



# Judicature (Northern Ireland) Act 1978

## 1978 CHAPTER 23

### PART I

#### CONSTITUTION OF THE [F<sup>1</sup>COURT OF JUDICATURE] OF NORTHERN IRELAND

##### Textual Amendments

- F1** Words in Pt. 1 heading substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 6; S.I. 2009/1604, art. 2\(d\)](#)

#### 1 The [F<sup>2</sup>Court of Judicature].

There shall be a [F<sup>2</sup>Court of Judicature] of Northern Ireland (in this Act referred to as “the [F<sup>2</sup>Court of Judicature]”) which shall consist of—

- (a) Her Majesty’s High Court of Justice in Northern Ireland (in this Act referred to as “the High Court”);
- (b) Her Majesty’s Court of Appeal in Northern Ireland (in this Act referred to as “the Court of Appeal”); and
- (c) Her Majesty’s Crown Court in Northern Ireland (in this Act referred to as “the Crown Court”),

with such jurisdiction as is respectively conferred on those courts by this Act or by any other statutory provision.

##### Textual Amendments

- F2** Words in s. 1 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 6; S.I. 2009/1604, art. 2\(d\)](#)

*Status:* Point in time view as at 19/11/1998. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* Judicature (Northern Ireland) Act 1978, Part I is up to date with all changes known to be in force on or before 27 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)

**2 The High Court.**

- (1) The High Court shall consist of the Lord Chief Justice of Northern Ireland (in this Act referred to as “the Lord Chief Justice”)<sup>F3</sup> . . . and [<sup>F4</sup>not more than ten puisne judges] who shall be styled “ Judges of the High Court.”
- (2) All the judges of the High Court shall, save as in this Act otherwise expressly provided, have in all respects equal jurisdiction and shall be addressed in the manner in which judges of the High Court of Justice in Northern Ireland were customarily addressed heretofore.
- (3) [<sup>F5</sup>The [<sup>F6</sup>Department of Justice] may, with the agreement of the Northern Ireland Judicial Appointments Commission, by order] from time to time amend subsection (1) so as to vary the maximum number of puisne judges.
- [<sup>F7</sup>(4) Part 3 of Schedule 3 to the Justice (Northern Ireland) Act 2002 does not apply in relation to puisne judges.]

**Textual Amendments**

**F3** Words in s. 2(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), **Sch. 13**; S.R. 2006/124, **art. 2**, Sch. para. 11(f)

**F4** Words in s. 2(1) substituted (28.7.2004) by [The Maximum Number of Judges \(Northern Ireland\) Order 2004 \(S.I. 2004/1985\)](#), arts. 1, 2

**F5** Words in s. 2(3) substituted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), s. 5(7), **Sch. 4 para. 10(2)** (with [Sch. 5 para. 16](#)); S.I. 2010/812, art. 2

**F6** Words in s. 2(3) substituted (N.I.) (12.4.2010) by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\)](#), s. 3(2), **Sch. para. 5(1)**; S.R. 2010/147, art. 2(2)

**F7** S. 2(4) substituted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), s. 5(7), **Sch. 4 para. 10(3)** (with [Sch. 5 para. 16](#)); S.I. 2010/812, art. 2

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

**C1** S. 2(1) modified (9.11.1998) by 1998 c. 42, **ss. 18(4)(c), 22(3)**, (with ss. 7(8), 22(5))  
S. 2(1) modified (27.9.1999) by 1999 c. 22, **ss. 68(3)(c), 108(3)** (with [Sch. 14 para. 7\(2\)](#))

**3 The Court of Appeal.**

- (1) The Court of Appeal shall consist of the Lord Chief Justice<sup>F8</sup> . . . and three other judges who shall be styled “Lords Justices of Appeal”.
- (2) Every judge of the High Court shall be a judge of the Court of Appeal for the purposes of its jurisdiction in a criminal cause or matter and for those purposes shall have all the jurisdiction of a judge of the Court of Appeal.
- (3) All the judges of the Court of Appeal shall, save as in this Act otherwise expressly provided, have in all respects equal jurisdiction and shall be addressed in the manner in which judges of the Court of Appeal in Northern Ireland were customarily addressed heretofore.
- (4) [<sup>F9</sup>The [<sup>F10</sup>Department of Justice] may, with the agreement of the Northern Ireland Judicial Appointments Commission, by order] from time to time amend subsection (1) so as to vary the number of Lords Justices of Appeal.

