



# Constitutional Reform Act 2005

## 2005 CHAPTER 4

### PART 3

#### THE SUPREME COURT

##### *The Supreme Court*

#### **23 The Supreme Court**

- (1) There is to be a Supreme Court of the United Kingdom.
- (2) The Court consists of 12 judges appointed by Her Majesty by letters patent.
- (3) Her Majesty may from time to time by Order in Council amend subsection (2) so as to increase or further increase the number of judges of the Court.
- (4) No recommendation may be made to Her Majesty in Council to make an Order under subsection (3) unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.
- (5) Her Majesty may by letters patent appoint one of the judges to be President and one to be Deputy President of the Court.
- (6) The judges other than the President and Deputy President are to be styled “Justices of the Supreme Court”.
- (7) The Court is to be taken to be duly constituted despite any vacancy among the judges of the Court or in the office of President or Deputy President.

#### **24 First members of the Court**

On the commencement of section 23—

- (a) the persons who immediately before that commencement are Lords of Appeal in Ordinary become judges of the Supreme Court,

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- (b) the person who immediately before that commencement is the senior Lord of Appeal in Ordinary becomes the President of the Court, and
- (c) the person who immediately before that commencement is the second senior Lord of Appeal in Ordinary becomes the Deputy President of the Court.

### *Appointment of judges*

## 25 Qualification for appointment

- (1) A person is not qualified to be appointed a judge of the Supreme Court unless he has (at any time)—
  - (a) held high judicial office for a period of at least 2 years,
  - (b) been a qualifying practitioner for a period of at least 15 years.
  - [<sup>F1</sup>(b) satisfied the judicial-appointment eligibility condition on a 15-year basis, or
  - (c) been a qualifying practitioner for a period of at least 15 years.]
- (2) A person is a qualifying practitioner for the purposes of this section at any time when—
  - (a) <sup>F2</sup> .....
  - (b) he is an advocate in Scotland or a solicitor entitled to appear in the Court of Session and the High Court of Justiciary, or
  - (c) he is a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland.

#### Textual Amendments

- F1** S. 25(1)(b)(c) substituted (21.7.2008) for s. 25(1)(b) and preceding word by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 50, 148, Sch. 10 para. 41\(2\)](#); S.I. 2008/1653, [art. 2\(d\)](#) (with arts. 3,4)
- F2** S. 25(2)(a) omitted (21.7.2008) by virtue of and repealed (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 50, 146, 148, Sch. 10 para. 41\(3\), Sch. 23 Pt. 2](#); S.I. 2008/1653, [art. 2\(d\)](#) (with arts. 3, 4); S.I. 2008/2696, [art. 5\(j\)](#) (with arts. 3, 4)

## 26 Selection of members of the Court

- (1) This section applies to a recommendation for an appointment to one of the following offices—
  - (a) judge of the Supreme Court;
  - (b) President of the Court;
  - (c) Deputy President of the Court.
- (2) A recommendation may be made only by the Prime Minister.
- (3) The Prime Minister—
  - (a) must recommend any person whose name is notified to him under section 29;
  - (b) may not recommend any other person.
- (4) A person who is not a judge of the Court must be recommended for appointment as a judge if his name is notified to the Prime Minister for an appointment as President or Deputy President.

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- (5) If there is a vacancy in one of the offices mentioned in subsection (1), or it appears to him that there will soon be such a vacancy, the Lord Chancellor must convene a selection commission for the selection of a person to be recommended.
- (6) Schedule 8 is about selection commissions.
- (7) Subsection (5) is subject to Part 3 of that Schedule.
- (8) Sections 27 to 31 apply where a selection commission is convened under this section.

## 27 Selection process

- (1) The commission must—
  - (a) determine the selection process to be applied,
  - (b) apply the selection process, and
  - (c) make a selection accordingly.
- (2) As part of the selection process the commission must consult each of the following—
  - (a) such of the senior judges as are not members of the commission and are not willing to be considered for selection;
  - (b) the Lord Chancellor;
  - (c) the First Minister in Scotland;
  - (d) [<sup>F3</sup>the First Minister for Wales];
  - (e) the [<sup>F4</sup>Northern Ireland Judicial Appointments Commission].
- (3) If for any part of the United Kingdom no judge of the courts of that part is to be consulted under subsection (2)(a), the commission must consult as part of the selection process the most senior judge of the courts of that part who is not a member of the commission and is not willing to be considered for selection.
- (4) Subsections (5) to (10) apply to any selection under this section or section 31.
- (5) Selection must be on merit.
- (6) A person may be selected only if he meets the requirements of section 25.
- (7) A person may not be selected if he is a member of the commission.
- (8) In making selections for the appointment of judges of the Court the commission must ensure that between them the judges will have knowledge of, and experience of practice in, the law of each part of the United Kingdom.
- (9) The commission must have regard to any guidance given by the Lord Chancellor as to matters to be taken into account (subject to any other provision of this Act) in making a selection.
- (10) Any selection must be of one person only.

