

JUDICIARY AND COURTS (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT

Part 3 – the Courts

Sheriff Courts

Section 47 – Sheriff principal’s responsibility

95. Section 15(1) of the 1971 Act confers on sheriffs principal the responsibility for ensuring the speedy and efficient disposal of business in the sheriff courts in their sheriffdoms. Subsection (2) of section 47 replaces section 15 of the 1971 Act. The new section 15(1) re-states this responsibility, bringing the wording in line with the wording of the Lord President’s responsibility in section 2(2)(a). The new subsections (2) and (3) of section 15 re-state the existing section 15(2) of the 1971 Act. The new section 15(4) makes it clear how this responsibility of sheriffs principal and their direction making power relates to the Lord President’s overarching responsibility in section 2(2)(a) and the Lord President’s direction making power in section 2(3).
96. Section 16 of the 1971 Act sets out sheriffs principals’ powers in respect of the duties and leave of absence of sheriffs, to support them in their responsibilities for the speedy and efficient disposal of business in the sheriff courts. These powers are subject to the direction of the Scottish Ministers. Subsection (3) of section 47 amends section 16 of the 1971 Act to remove the direction making power of the Scottish Ministers and to make this function subject to Lord President’s overarching responsibility in section 2(2)(a) and the Lord President’s direction making power in section 2(3).
97. Section 17 of the 1971 Act provides that a sheriff principal may fix sittings and business of sheriff courts in his or her sheriffdom and sessions for civil business. Subsection (4) of section 47 amends section 17 to make this function subject to the Lord President’s overarching responsibility in section 2(2)(a) and the Lord President’s direction making power in section 2(3).
98. Section 20 of the 1971 Act provides that the Lord Advocate may issue instructions to procurators fiscal under section 8(1) of the [Sheriff Courts and Legal Officers \(Scotland\) Act 1927 \(c.35\)](#) for the purpose of ensuring the speedy and efficient disposal of business in the sheriff courts. Subsection (5) of section 47 amends the wording of section 20 of the 1971 Act to bring it into line with the responsibilities imposed on the Lord President in section 2(2)(a) of the Act and on sheriffs principal in the amended section 15 of the 1971 Act. There is no change in substance.