<sup>F11</sup>(5) . . . . .

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- [<sup>F12</sup>(6) The Department of Justice may by order from time to time create divisions or additional divisions of the Court of Appeal or provide any division be abolished; and any such order—
- (a) may contain such provision as may appear to the Department to be necessary or proper for that purpose; and
  - (b) may amend or repeal any statutory provision (including any provision of this Act) so far as it appears to the Department to be necessary or expedient in consequence of the order.]

#### Textual Amendments

- F8** Words in s. 3(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), **Sch. 13**; S.R. 2006/124, **art. 2**, **Sch. para. 11(f)**
- F9** Words in s. 3(4) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 4 para. 11** (with **Sch. 5 para. 16**); S.I. 2010/812, **art. 2**
- F10** Words in s. 3(4) substituted (N.I.) (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), s. 3(2), **Sch. para. 5(1)**; S.R. 2010/147, **art. 2(2)**
- F11** S. 3(5) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 18 para. 11(2)** (with arts. 28-31)
- F12** S. 3(6) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 18 para. 11(3)** (with arts. 28-31)

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

- C2** S. 3(1) modified (9.11.1998) by 1998 c. 42, **ss. 18(4)(c)**, 22(3), (with ss. 7(8), 22(5))  
S. 3(1) modified (27.9.1999) by 1999 c. 22, **ss. 68(3)(C)**, 108(3) (with **Sch. 14 para. 7(2)**)

## 4 The Crown Court.

- (1) There shall be a Crown Court in Northern Ireland whose jurisdiction shall be exercisable by the Lord Chief Justice <sup>F13</sup>..., any judge of the High Court or the Court of Appeal or any county court judge.
- (2) The persons mentioned in subsection (1) shall, when exercising the jurisdiction of the Crown Court, be judges of the Crown Court but a county court judge shall not, except when exercising such jurisdiction, be deemed to be a judge of the [<sup>F14</sup>Court of Judicature].
- (3) In any statutory provision relating to the Crown Court (including a provision of this Act) references to a judge of the High Court shall include references to a judge of the Court of Appeal.

#### Textual Amendments

- F13** Words in s. 4(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), **Sch. 13**; S.R. 2006/124, **art. 2**, **Sch. para. 6**; S.I. 2009/1604, **art. 2(d)**
- F14** Words in s. 4 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 6**; S.I. 2009/1604, **art. 2(d)**

## [<sup>F15</sup> Divisions of the High Court.

- (1) There shall be three divisions of the High Court, namely—

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- (a) the Chancery Division;
  - (b) the Queen's Bench Division; and
  - (c) the Family Division.
- (2) [<sup>F16</sup>The Department of Justice may by order] from time to time create additional divisions of the High Court or provide that any division be abolished and any [<sup>F17</sup>such order] may contain such provision as may be necessary or proper for that purpose.
- (3) A judge of the High Court may sit in any division.
- (4) Without prejudice to any statutory provision relating to or affecting the distribution of business in the High Court, all jurisdiction vested in the High Court shall belong to all the divisions alike.

#### Textual Amendments

**F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**

**F16** Words in s. 5(2) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 18 para. 12(a)** (with arts. 28-31)

**F17** Words in s. 5(2) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 18 para. 12(b)** (with arts. 28-31)

## 6 Judges of one court empowered to assist another.

- (1) A Lord Justice of Appeal may at any time at the request of the Lord Chief Justice sit and act as a judge of the High Court.
- (2) A judge of the High Court shall, if requested to do so by the Lord Chief Justice, sit and act as a judge of the Court of Appeal when that court is exercising jurisdiction other than jurisdiction in a criminal cause or matter.

