
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in consequence of the Judiciary and Courts (Scotland) Act 2008 (asp 6) (“the 2008 Act”). The 2008 Act creates a body corporate to be known as the Scottish Court Service. The 2008 Act also makes provision about the judiciary and the courts in Scotland.

Article 2 provides that the Scottish Court Service is part of the Scottish Administration.

Article 3 provides that references in the Scotland Act 1998 and any other enactment to an office-holder in the Scottish Administration, however it is defined, are to be taken to include references to the Scottish Court Service, unless the context otherwise requires. It also provides that the Crown Suits (Scotland) Act 1857 does not apply to the Scottish Court Service with the effect that the Lord Advocate cannot be sued in the place of the Scottish Court Service.

Article 4 extends Chapter 2 of Part 2 of the 2008 Act, which makes provision for vacancy, incapacity and suspension of senior Scottish judiciary, to England and Wales and Northern Ireland.