



# Courts Act 1971

## 1971 CHAPTER 23

### PART III

#### JUDGES

#### 16 Appointment of Circuit Judges.

- (1) Her Majesty may from time to time appoint as Circuit judges, to serve in the Crown Court and county courts and to carry out such other judicial functions as may be conferred on them under this or any other enactment, such qualified persons as may be recommended to Her by the Lord Chancellor.
- (2) The maximum number of Circuit judges shall be such as may be determined from time to time by the Lord Chancellor with the concurrence of the Minister for the Civil Service.
- (3) No person shall be qualified to be appointed a Circuit judge <sup>F1</sup>unless—
  - (a) he has a 10 year Crown Court or 10 year county court qualification within the meaning of section 71 of the Courts and Legal Services Act 1990;
  - (b) he is a Recorder; or
  - (c) he has held as a full-time appointment for at least 3 years one of the offices listed in Part IA of Schedule 2.]
- (4) Before recommending any person to Her Majesty for appointment as a Circuit judge, the Lord Chancellor shall take steps to satisfy himself that that person's health is satisfactory.
- (5) The provisions of Part I of Schedule 2 to this Act shall have effect with respect to the appointment as Circuit judges of the holders of certain judicial offices, and the supplementary provisions in Part II of that Schedule shall have effect.

#### Textual Amendments

- F1** S. 16(3)(a)–(c) substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 31\(1\)](#)

*Status: Point in time view as at 31/03/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Courts Act 1971, Part III. (See end of Document for details)*

#### Modifications etc. (not altering text)

- C1** S. 16(3)(c) modified by [Courts and Legal Services Act 1990 \(c. 41, SIF 37, 76:1\)](#), s. 125(6), **Sch. 19 para. 5**

### 17 Retirement, removal and disqualifications of Circuit judge.

[<sup>F2</sup>(1) Subject to subsection (4) below and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75), a Circuit judge shall vacate his office on the day on which he attains the age of 70.]

<sup>F3</sup>(2) .....

<sup>F3</sup>(3) .....

(4) The Lord Chancellor may, if he thinks fit, remove a Circuit judge from office on the ground of incapacity or misbehaviour.

(5) ..... <sup>F4</sup>

(6) ..... <sup>F5</sup>

#### Textual Amendments

- F2** S. 17(1) substituted (31.3.1995) by [1993 c. 8, s. 26, Sch. 6 para. 8\(2\)](#); S.I. 1995/631, **art. 2**
- F3** S. 17(2)(3) repealed (31.3.1995) by [1993 c. 8, s. 26, Sch. 6 para. 8\(3\)\(4\), Sch. 9](#); S.I. 1995/631, **art. 2**
- F4** S. 17(5) repealed by [House of Commons Disqualification Act 1975 \(c. 24\), Sch. 3](#) and [Northern Ireland Assembly Disqualification Act 1975 \(c. 25\), Sch. 3 Pt. I](#)
- F5** S. 17(6) repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), **Sch. 20**

### 18 Salaries and allowances of Circuit judges.

(1) Subject to Part II of Schedule 2 to this Act, there shall be paid to each Circuit judge such salary as may be determined by the Lord Chancellor with the consent of the Minister for the Civil Service.

(2) Every salary payable under this section—

- (a) shall be charged on and paid out of the Consolidated Fund;
- (b) shall begin from the date of appointment and accrue due from day to day;
- (c) shall be payable at such intervals, not exceeding three months, as the Treasury may determine; and
- (d) may be increased, but not reduced, by a further determination under this section.

<sup>F6</sup>(3) .....

<sup>F7</sup>(4) .....

- (a) became a Circuit judge by virtue of having held any of the offices specified in paragraph 1 of Schedule 2 to this Act, and
- (b) held that office before 10th May 1967 (that is to say before the passing of the <sup>M1</sup>Superannuation (Miscellaneous Provisions) Act 1967).

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- (5) There shall be paid to Circuit judges out of money provided by Parliament such allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.

#### Textual Amendments

- F6** S. 18(3) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), ss. 84(c), 125(7), **Sch. 20**
- F7** S. 18(4) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

#### Modifications etc. (not altering text)

- C2** S. 18 modified (9.11.1998) by 1998 c. 42, s. 18(4)(d) (with ss. 7(8), 22(5))  
S. 18 modified (27.9.1999) by 1999 c. 22, ss. 68(3)(a), 108(3)(b) (with Sch. 14 para. 7(2))

#### Marginal Citations

- M1** 1967 c. 28.

- 19** <sup>F8</sup>(1) .....
- <sup>F9</sup>(5) .....
- <sup>F10</sup>(6) .....

- (7) The decision of the Minister for the Civil Service shall be final on any question arising with regard to—
- (a) the application of any of the provisions of this section to any person, or
- <sup>F11</sup>(b) .....