#### Textual Amendments

**F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**

## 7 Further assistance for transaction of judicial business.

- (1) A person who not being a judge of the High Court or the Court of Appeal—
  - (a) holds or has held the office of a [<sup>F18</sup>judge of the Supreme Court] and before his appointment to that office [<sup>F19</sup>was a member of the Bar of Northern Ireland, or a solicitor of the [<sup>F20</sup>Court of Judicature], of at least ten years' standing]; or
  - (b) has held the office of a judge of the High Court or the Court of Appeal, may [<sup>F21</sup>at anytime] at the request of the [<sup>F22</sup>Lord Chief Justice] sit and act as a judge of the High Court or the Court of Appeal [<sup>F23</sup>at any time on or before the day on which he attains the age of seventy-five.]
- (2) A county court judge shall, if requested to do so by the [<sup>F22</sup>Lord Chief Justice], sit and act as a judge of the High Court.
- [<sup>F24</sup>(3) The Northern Ireland Judicial Appointments Commission may appoint a person qualified for appointment as a judge of the High Court to sit and act as a judge of the

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High Court as a temporary measure in order to facilitate the disposal of business in the High Court or the Crown Court.]

- (4) For any period during which a person who does not hold office as a [<sup>F18</sup>judge of the Supreme Court] or as a county court judge sits and acts under this section [<sup>F25</sup>the Department of Justice shall pay] to him such remuneration and allowances as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.

[ The Lord Chief Justice may nominate any of the following to exercise his functions <sup>F26</sup>(5) under this section—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F15** S. 3(6) added by Administration of Justice Act 1982 (c. 53, SIF 38), s. 70, **Sch. 8 para. 1**
- F18** Words in s. 7(1)(a)(4) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 145, 148(1), **Sch. 17 para. 21(2)**; S.I. 2009/1604, **art. 2(e)**
- F19** Words in s. 7(1) substituted (15.10.2002) by 2002 c. 26, s. 18(2); S.R. 2002/319, art. 2, **Sch.**
- F20** Words in s. 7(1)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 6(1)**; S.I. 2009/1604, **art. 2(d)**
- F21** Words in s. 7(1) repealed (31.3.1995) by 1993 c. 8, ss. 26, 31, Sch. 6 para. 7(a), **Sch. 9** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2
- F22** Words in s. 7(1)(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 23(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F23** Words in s. 7(1) added (31.3.1995) by 1993 c. 8, ss. 26, 31(2), **Sch. 6 para. 7(b)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2
- F24** S. 7(3) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 4 para. 12** (with Sch. 5 para. 16); S.I. 2010/812, art. 2
- F25** Words in s. 7(4) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), **Sch. 18 para. 13** (with arts. 28-31)
- F26** S. 7(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 23(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)

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

- C3** S. 7 restricted (31.3.1995) by 1993 c. 8, ss. 26(7)(e), 31(2) (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2
- C4** S. 7(4) transfer of functions (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. 17 para. 6(a)** (with arts. 28-31)

## 8 Additional provisions as to persons rendering judicial assistance.

- (1) A person may sit and act under section 6 or 7 as a judge of a court for the purpose of a particular case or cases or during a specified period and whether or not all the judges of that court are sitting or are available to sit.

[ For this purpose, an appointment under section 7(3) is to be made for—

- <sup>F27</sup>(1A) (a) a particular case or cases determined by the Lord Chief Justice or a person within section 7(5)(a) or (b) nominated by the Lord Chief Justice to make determinations under this paragraph, or

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- (b) a period specified by the Northern Ireland Judicial Appointments Commission with the agreement of the [<sup>F28</sup>Department of Justice] .]
- (2) Every person while sitting and acting under section 6 or 7 shall, subject to subsection (3), be treated for all purposes as, and accordingly may perform any of the functions of, a judge of the court in which he is sitting and acting.
- (3) A person shall not by virtue of subsection (2) be treated as a judge of the court in which he is sitting and acting for the purposes of any statutory provision relating to—
- (a) the appointment, retirement, removal or disqualification of judges of that court;
  - (b) the tenure of office and oaths to be taken by such judges; or
  - (c) the remuneration, allowances or pensions of such judges.
- <sup>F29</sup>(4) . . . . .

