

*These notes relate to the Judiciary and Courts (Scotland) Act 2008 (asp 6) which received Royal Assent on 29 October 2008*

# **JUDICIARY AND COURTS (SCOTLAND) ACT 2008**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 3 – the Courts**

#### **Sheriff Courts**

#### ***Section 49 – Lord President’s default power***

100. In recognition of the Scottish Ministers duties and powers in relation to sheriff courts, section 18 of the 1971 Act provided them with a default power which enabled them to step in and take over the functions of a sheriff principal where they considered that he or she was exercising his or her functions in such a way as to prejudice the efficient disposal of business in, or organisation or administration of, the sheriff courts within their sheriffdom or that their actions were not in the interests of the public. The power was intended for use in the case of significant malfunction, for example a sheriff principal issuing an arbitrary instruction excluding certain types of cases from being heard within the courts of their sheriffdom. This section repeals section 18 of the 1971 Act and inserts a new section 17A in that Act which provides the Lord President with an equivalent default power.