#### Textual Amendments

- F8** S. 19(1)–(4) repealed by Judicial Pensions Act 1981 (c. 20, SIF 71:2), s. 36(2), **Sch. 4**
- F9** S. 19(5) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(7), **Sch. 20** (subject to a saving in s. 125(6), Sch. 19 para. 10(3))
- F10** S. 19(6) repealed by Judicial Pensions Act 1981 (c. 20, SIF 71:2), s. 36(2), **Sch. 4**
- F11** S. 19(7) paragraphs (b) and (c) repealed by Judicial Pensions Act 1981 (c. 20, SIF 71:2), s. 36(2), **Sch. 4**

## 20 Judges of county courts.

[<sup>F12</sup>(1) Every Circuit judge shall, by virtue of his office, be capable of sitting as a judge for any county court district in England and Wales, and the Lord Chancellor shall assign one or more Circuit judges to each district and may from time to time vary the assignment of Circuit judges among the districts.

- (2) Subject to any directions given by or on behalf of the Lord Chancellor, in any case where more than one Circuit judge is assigned to a district under subsection (1) above, any function conferred by or under the <sup>M2</sup>County Courts Act 1959 on the judge for a district may be exercised by any of the Circuit judges for the time being assigned to that district.

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- (3) The following, that is—  
 every judge of the Court of Appeal,  
 every judge of the High Court,  
 every Recorder,  
 shall, by virtue of his office, be capable of sitting as a judge for any county court district in England and Wales and if he consents to do so, shall sit as such a judge at such times and on such occasions as the Lord Chancellor considers desirable.
- (4) Notwithstanding that he is not for the time being assigned to a particular district, a Circuit judge—  
 (a) shall sit as a judge of that district at such times and on such occasions as the Lord Chancellor may direct; and  
 (b) may sit as a judge of that district in any case where it appears to him that the judge of that district is not, or none of the judges of that district is, available to deal with the case.]
- (5) So much of Part I of the <sup>M3</sup>County Courts Act 1959 as makes special provision in relation to county court districts within the Duchy of Lancaster shall cease to have effect.
- (6) On the appointed day all appointments of temporary and deputy judges of county courts shall terminate and the provisions of the <sup>M4</sup>County Courts Act 1959 relating to such temporary and deputy judges shall cease to have effect.
- (7) Nothing in this Act shall affect the operation, in relation to the superannuation and other benefits payable to or in respect of persons who ceased to be judges of county courts before the day appointed for the coming into force of section 16(5) of this Act, of any enactment repealed or amended by this Act.

#### Textual Amendments

**F12** S. 20(1)–(4) repealed (E.W.) by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

#### Marginal Citations

**M2** 1959 c. 22.

**M3** 1959 c. 22.

**M4** 1959 c. 22.

## 21 Appointment of Recorders.

- (1) Her Majesty may from time to time appoint qualified persons, to be known as Recorders, to act as part-time judges of the Crown Court and to carry out such other judicial functions as may be conferred on them under this or any other enactment.
- (2) Every appointment of a person to be a Recorder shall be of a person recommended to Her Majesty by the Lord Chancellor, and no person shall be qualified to be appointed a Recorder unless [<sup>F13</sup>he has a 10 year Crown Court or 10 year county court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990].
- (3) The appointment of a person as a Recorder shall specify the term for which he is appointed and the frequency and duration of the occasions during that term on which he will be required to be available to undertake the duties of a Recorder.

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- (4) Subject to subsection (5) below the Lord Chancellor may, with the agreement of the Recorder concerned, from time to time extend for such period as he thinks appropriate the term for which a Recorder is appointed.
- (5) Neither the initial term for which a Recorder is appointed nor any extension of that term under subsection (4) above shall be such as to continue his appointment as a Recorder after [<sup>F14</sup>the day on which he attains the age of seventy, but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor's power to authorise continuance in office up to the age of 75)].
- (6) The Lord Chancellor may if he thinks fit terminate the appointment of a Recorder on the ground of incapacity or misbehaviour or of a failure to comply with any requirement specified under subsection (3) above in the terms of his appointment.
- (7) There shall be paid to Recorders out of money provided by Parliament such remuneration and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.

#### Textual Amendments

- F13** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 32\(1\)](#)
- F14** Words in s. 21(5) substituted (31.3.1995) by [1993 c. 8, s. 26, Sch. 6 para. 9\(1\)](#); [S.I. 1995/631, art. 2](#)

## 22 Oaths to be taken by Circuit judges and Recorders.

- (1) Subject to the following provisions of this section, every Circuit judge and every Recorder shall take the oath of allegiance and the judicial oath; and the <sup>M5</sup>Promissory Oaths Act 1868 shall have effect as if the officers named in the Second Part of the Schedule to that Act included Circuit judges and Recorders.
- (2) Notwithstanding anything in the <sup>M6</sup>Promissory Oaths Act 1871, a Circuit judge shall take the oaths referred to in subsection (1) above before the Lord Chancellor, and a Recorder shall take those oaths before a judge of the Court of Appeal or of the High Court or a Circuit judge.
- (3) Nothing in this section shall require an oath to be taken by a person who becomes a Circuit judge in accordance with any provision of Part I of Schedule 2 to this Act.