### Textual Amendments

- F3** Words in s. 27(2)(d) substituted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, [Sch. 1 para. 110\(a\)](#)

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- F4** Words in s. 27(2)(e) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 89(2)** (with arts. 28-31)

## 28 Report

- (1) After complying with section 27 the commission must submit a report to the Lord Chancellor.
- (2) The report must—
  - (a) state who has been selected;
  - (b) state the senior judges consulted under section 27(2)(a) and any judge consulted under section 27(3);
  - (c) contain any other information required by the Lord Chancellor.
- (3) The report must be in a form approved by the Lord Chancellor.
- (4) After submitting the report the commission must provide any further information the Lord Chancellor may require.
- (5) When he receives the report the Lord Chancellor must consult each of the following—
  - (a) the senior judges consulted under section 27(2)(a);
  - (b) any judge consulted under section 27(3);
  - (c) the First Minister in Scotland;
  - (d) [<sup>F5</sup>the First Minister for Wales];
  - (e) the [<sup>F6</sup>Northern Ireland Judicial Appointments Commission].

### Textual Amendments

- F5** Words in s. 28(5)(d) substituted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, **Sch. 1 para. 110(b)**
- F6** Words in s. 28(5)(e) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 89(2)** (with arts. 28-31)

## 29 The Lord Chancellor's options

- (1) This section refers to the following stages—

<i>Stage 1:</i>	where a person has been selected under section 27
<i>Stage 2:</i>	where a person has been selected following a rejection or reconsideration at stage 1
<i>Stage 3:</i>	where a person has been selected following a rejection or reconsideration at stage 2.

- (2) At stage 1 the Lord Chancellor must do one of the following—
- (a) notify the selection;
  - (b) reject the selection;

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- (c) require the commission to reconsider the selection.
- (3) At stage 2 the Lord Chancellor must do one of the following—
  - (a) notify the selection;
  - (b) reject the selection, but only if it was made following a reconsideration at stage 1;
  - (c) require the commission to reconsider the selection, but only if it was made following a rejection at stage 1.
- (4) At stage 3 the Lord Chancellor must notify the selection, unless subsection (5) applies and he makes a notification under it.
- (5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may at stage 3 notify that person's name to the Prime Minister.
- (6) In this Part references to the Lord Chancellor notifying a selection are references to his notifying to the Prime Minister the name of the person selected.

### **30 Exercise of powers to reject or require reconsideration**

- (1) The power of the Lord Chancellor under section 29 to reject a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion, the person selected is not suitable for the office concerned.
- (2) The power of the Lord Chancellor under section 29 to require the commission to reconsider a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion—
  - (a) there is not enough evidence that the person is suitable for the office concerned,
  - (b) there is evidence that the person is not the best candidate on merit, or
  - (c) there is not enough evidence that if the person were appointed the judges of the Court would between them have knowledge of, and experience of practice in, the law of each part of the United Kingdom.
- (3) The Lord Chancellor must give the commission reasons in writing for rejecting or requiring reconsideration of a selection.

### **31 Selection following rejection or requirement to reconsider**

- (1) If under section 29 the Lord Chancellor rejects or requires reconsideration of a selection at stage 1 or 2, the commission must select a person in accordance with this section.
- (2) If the Lord Chancellor rejects a selection, the commission—
  - (a) may not select the person rejected, and
  - (b) where the rejection is following reconsideration of a selection, may not select the person (if different) whose selection it reconsidered.
- (3) If the Lord Chancellor requires a selection to be reconsidered, the commission—
  - (a) may select the same person or a different person, but
  - (b) where the requirement is following a rejection, may not select the person rejected.

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- (4) The commission must inform the Lord Chancellor of the person selected following a rejection or requirement to reconsider.

