



Senior Judiciary (Vacancies and Incapacity) (Scotland) Act 2006

2006 asp 9

1 Functions of the Lord President during vacancy or incapacity

- (1) Subsection (2) applies during any period when—
 - (a) the office of Lord President of the Court of Session (“the Lord President”) is vacant; or
 - (b) the Lord President is incapacitated.
- (2) During such a period—
 - (a) any function of the Lord President is exercisable instead by the Lord Justice Clerk;
 - (b) anything that falls to be done in relation to the Lord President falls to be done instead in relation to the Lord Justice Clerk;
 - (c) any function of the Lord Justice Clerk is exercisable instead by the senior judge of the Inner House; and
 - (d) anything that falls to be done in relation to the Lord Justice Clerk falls to be done instead in relation to the senior judge of the Inner House.
- (3) For the purposes of this section—
 - (a) the Lord President is to be regarded as incapacitated only if the First Minister has received a declaration in writing signed by at least 5 judges of the Inner House declaring that they are satisfied that the Lord President is incapacitated;
 - (b) in such a case, the Lord President is to be regarded as incapacitated until the First Minister has received a declaration in writing signed by at least 5 judges of the Inner House declaring that they are satisfied that the Lord President is no longer incapacitated.
- (4) Except in any period during which section 2(2) applies, the judges of the Inner House mentioned in subsection (3)(a) and (b) must include the Lord Justice Clerk.
- (5) The First Minister must send a copy of a declaration received under subsection (3)(a) or (b) to the Presiding Officer of the Scottish Parliament.