#### Marginal Citations

- M5** [1868 c. 72.](#)
- M6** [1871 c. 48.](#)

## [<sup>F15</sup>23 Circuit judge or Recorder sitting as High Court Judge.

- (1) If requested to do so by or on behalf of the Lord Chancellor, a Circuit judge or Recorder shall sit as a judge of the High Court for the hearing of such case or cases or at such place and for such time as may be specified by or on behalf of the Lord Chancellor.
- (2) So long as a Circuit judge or Recorder sits as a judge of the High Court in pursuance of a request under this section he shall be treated, subject to subsection (3) below, for

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all purposes as, and accordingly may perform any of the functions of, a puisne judge of the High Court.

- (3) A Circuit judge or Recorder sitting as a judge of the High Court in pursuance of a request under this section shall not be treated as a judge of the High Court for the purpose of any provision made by or under any enactment and relating to—
- (a) the appointment, retirement, removal or disqualification of judges of the High Court,
  - (b) the tenure of office and oaths to be taken by such judges, or
  - (c) the remuneration, allowances or pensions of such judges.
- (4) Where a Circuit judge or Recorder is requested to sit as a judge of the High Court for a period of time then, notwithstanding the expiry of that time, he may attend at the High Court for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case which may have been begun before him when sitting as a judge of that court, and for that purpose and for the purpose of any proceedings subsequent thereon he shall be treated as a judge of the High Court.]

#### Textual Amendments

**F15** S. 23 repealed (E.W.) by [Supreme Courts Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

#### [<sup>F16</sup>24 Deputy Circuit judges and assistant Recorders.

- (1) If it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this section in order to facilitate the disposal of business in the Crown Court or a county court or official referees' business in the High Court, he may—
- (a) appoint to be a deputy Circuit judge, during such period or on such occasions as he thinks fit, any person who has held office as a judge of the Court of Appeal or of the High Court or as a Circuit judge; or
  - (b) appoint to be an assistant Recorder, during such period or on such occasions as he thinks fit, [<sup>F17</sup>any person who has a 10 year Crown Court or 10 year county court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990].

- [ No appointment of a person under subsection (1) above shall be such as to extend—
- <sup>F18</sup>(1A) (a) in the case of appointment as a deputy Circuit judge, beyond the day on which he attains the age of seventy-five; or
- (b) in the case of appointment as an assistant Recorder, beyond the day on which he attains the age of seventy;

but paragraph (b) above is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor's power to authorise continuance in office up to the age of 75).]

- (2) Except as provided by subsection (3) below, during the period or on the occasions for which a deputy Circuit judge or assistant Recorder is appointed under this section he shall be treated for all purposes as, and accordingly may perform any of the functions of, a Circuit judge or a Recorder, as the case may be.
- (3) A deputy Circuit judge appointed under this section shall not be treated as a Circuit judge for the purpose of any provision made by or under any enactment and relating to

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the appointment, retirement, removal or disqualification of Circuit judges, the tenure of office and oaths, to be taken by such judges, or the remuneration, allowances or pensions of such judges; and section 21 of this Act shall not apply to an assistant Recorder appointed under this section.

<sup>F19</sup>(4) .....

(5) There shall be paid out of money provided by Parliament to deputy Circuit judges and assistant Recorders appointed under this section such remuneration and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.]

**Textual Amendments**

**F16** S. 24 with subsections (1)–(5) substituted (E.W.) for s. 24 with subsections (1)–(6) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 146

**F17** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 32\(2\)](#)

**F18** S. 24(1A) inserted (31.3.1995) by 1993 c. 8, s. 26, [Sch. 6 para. 9\(2\)](#); S.I. 1995/631, [art. 2](#)

**F19** S. 24(4) repealed (31.3.1995) by 1993 c. 8, s. 26, [Sch.9](#); S.I. 1995/631, [art. 2](#)

[<sup>F20</sup>**25 Official referees’ business.**

(1) After the appointed day no person shall be appointed to the office of official referee and on and after that day functions conferred on official referees by provisions of rules of the Supreme Court, or by any other provision, shall be discharged in accordance with the provisions of this section.

(2) Such of the Circuit judges as the Lord Chancellor may from time to time determine shall discharge the said functions conferred on official referees.

(3) The cases in which jurisdiction or powers of the High Court or a judge of the High Court may be exercised by official referees, whether by virtue of rules of court made under section 15 of the <sup>M7</sup>Administration of Justice Act 1956 or otherwise, shall be known as “official referees’ business”, and except where the context otherwise requires, any reference in any enactment, in rules of court or in any other document to an official referee shall, in accordance with this section, be construed as, or where the context requires as including, a reference to a Circuit judge discharging the functions of an official referee.

(4) Subject to rules of court, the distribution of official referees’ business, performed in accordance with this section, shall be determined in accordance with directions given by or on behalf of the Lord Chancellor.]

**Textual Amendments**

**F20** Ss. 25, 26 repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

**Marginal Citations**

**M7** 1956 c. 46.

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