### *Terms of appointment*

## **32 Oath of allegiance and judicial oath**

- (1) A person who is appointed as President of the Court must, as soon as may be after accepting office, take the required oaths in the presence of—
- (a) the Deputy President, or
  - (b) if there is no Deputy President, the senior ordinary judge.
- (2) A person who is appointed as Deputy President of the Supreme Court must, as soon as may be after accepting office, take the required oaths in the presence of—
- (a) the President, or
  - (b) if there is no President, the senior ordinary judge.
- (3) A person who is appointed as a judge of the Supreme Court must, as soon as may be after accepting office, take the required oaths in the presence of—
- (a) the President, or
  - (b) if there is no President, the Deputy President, or
  - (c) if there is no President and no Deputy President, the senior ordinary judge.
- (4) Subsections (1) and (2) apply whether or not the person appointed as President or Deputy President has previously taken the required oaths in accordance with this section after accepting another office.
- (5) Subsection (3) does not apply where a person is first appointed as a judge of the Court upon appointment to the office of President or Deputy President.
- (6) In this section “required oaths” means—
- (a) the oath of allegiance, and
  - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868 (c. 72).

## **33 Tenure**

A judge of the Supreme Court holds that office during good behaviour, but may be removed from it on the address of both Houses of Parliament.

## **34 Salaries and allowances**

- (1) A judge of the Supreme Court is entitled to a salary.
- (2) The amount of the salary is to be determined by the Lord Chancellor with the agreement of the Treasury.
- (3) Until otherwise determined under subsection (2), the amount is that of the salary of a Lord of Appeal in Ordinary immediately before the commencement of section 23.
- (4) A determination under subsection (2) may increase but not reduce the amount.

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- (5) Salaries payable under this section are to be charged on and paid out of the Consolidated Fund of the United Kingdom.
- (6) Any allowance determined by the Lord Chancellor with the agreement of the Treasury may be paid to a judge of the Court out of money provided by Parliament.

### **35 Resignation and retirement**

- (1) A judge of the Supreme Court may at any time resign that office by giving the Lord Chancellor notice in writing to that effect.
- (2) The President or Deputy President of the Court may at any time resign that office (whether or not he resigns his office as a judge) by giving the Lord Chancellor notice in writing to that effect.
- (3) In section 26(4)(a) of and Schedule 5 to the Judicial Pensions and Retirement Act 1993 (c. 8) (retirement), for “Lord of Appeal in Ordinary” substitute “Judge of the Supreme Court”.

### **36 Medical retirement**

- (1) This section applies if the Lord Chancellor is satisfied by means of a medical certificate that a person holding office as a judge of the Supreme Court—
  - (a) is disabled by permanent infirmity from the performance of the duties of his office, and
  - (b) is for the time being incapacitated from resigning his office.
- (2) The Lord Chancellor may by instrument under his hand declare the person's office to have been vacated.
- (3) A declaration by instrument under subsection (2) has the same effect for all purposes as if the person had, on the date of the instrument, resigned his office.
- (4) But such a declaration has no effect unless it is made—
  - (a) in the case of an ordinary judge, with the agreement of the President and Deputy President of the Court;
  - (b) in the case of the President, with the agreement of the Deputy President and the senior ordinary judge;
  - (c) in the case of the Deputy President, with the agreement of the President and the senior ordinary judge.

### **37 Pensions**

- (1) In the tables in sections 1 and 16 of the Judicial Pensions Act 1981 (c. 20) (application and interpretation), for “Lord of Appeal in Ordinary”—
  - (a) in the first column, substitute “ Judge of the Supreme Court ”, and
  - (b) in the second column, in each place substitute “ judge of the Supreme Court ”.
- (2) In Part 1 of Schedule 1 to the Judicial Pensions and Retirement Act 1993 (qualifying judicial offices: judges), for “Lord of Appeal in Ordinary” substitute “Judge of the Supreme Court”.

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- (3) The amendments made by this section to the 1981 and 1993 Acts do not affect the operation of any provision of or made under those Acts, or anything done under such provision, in relation to the office of, or service as, Lord of Appeal in Ordinary.