#### Textual Amendments

- F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**
- F27** S. 8(1A) inserted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), s. 5(7), **Sch. 4 para. 13** (with [Sch. 5 para. 16](#)); [S.I. 2010/812](#), art. 2
- F28** Words in s. 8(1A)(b) substituted (N.I.) (12.4.2010) by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\)](#), s. 3(2), **Sch. para. 5(1)**; [S.R. 2010/147](#), art. 2(2)
- F29** S. 8(4) repealed (31.3.1995) by [1993 c. 8](#), ss. 31, **Sch.9** (with [Sch. 7 paras. 2\(2\), 3\(2\), 4](#)); [S.I. 1995/631](#) art. 2

<sup>F31</sup>  
<sup>F30</sup>

### Qualification to be judge of High Court or Court of Appeal

A person is not qualified for appointment as Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court unless he is—

- (a) a member of the Bar of Northern Ireland of at least ten years' standing; or
- (b) a solicitor of the [<sup>F32</sup>Court of Judicature] of at least ten years' standing.]

#### Textual Amendments

- F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**
- F30** S. 9 substituted (15.10.2002) by [2002 c. 26](#), s. 18(3); [S.R. 2002/319](#), art. 2, **Sch.**
- F31** By [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 145, 148(1), **Sch. 17 para. 21(3)**; [S.I. 2009/1604](#), art. 2(e) it is provided (1.10.2009) that the words "judge of the Supreme Court" are substituted for the words "Lord of Appeal in Ordinary"
- F32** Words in s. 9(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, **Sch. 11 para. 6(1)**; [S.I. 2009/1604](#), art. 2(d)

## 10 Judicial precedence.

- (1) The Lords Justices of Appeal shall rank among themselves according to the priority of their appointment as judges of the Court of Appeal.
- (2) The judges of the High Court shall rank next after the judges of the Court of Appeal and among themselves according to the priority of their appointment as judges of the High Court.

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#### Textual Amendments

**F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**

### 11 Exercise of functions of Lord Chief Justice.

- (1) Anything which by virtue of this Act or any other statutory provision is for the time being authorised or required to be done to or by the Lord Chief Justice may, if the Lord Chief Justice is not available because of absence or other reason or if his office is vacant, be done during such unavailability or vacancy to or by the senior Lord Justice of Appeal who is available.
- (2) Nothing in subsection (1) shall confer on a Lord Justice of Appeal the power of making a permanent appointment to any office.

#### Textual Amendments

**F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**

### [<sup>F33</sup>12 Appointment of the Lord Chief Justice and Lords Justices of Appeal

- (1) Whenever the office of Lord Chief Justice is vacant, Her Majesty may appoint a qualified person to that office by letters patent under the Great Seal of Northern Ireland.
- (2) Her Majesty may, from time to time, appoint a qualified person as a Lord Justice of Appeal by letters patent under the Great Seal of Northern Ireland (but subject to the limit on numbers for the time being imposed by section 3).
- (3) Her Majesty's powers of appointment under this section are exercisable on the Prime Minister's recommendation.
- (4) The Prime Minister must make a recommendation to fill any vacancy in the office of Lord Chief Justice or Lord Justice of Appeal.
- (5) Subsection (4) does not apply to a vacancy in the office of Lord Justice of Appeal while the Lord Chief Justice agrees that it may remain unfilled.
- (6) Before making a recommendation, the Prime Minister must consult—
  - (a) the Lord Chief Justice or, if that office is vacant or the Lord Chief Justice is not available, the senior Lord Justice of Appeal who is available, and
  - (b) the Northern Ireland Judicial Appointments Commission.

#### Textual Amendments

**F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**

**F33** Ss. 12-12C substituted for ss. 12, 12B (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 2(1), 5(7), **Sch. 2** (with **Sch. 5 paras. 10, 11**); S.I. 2010/812, art. 2

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## 12A Appointment of judges of the High Court

Her Majesty may, from time to time, appoint a qualified person as a judge of the High Court by letters patent under the Great Seal of Northern Ireland (but subject to the limit on numbers for the time being imposed by section 2).

