



Court of Session Act 1988

1988 CHAPTER 36

PART I

CONSTITUTION AND ADMINISTRATION OF THE COURT

1 Number of judges of Court.

- (1) Subject to subsections (2), (3) and (4) below, the maximum number of judges of the Court of Session (hereinafter in this Act referred to as “the Court”) shall be 24.
- (2) Her Majesty may by Order in Council from time to time amend subsection (1) above so as to increase or further increase the maximum number of persons who may be appointed as judges of the Court.
- (3) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.
- (4) No vacancy arising among the judges of the Court shall be filled unless the Secretary of State, with the concurrence of the Treasury, is satisfied that the state of business in the Court requires that the vacancy should be filled.
- (5) There shall be paid out of the Consolidated Fund any increase attributable to the provisions of this section in the sums which, under any other enactment, are payable out of that Fund.

2 Composition of Court.

The Court shall be composed of an Inner House and an Outer House constituted in accordance with the following provisions of this section.

- (2) Subject to subsection (3) below, the Inner House shall be composed of two Divisions, namely, the First Division comprising the Lord President and three senior judges of the Court, and the Second Division comprising the Lord Justice Clerk and three other senior judges of the Court.

Status: Point in time view as at 01/02/1991.

Changes to legislation: Court of Session Act 1988, Part I is up to date with all changes known to be in force on or before 06 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The Lord President may from time to time direct any three judges of the Court to sit as an extra Division of the Inner House for the purpose of hearing and disposing of causes pending before the Inner House, and [^{F1}the senior judge present shall preside and shall][^{F1}shall direct one of those judges to preside and to]sign any judgment or interlocutor pronounced by the extra Division; and any reference in this Act or in any other enactment to a Division of the Inner House shall be construed as including a reference to such an extra Division.
- (4) The quorum for a Division of the Inner House shall be three judges.
- (5) The Outer House shall be composed of the judges of the Court (other than the judges of the Inner House while they are sitting in the Inner House) sitting singly, and any reference in this Act or in any other enactment to a Lord Ordinary shall be construed as a reference to a judge sitting singly in the Outer House.
- [^{F2}(6) Subject to subsection (7) below, a vacancy arising in a Division of the Inner House shall be filled by the appointment of the senior Lord Ordinary.]
- [^{F2}(6) Subject to subsection (7) below, where a vacancy arises in a Division of the Inner House the Lord President and the Lord Justice Clerk, with the consent of the Secretary of State and after such consultation with judges as appears to them to be appropriate in the particular circumstances, shall appoint a Lord Ordinary to fill that vacancy.]
- (7) Subsection (6) above shall not apply in the case of such a vacancy arising by reason of the death or resignation of the Lord President or the Lord Justice Clerk.

Textual Amendments

- F1** For words beginning “the senior judge” there is substituted (*prosp.*) words beginning “shall direct one” by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 36:1\), ss. 35\(2\), 75\(2\), Sch. 4 para. 4\(1\)\(2\)\(a\)](#)
- F2** For s. 2(6) beginning “Subject to subsection (7) below, a vacancy arising” there is substituted (*prosp.*) s. 2(6) beginning “Subject to subsection (7) below, where a vacancy arises” by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 36:1\), ss. 35\(2\), 75\(2\), Sch. 4 para. 4\(1\)\(2\)\(b\)](#)

3 Exchequer causes.

One of the judges of the Court who usually sits as a Lord Ordinary shall be appointed by the [^{F3}Court by act of sederunt][^{F3}Lord President]to act as Lord Ordinary in exchequer causes, and no other judge shall so act unless and until such judge is appointed in his place:

Provided that, in the event of the absence or inability of the Lord Ordinary in exchequer causes for whatever reason, any of his duties may be performed by any other Lord Ordinary acting in his place.

Textual Amendments

- F3** For “Court by Act of Sederunt” there is substituted (*prosp.*) “Lord President” by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 36:1\), ss. 35\(2\), 75\(2\), Sch. 4 para. 4\(1\)\(3\)](#)

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4 Power of judges to act in cases relating to rates and taxes.

- (1) A judge of the Court shall not be incapable of acting as such in any proceedings by reason of being, as one of a class of ratepayers, taxpayers or persons of any other description, liable in common with others to pay, or contribute to, or benefit from, any rate or tax which may be increased, reduced or in any way affected by those proceedings.
- (2) In this section “rate or tax” means any rate, tax, duty or assessment, whether public, general or local, and includes—
 - (a) any fund formed from the proceeds of any such rate, tax, duty or assessment; and
 - (b) any fund applicable for purposes the same as, or similar to, those for which the proceeds of any such rate, tax, duty or assessment are or might be applied.

Status:

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