### *Acting judges*

## **38 Acting judges**

- (1) At the request of the President of the Supreme Court any of the following may act as a judge of the Court—
- (a) a person who holds office as a senior territorial judge;
  - (b) a member of the supplementary panel under section 39.
- (2) A request under subsection (1) may be made by the Deputy President of the Court if there is no President or the President is unable to make that request.
- (3) In section 26(7) of the Judicial Pensions and Retirement Act 1993 (c. 8) (requirement not to act in certain capacities after the age of 75) for paragraph (b) substitute—
- “(b) act as a judge of the Supreme Court under section 38 of the Constitutional Reform Act 2005;”.
- (4) Every person while acting under this section is, subject to subsections (5) and (6), to be treated for all purposes as a judge of the Supreme Court (and so may perform any of the functions of a judge of the Court).
- (5) A person is not to be treated under subsection (4) as a judge of the Court for the purposes of any statutory provision relating to—
- (a) the appointment, retirement, removal or disqualification of judges of the Court,
  - (b) the tenure of office and oaths to be taken by judges of the Court, or
  - (c) the remuneration, allowances or pensions of judges of the Court.
- (6) Subject to section 27 of the Judicial Pensions and Retirement Act 1993, a person is not to be treated under subsection (4) as having been a judge of the Court if he has acted in the Court only under this section.
- (7) Such remuneration and allowances as the Lord Chancellor may with the agreement of the Treasury determine may be paid out of money provided by Parliament to any person who acts as a judge of the Court under this section.
- (8) In this section “office as a senior territorial judge” means office as any of the following—
- (a) a judge of the Court of Appeal in England and Wales;
  - (b) a judge of the Court of Session, but only if the holder of the office is a member of the First or Second Division of the Inner House of that Court;
  - (c) a judge of the Court of Appeal in Northern Ireland, unless the holder holds the office only by virtue of being a puisne judge of the High Court.

## **39 Supplementary panel**

- (1) There is to be a panel of persons known as the supplementary panel.



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- (2) On the commencement of this section any member of the House of Lords who—
- (a) meets one of the conditions in subsection (3),
  - (b) does not hold high judicial office,
  - (c) has not attained the age of 75, and
  - (d) is not a person who was appointed to the office of Lord Chancellor on or after 12 June 2003,
- becomes a member of the panel.
- (3) The conditions are—
- (a) that he ceased to hold high judicial office less than 5 years before the commencement of this section;
  - (b) that he was a member of the Judicial Committee of the Privy Council immediately before that commencement;
  - (c) that he ceased to be a member of that Committee less than 5 years before that commencement.
- (4) A person becomes a member of the supplementary panel on ceasing to hold office as a judge of the Supreme Court or as a senior territorial judge, but only if, while he holds such office—
- (a) his membership of the panel is approved in writing by the President of the Supreme Court, and
  - (b) the President of the Court gives the Lord Chancellor notice in writing of the approval.
- (5) Subsection (4) does not apply to a person who ceases to hold office as a judge of the Supreme Court when he ceases to be President of the Court.
- (6) Such a person becomes a member of the supplementary panel on ceasing to be President of the Court, unless—
- (a) while President, he gives the Lord Chancellor notice that he is not to become a member of the panel,
  - (b) he ceases to be President on being removed from office as a judge of the Court on the address of both Houses of Parliament, or
  - (c) his office is declared vacant under section 36.
- (7) A person does not become a member of the supplementary panel under subsection (4) or (6) if—
- (a) on ceasing to hold office as a judge of the Supreme Court he takes office as a senior territorial judge, or
  - (b) on ceasing to hold office as a senior territorial judge he takes office as a judge of the Supreme Court.
- (8) A member of the supplementary panel may resign by notice in writing to the President of the Court.
- (9) Unless he resigns (and subject to sections 26(7)(b) and 27 of the Judicial Pensions and Retirement Act 1993 (c. 8)), a person ceases to be a member of the supplementary panel—
- (a) at the end of 5 years after the last day on which he holds his qualifying office, or
  - (b) if earlier, at the end of the day on which he attains the age of 75.

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(10) In this section—

- (a) “office as a senior territorial judge” has the same meaning as in section 38;
- (b) a person's “qualifying office” is the office (that is, high judicial office, membership of the Judicial Committee of the Privy Council, office as a judge of the Supreme Court or office as a senior territorial judge) that he held before becoming a member of the supplementary panel.

