and "signing justice" have the same meanings as in section 9 of this Act."
- (2) In section 9 of the 1975 Act, after subsection (2), there is inserted—
 - "(2C) A signing justice may, in the name of Her Majesty and by instrument under the hand of the Scottish Ministers, be removed from office."
- (3) The modifications made by this section and paragraph 2(1) of the schedule to this Act have effect as respects justices appointed before this section comes into force (as well as those appointed thereafter).