

Status: Point in time view as at 01/04/2008.

Changes to legislation: Constitutional Reform Act 2005, Cross Heading: The Commissioners is up to date with all changes known to be in force on or before 15 July 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)

SCHEDULES

SCHEDULE 12

THE JUDICIAL APPOINTMENTS COMMISSION

PART 1

THE COMMISSIONERS

The Commissioners

- 1 The Commission consists of—
- (a) a chairman, and
 - (b) 14 other Commissioners,
- appointed by Her Majesty on the recommendation of the Lord Chancellor.
- 2 (1) The chairman must be a lay member.
- (2) Of the other Commissioners—
- (a) 5 must be judicial members,
 - (b) 2 must be professional members,
 - (c) 5 must be lay members,
 - (d) 1 other must be the holder of an office listed in Part 3 of Schedule 14 [^{F1}or of an office listed in sub-paragraph (2A)] , and
 - (e) 1 other must be a lay justice member.
- [^{F2}(2A) The offices referred to in sub-paragraph (2)(d) are—
- (a) Senior President of Tribunals;
 - (b) judge of the Upper Tribunal appointed under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007;
 - (c) transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of that Act);
 - (d) deputy judge of the Upper Tribunal under section 31(2) of that Act;
 - (e) member of the Employment Appeal Tribunal appointed under section 22(1)(c) of the Employment Tribunals Act 1996.]

(3) Of the Commissioners appointed as judicial members—

 - (a) 1 must be a Lord Justice of Appeal;
 - (b) 1 must be a puisne judge of the High Court;
 - (c) 1 other must be either a Lord Justice of Appeal or a puisne judge of the High Court;
 - (d) 1 must be a circuit judge;

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- (e) 1 must be a district judge of a county court, a District Judge (Magistrates' Courts) or a person appointed to an office under section 89 of the Supreme Court Act 1981 (c. 54).
- (4) Of the Commissioners appointed as professional members—
 - (a) 1 must be a practising barrister in England and Wales;
 - (b) 1 must be a practising solicitor of the Senior Courts of England and Wales.
- (5) A Commissioner is not to be taken into account for the purposes of any paragraph of sub-paragraph (2) unless he was appointed for the purposes of that paragraph.

Textual Amendments

- F1** Words in Sch. 12 para. 2(2)(d) inserted (19.9.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(1), 148, Sch. 8 para. 65(2); S.I. 2007/2709, art. 2(c)(i)
- F2** Sch. 12 para. 2(2A) inserted (19.9.2007 for specified purposes and otherwise 3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(1), 148, Sch. 8 para. 65(3); S.I. 2007/2709, art. 2(c)(ii); S.I. 2008/2696, art. 5(c)(iv) (with arts. 3, 4)

- 3 A person must not be appointed as a Commissioner if he is employed in the civil service of the State.
- 4 (1) A judicial member is a person who holds an office listed in paragraph 2(3) and who is not a practising lawyer.
 - (2) A professional member is a person who is—
 - (a) a practising barrister in England and Wales, or
 - (b) a practising solicitor of the Senior Courts of England and Wales.
 - (3) A lay member is a person resident in England or Wales who has never held a listed judicial office or been a practising lawyer.
 - (4) A lay justice member is a justice of the peace who—
 - (a) holds no other listed judicial office, or no other except that of General Commissioner,
 - (b) is not a practising barrister in England and Wales, and
 - (c) is not a practising solicitor of the Senior Courts of England and Wales.
- 5 (1) The Lord Chancellor may by order amend any of the following provisions by substituting a number for the number of Commissioners for the time being specified there—
 - (a) paragraph 1(b);
 - (b) any paragraph of paragraph 2(2);
 - (c) any paragraph of paragraph 2(3);
 - (d) any paragraph of paragraph 2(4).
 - (2) That is subject to the following—
 - (a) the total of the numbers in paragraph 2(2) must be the number in paragraph 1(b);
 - (b) the total of the numbers in paragraph 2(3) must be the number in paragraph 2(2)(a);

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- (c) the total of the numbers in paragraph 2(4) must be the number in paragraph 2(2)(b);
 - (d) the number substituted in any provision must not be less than the number specified in that provision as originally enacted.
 - (3) The Lord Chancellor may not make an order under this paragraph without the agreement of the Lord Chief Justice.
- 6 (1) In this Schedule—
 - “judicial member” has the meaning given by paragraph 4(1);
 - “lay member” has the meaning given by paragraph 4(3);
 - “listed judicial office” means an office listed in Schedule 14;
 - “practising” is to be read in accordance with sub-paragraphs (2) and (3);
 - “practising lawyer” means—
 - (a) a practising barrister in England and Wales;
 - (b) a practising solicitor of the Senior Courts of England and Wales;
 - (c) a practising advocate in Scotland;
 - (d) a practising solicitor in Scotland;
 - (e) a practising member of the Bar of Northern Ireland;
 - (f) a practising solicitor of the Court of Judicature of Northern Ireland;
 - “professional member” has the meaning given by paragraph 4(2);
 - “senior Head of Division” means—
 - (a) the Master of the Rolls;
 - (b) if that office is vacant, the President of the Queen's Bench Division;
 - (c) if both of those offices are vacant, the President of the Family Division;
 - (d) if all of those offices are vacant, the Chancellor of the High Court.
- (2) A barrister in England and Wales, an advocate in Scotland or a member of the Bar of Northern Ireland is practising if he is—
 - (a) practising as such,
 - (b) employed to give legal advice, or
 - (c) providing legal advice under a contract for services.
- (3) A solicitor of the Senior Courts of England and Wales, a solicitor in Scotland or a solicitor of the Court of Judicature of Northern Ireland is practising if he is—
 - (a) acting as such,
 - (b) employed to give legal advice, or
 - (c) providing legal advice under a contract for services.

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