*Jurisdiction, relation to other courts etc*

#### **40 Jurisdiction**

- (1) The Supreme Court is a superior court of record.
- (2) An appeal lies to the Court from any order or judgment of the Court of Appeal in England and Wales in civil proceedings.
- (3) An appeal lies to the Court from any order or judgment of a court in Scotland if an appeal lay from that court to the House of Lords at or immediately before the commencement of this section.
- (4) Schedule 9—
  - (a) transfers other jurisdiction from the House of Lords to the Court,
  - (b) transfers devolution jurisdiction from the Judicial Committee of the Privy Council to the Court, and
  - (c) makes other amendments relating to jurisdiction.
- (5) The Court has power to determine any question necessary to be determined for the purposes of doing justice in an appeal to it under any enactment.
- (6) An appeal under subsection (2) lies only with the permission of the Court of Appeal or the Supreme Court; but this is subject to provision under any other enactment restricting such an appeal.

#### **41 Relation to other courts etc**

- (1) Nothing in this Part is to affect the distinctions between the separate legal systems of the parts of the United Kingdom.
- (2) A decision of the Supreme Court on appeal from a court of any part of the United Kingdom, other than a decision on a devolution matter, is to be regarded as the decision of a court of that part of the United Kingdom.
- (3) A decision of the Supreme Court on a devolution matter—
  - (a) is not binding on that Court when making such a decision;
  - (b) otherwise, is binding in all legal proceedings.
- (4) In this section “devolution matter” means—
  - (a) a question referred to the Supreme Court under [F7section F8 ... 99 or 112 of the Government of Wales Act 2006,] section 33 of the Scotland Act 1998 (c. 46) or section 11 of the Northern Ireland Act 1998 (c. 47);

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- (b) a devolution issue as defined in [F9Schedule 9 to the Government of Wales Act 2006] (c. 38), Schedule 6 to the Scotland Act 1998 or Schedule 10 to the Northern Ireland Act 1998.

#### Textual Amendments

- F7** Words in s. 41(4)(a) inserted (6.11.2009) by [The Government of Wales Act 2006 \(Consequential Modifications, Transitional Provisions and Saving\) Order 2009 \(S.I. 2009/2958\)](#), **art. 7**
- F8** Word in s. 41(4)(a) omitted (5.5.2011) by virtue of [The Government of Wales Act 2006 \(Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications\) Order 2011 \(S.I. 2011/1011\)](#), arts. 2, **9**
- F9** Words in s. 41(4)(b) substituted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, **Sch. 1 para. 111**

#### *Composition for proceedings*

### **42 Composition**

- (1) The Supreme Court is duly constituted in any proceedings only if all of the following conditions are met—
- the Court consists of an uneven number of judges;
  - the Court consists of at least three judges;
  - more than half of those judges are permanent judges.
- (2) Paragraphs (a) and (b) of subsection (1) are subject to any directions that in specified proceedings the Court is to consist of a specified number of judges that is both uneven and greater than three.
- (3) Paragraph (b) of subsection (1) is subject to any directions that in specified descriptions of proceedings the Court is to consist of a specified minimum number of judges that is greater than three.
- (4) This section is subject to section 43.
- (5) In this section—
- “directions” means directions given by the President of the Court;
  - “specified”, in relation to directions, means specified in those directions;
  - references to permanent judges are references to those judges of the Court who are not acting judges under section 38.
- (6) This section and section 43 apply to the constitution of the Court in any proceedings from the time judges are designated to hear the proceedings.

### **43 Changes in composition**

- (1) This section applies if in any proceedings the Court ceases to be duly constituted in accordance with section 42, or in accordance with a direction under this section, because one or more members of the Court are unable to continue.
- (2) The presiding judge may direct that the Court is still duly constituted in the proceedings.

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- (3) The presiding judge may give a direction under this section only if—
  - (a) the parties agree;
  - (b) the Court still consists of at least three judges (whether the number of judges is even or uneven);
  - (c) at least half of those judges are permanent judges.
- (4) Subsections (2) and (3) are subject to directions given by the President of the Court.
- (5) If in any proceedings the Court is duly constituted under this section with an even number of judges, and those judges are evenly divided, the case is to be re-argued in a Court which is constituted in accordance with section 42.
- (6) In this section—
  - (a) “presiding judge” means the judge who is to preside, or is presiding, over proceedings;
  - (b) references to permanent judges have the same meaning as in section 42.

