

JUDICIARY AND COURTS (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT

Part 4 – the Scottish Court Service

Establishment

Section 60 – The Scottish Court Service

114. **Part 4** of the Act establishes a body corporate known as the Scottish Court Service (“the SCS”) whose functions are to provide the administrative support for the Scottish courts, the judiciary of those courts and certain other specified persons. The existing Executive Agency of the Scottish Government, also known as the SCS, will be replaced by this new body. The new SCS will be part of the Scottish Administration but not part of the Scottish Government (see paragraph below as to the mechanism for achieving this). This is in contrast to the existing SCS which, as an Executive Agency, is part of the Scottish Government and therefore under Ministerial control. The new SCS will consist of 7 judicial members and 6 non-judicial members and will have its own staff of civil servants. It will not be under Ministerial control but it will have to agree a corporate plan with the Scottish Ministers. There is also a default power for the Scottish Ministers to take over the functions of the SCS.
115. Paragraph 1 of Schedule 3 to the Act (which makes further provision about the SCS) provides that the SCS is to be the holder of an office. That paragraph also provides that the SCS is to be the name of both the office-holder and the office itself. An order will be made at Westminster under section 104 of the Scotland Act 1998 (power to make provision consequential on legislation of, or scrutinised by, the Parliament) to include the office known as the SCS within the Scottish Administration.