



Judiciary and Courts (Scotland) Act 2008

2008 asp 6

PART 2

THE JUDICIARY

CHAPTER 2

SENIOR JUDICIARY: VACANCY, INCAPACITY AND SUSPENSION

4 Lord President

- (1) This section applies during any period when—
 - (a) the office of Lord President is vacant,
 - (b) the Lord President is incapacitated, or
 - (c) the Lord President is suspended.
- (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 a majority of the total number of 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 a majority of the total number of judges of the Inner House declaring that they are satisfied that the Lord President is no longer incapacitated.

Changes to legislation: There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Section 4. (See end of Document for details)

- (4) The judges of the Inner House making a declaration for the purposes of subsection (3) (a) or (b) must include the Lord Justice Clerk.
- (5) The requirement in subsection (4)—
 - (a) does not apply during any period when section 5 applies, and
 - (b) is subject to section 7(4).
- (6) 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.
- (7) The reference in subsection (2)(a) to functions of the Lord President does not include the function of participating in a panel established under section 19(2) in connection with a vacancy, or an expected vacancy, in the office of Lord Justice Clerk.

Extent Information

E1 Pt. 2 Ch. 2 extended to E.W.N.I. (14.9.2009) by [S.I. 2009/2231](#), [art. 4](#)

Changes to legislation:

There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Section 4.