*Practice and procedure*

**44 Specially qualified advisers**

- (1) If the Supreme Court thinks it expedient in any proceedings, it may hear and dispose of the proceedings wholly or partly with the assistance of one or more specially qualified advisers appointed by it.
- (2) Any remuneration payable to such an adviser is to be determined by the Court unless agreed between the adviser and the parties to the proceedings.
- (3) Any remuneration forms part of the costs of the proceedings.

**45 Making of rules**

- (1) The President of the Supreme Court may make rules (to be known as “Supreme Court Rules”) governing the practice and procedure to be followed in the Court.
- (2) The power to make Supreme Court Rules includes power to make different provision for different cases, including different provision—
  - (a) for different descriptions of proceedings, or
  - (b) for different jurisdiction of the Supreme Court.
- (3) The President must exercise the power to make Supreme Court Rules with a view to securing that—
  - (a) the Court is accessible, fair and efficient, and
  - (b) the rules are both simple and simply expressed.
- (4) Before making Supreme Court Rules the President must consult all of the following—
  - (a) the Lord Chancellor;
  - (b) the bodies listed in subsection (5);
  - (c) such other bodies that represent persons likely to be affected by the Rules as the President considers it appropriate to consult.
- (5) The bodies referred to in subsection (4)(b) are—

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The General Council of the Bar of England and Wales;  
The Law Society of England and Wales;  
The Faculty of Advocates of Scotland;  
The Law Society of Scotland;  
The General Council of the Bar of Northern Ireland;  
The Law Society of Northern Ireland.

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

C1 S. 45 modified (temp. from 27.2.2006) by [The Constitutional Reform Act 2005 \(Temporary Modifications\) Order 2006 \(S.I. 2006/227\)](#), [art. 2](#)

**46 Procedure after rules made**

- (1) Supreme Court Rules made by the President of the Supreme Court must be submitted by him to the Lord Chancellor.
- (2) Supreme Court Rules submitted to the Lord Chancellor—
  - (a) come into force on such day as the Lord Chancellor directs, and
  - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 (c. 36) applies as if the instrument contained rules made by a Minister of the Crown.
- (3) A statutory instrument containing Supreme Court Rules is subject to annulment in pursuance of a resolution of either House of Parliament.

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

C2 S. 46 modified (temp. from 27.2.2006) by [The Constitutional Reform Act 2005 \(Temporary Modifications\) Order 2006 \(S.I. 2006/227\)](#), [art. 2](#)

**47 Photography etc**

- (1) In section 41 of the Criminal Justice Act 1925 (c. 86) (prohibition on taking photographs etc in court), for subsection (2)(a) substitute—
  - “(a) the expression “court” means any court of justice (including the court of a coroner), apart from the Supreme Court;”.
- (2) In section 29 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 N.I.) (prohibition on taking photographs etc in court), for subsection (2)(a) substitute—
  - “(a) the expression “court” means any court of justice (including the court of a coroner), apart from the Supreme Court;”.

*Staff and resources*

**48 Chief executive**

- (1) The Supreme Court is to have a chief executive.

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- (2) The Lord Chancellor must appoint the chief executive, after consulting the President of the Court.
- (3) The President of the Court may delegate to the chief executive any of these functions—
  - (a) functions of the President under section 49(1);
  - (b) non-judicial functions of the Court.
- (4) The chief executive must carry out his functions (under subsection (3) or otherwise) in accordance with any directions given by the President of the Court.

#### **49 Officers and staff**

- (1) The President of the Supreme Court may appoint officers and staff of the Court.
- (2) It is for the chief executive of the Supreme Court to determine these matters with the agreement of the Lord Chancellor—
  - (a) the number of officers and staff of the Court;
  - (b) subject to subsection (3), the terms on which officers and staff are to be appointed.
- (3) The civil service pension arrangements for the time being in force apply (with any necessary adaptations) to the chief executive of the Court, and to persons appointed under subsection (1), as they apply to other persons employed in the civil service of the State.
- (4) In subsection (3) “the civil service pension arrangements” means—
  - (a) the principal civil service pension scheme (within the meaning of section 2 of the Superannuation Act 1972 (c. 11), and
  - (b) any other superannuation benefits for which provision is made under or by virtue of section 1 of that Act for or in respect of persons in employment in the civil service of the State.

#### **50 Accommodation and other resources**

- (1) The Lord Chancellor must ensure that the Supreme Court is provided with the following—
  - (a) such court-houses, offices and other accommodation as the Lord Chancellor thinks are appropriate for the Court to carry on its business;
  - (b) such other resources as the Lord Chancellor thinks are appropriate for the Court to carry on its business.
- (2) The Lord Chancellor may discharge the duty under subsection (1) by—
  - (a) providing accommodation or other resources, or
  - (b) entering into arrangements with any other person for the provision of accommodation or other resources.
- (3) The powers to acquire land for the public service conferred by—
  - (a) section 2 of the Commissioners of Works Act 1852 (c. 28) (acquisition by agreement), and
  - (b) section 228(1) of the Town and Country Planning Act 1990 (c. 8) (compulsory acquisition),

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are to be treated as including power to acquire land for the purpose of its provision under arrangements under subsection (2)(b).

- (4) The Scottish Ministers may make payments by way of contribution to the costs incurred by the Lord Chancellor in providing the Court with resources in accordance with subsection (1)(b).
- (5) In this section “court-house” means any place where the Court sits, including the precincts of any building in which it sits.

## **51 System to support Court in carrying on business**

- (1) The chief executive of the Supreme Court must ensure that the Court's resources are used to provide an efficient and effective system to support the Court in carrying on its business.
- (2) In particular—
  - (a) appropriate services must be provided for the Court;
  - (b) the accommodation provided under section 50 must be appropriately equipped, maintained and managed.

### *Fees*

## **52 Fees**

- (1) The Lord Chancellor may, with the agreement of the Treasury, by order prescribe fees payable in respect of anything dealt with by the Supreme Court.
- (2) An order under this section may, in particular, contain provision about—
  - (a) scales or rates of fees;
  - (b) exemptions from fees;
  - (c) reductions in fees;
  - (d) whole or partial remission of fees.
- (3) When including any provision in an order under this section, the Lord Chancellor must have regard to the principle that access to the courts must not be denied.
- (4) Before making an order under this section, the Lord Chancellor must consult all of the following—
  - (a) the persons listed in subsection (5);
  - (b) the bodies listed in subsection (6).
- (5) The persons referred to in subsection (4)(a) are—
  - (a) the President of the Supreme Court;
  - (b) the Lord Chief Justice of England and Wales;
  - (c) the Master of the Rolls;
  - (d) the Lord President of the Court of Session;
  - (e) the Lord Chief Justice of Northern Ireland;
  - (f) the Lord Justice Clerk;
  - (g) the President of the Queen's Bench Division;
  - (h) the President of the Family Division;

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- (i) the Chancellor of the High Court.
- (6) The bodies referred to in subsection (4)(b) are—
  - (a) the General Council of the Bar of England and Wales;
  - (b) the Law Society of England and Wales;
  - (c) the Faculty of Advocates of Scotland;
  - (d) the Law Society of Scotland;
  - (e) the General Council of the Bar of Northern Ireland;
  - (f) the Law Society of Northern Ireland.

### 53 Fees: supplementary

- (1) Supreme Court fees are recoverable summarily as a civil debt.
- (2) The Lord Chancellor must take such steps as are reasonably practicable to bring information about Supreme Court fees to the attention of persons likely to have to pay them.
- (3) In this section “Supreme Court fees” means fees prescribed in an order under section 52.

*Annual report*

### 54 Annual report

- (1) As soon as practicable after each financial year, the chief executive of the Supreme Court must prepare a report about the business of the Supreme Court during that year and give a copy of that report to the following persons—
  - (a) the Lord Chancellor;
  - (b) the First Minister in Scotland;
  - (c) the First Minister and the deputy First Minister in Northern Ireland;
  - (d) [<sup>F10</sup>the First Minister for Wales].
- (2) The Lord Chancellor must lay a copy of any report of which a copy is given under subsection (1)(a) before each House of Parliament.
- (3) Each of the following is a “financial year” for the purposes of this section—
  - (a) the period which begins with the date on which this section comes into force and ends with the following 31 March;
  - (b) each successive period of 12 months.

#### Textual Amendments

**F10** Words in s. 54(1)(d) substituted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, [Sch. 1 para. 110\(c\)](#)



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## Supplementary

### 55 Seal

- (1) The Supreme Court is to have an official seal.
- (2) Every document purporting to be sealed with the official seal of the Supreme Court is to be received in evidence in all parts of the United Kingdom without further proof.

### 56 Records of the Supreme Court

- (1) The Public Records Act 1958 (c. 51) is amended as follows.
- (2) In section 8 (court records)—
  - (a) in subsection (1) after “such records” insert “ other than records of the Supreme Court,”;
  - (b) after subsection (1) insert—

“(1A) Records of the Supreme Court for which the Lord Chancellor is responsible under subsection (1) shall be in the custody of the chief executive of that court.”
- (3) In Schedule 1 (definition of public records), in paragraph 4 (records of courts and tribunals), before sub-paragraph (1)(a) insert—

“(za) records of the Supreme Court;”.

### 57 Proceedings under jurisdiction transferred to the Supreme Court

Schedule 10 contains transitional provision relating to proceedings under jurisdiction which is transferred to the Supreme Court by this Act from the House of Lords or the Judicial Committee of the Privy Council.

### 58 Northern Ireland Act 1998: excepted and reserved matters relating to the Supreme Court

- (1) The Northern Ireland Act 1998 (c. 47) is amended as follows.
- (2) In Schedule 2 (excepted matters), after paragraph 11 insert—

“11A The Supreme Court.”

<sup>F11</sup>(3) .....

#### Textual Amendments

**F11** S. 58(3) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), **27(3)** (with arts. 28-31)

### 59 Renaming of Supreme Courts of England and Wales and Northern Ireland

- (1) The Supreme Court of England and Wales is renamed the Senior Courts of England and Wales.

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- (2) The Supreme Court of Judicature of Northern Ireland is renamed the Court of Judicature of Northern Ireland.
- (3) The Northern Ireland Supreme Court Rules Committee is renamed the Northern Ireland Court of Judicature Rules Committee.
- (4) Any reference in an enactment, instrument or other document to a court or committee renamed by this section is to be read, so far as necessary for continuing its effect, as a reference to the Senior Courts, the Court of Judicature or the Northern Ireland Court of Judicature Rules Committee (as the case may be).
- (5) Schedule 11 (which makes amendments in connection with the renaming) has effect.
- (6) Unless otherwise provided, amendments made by an enactment (A) (whether or not in force) to another enactment (B)—
  - (a) are not included in references in that Schedule to enactment A;
  - (b) are included in references in that Schedule to enactment B.

## 60 Interpretation of Part 3

- (1) In this Part—
  - “part of the United Kingdom” means England and Wales, Scotland or Northern Ireland;
  - “the senior judges” means—
    - (a) the judges of the Supreme Court;
    - (b) the Lord Chief Justice of England and Wales;
    - (c) the Master of the Rolls;
    - (d) the Lord President of the Court of Session;
    - (e) the Lord Chief Justice of Northern Ireland;
    - (f) the Lord Justice Clerk;
    - (g) the President of the Queen's Bench Division;
    - (h) the President of the Family Division;
    - (i) the Chancellor of the High Court;
  - “the Supreme Court” means the Supreme Court of the United Kingdom.
- (2) In this Part—
  - (a) “high judicial office” means office as a judge of any of the following courts—
    - (i) the Supreme Court;
    - (ii) the Court of Appeal in England and Wales;
    - (iii) the High Court in England and Wales;
    - (iv) the Court of Session;
    - (v) the Court of Appeal in Northern Ireland;
    - (vi) the High Court in Northern Ireland;
 or as a Lord of Appeal in Ordinary;
  - (b) a person appointed to the office of Lord Chancellor on or after 12 June 2003 who holds, or held, office of a kind referred to in paragraph (a) (“the qualifying office”) is to be regarded as holding, or having held, high judicial office only if—
    - (i) he has ceased to be Lord Chancellor by virtue of that appointment, and

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- (ii) he holds, or held, the qualifying office otherwise than by virtue of that appointment as Lord Chancellor.
- (3) In this Part—
- (a) “ordinary judge” means a judge of the Supreme Court who is not the President or the Deputy President of the Court;
  - (b) the senior ordinary judge at any time is, of the ordinary judges at that time, the one who has served longest as a judge of the Court (whether over one or more periods and whether or not including one or more previous periods as President or Deputy President).
- (4) Service as a Lord of Appeal in Ordinary counts as service as a judge of the Court for the purposes of subsection (3)(b).
- (5) In this Part references to the Lord Chancellor notifying a selection are to be read in accordance with section 29(6).

**Status:**

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**Changes to legislation:**

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