### Textual Amendments

**F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**

**F33** Ss. 12-12C substituted for ss. 12, 12B (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 2(1), 5(7), **Sch. 2** (with [Sch. 5 paras. 10, 11](#)); [S.I. 2010/812](#), art. 2

## 12B Tenure of office: Lord Chief Justice

- (1) The Lord Chief Justice holds office during good behaviour (subject to section 26 of, and Schedule 7 to, the Judicial Pensions and Retirement Act 1993).
- (2) Her Majesty may, on an address of both Houses of Parliament, remove a person (“P”) from office as Lord Chief Justice.
- (3) A motion for such an address may be made—
  - (a) in the House of Commons, only by the Prime Minister;
  - (b) in the House of Lords, only by the Lord Chancellor or, if the Lord Chancellor is not a member of that House, only by another Minister of the Crown at the Lord Chancellor's request.
- (4) No motion is to be made for the purposes of subsection (3) unless—
  - (a) the Prime Minister has, after consulting the Lord Chancellor, convened a tribunal as set out below, and
  - (b) the tribunal has reported to the Prime Minister recommending that P be removed from the office on the ground of misbehaviour.
- (5) No motion is to be made in the House of Commons for the purposes of subsection (3) unless the Prime Minister has laid a copy of the tribunal's report before that House.
- (6) No motion is to be made in the House of Lords for the purposes of subsection (3) unless the person making it has laid a copy of the tribunal's report before that House.
- (7) If the Prime Minister and the Lord Chancellor are considering the making of motions for the purposes of subsection (3), the Prime Minister may suspend P from the office.
- (8) If P is suspended, P may not carry out any functions of the office (but P's other rights as holder of the office are unaffected).
- (9) A tribunal is to consist of—
  - (a) a person who holds high judicial office (within the meaning of Part 3 of the Constitutional Reform Act 2005) and who does not hold (and has never held) the office of Lord Chief Justice, Lord Justice of Appeal or judge of the High Court,
  - (b) a person who is or has been a judge of the Court of Appeal of England and Wales or the Inner House of the Court of Session, and
  - (c) a lay member of the Northern Ireland Judicial Appointments Commission (see section 3(5)(c) of the Justice (Northern Ireland) Act 2002).



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- (10) The persons within subsection (9)(a) and (b) are to be selected by the Lord Chancellor after consulting—
  - (a) the President of the Supreme Court of the United Kingdom,
  - (b) the Lord Chief Justice of England and Wales, and
  - (c) the Lord President of the Court of Session;(or, where an office is vacant or an office holder is not available, some other appropriate person).
- (11) The person within subsection (9)(c) is to be selected by the Northern Ireland Judicial Appointments Ombudsman.
- (12) The person within subsection (9)(a) is to be the chair of the tribunal.
- (13) The tribunal's procedure is to be determined by the chair.
- (14) The [<sup>F34</sup>Department of Justice] may pay a member of a tribunal any such allowances or fees as it may determine.
- (15) Before the coming into force of section 23 of the Constitutional Reform Act 2005, in subsection (10)(a) the reference to the President of the Supreme Court of the United Kingdom is to be read as a reference to the senior Lord of Appeal in Ordinary.

#### Textual Amendments

- F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**
- F33** Ss. 12-12C substituted for ss. 12, 12B (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 2(1), 5(7), **Sch. 2** (with **Sch. 5 paras. 10, 11**); S.I. 2010/812, art. 2
- F34** Words in s. 12B(14) substituted (N.I.) (12.4.2010) by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\)](#), s. 3(2), **Sch. para. 5(1)**; S.R. 2010/147, art. 2(2)

## 12C Tenure of office: Lords Justices of Appeal and certain High Court judges

- (1) Lords Justices of Appeal and judges of the High Court hold office during good behaviour (subject to section 26 of, and Schedule 7 to, the Judicial Pensions and Retirement Act 1993).
- (2) Her Majesty may, on an address of both Houses of Parliament, remove a person (“P”) from office as Lord Justice of Appeal or judge of the High Court.
- (3) A motion for such an address may be made—
  - (a) in the House of Commons, only by the Prime Minister;
  - (b) in the House of Lords, only by the Lord Chancellor or, if the Lord Chancellor is not a member of that House, only by another Minister of the Crown at the Lord Chancellor's request.
- (4) No motion is to be made for the purposes of subsection (3) unless—
  - (a) the Lord Chief Justice or the Northern Ireland Judicial Appointments Ombudsman has, after consulting the other, convened a tribunal as set out below,
  - (b) the tribunal has reported to the Lord Chief Justice recommending that P be removed from the office on the ground of misbehaviour, and
  - (c) the following has occurred—

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- (i) the Lord Chief Justice has advised the Prime Minister and the Lord Chancellor to accept the tribunal's recommendation, or
  - (ii) if the Lord Chief Justice does not so advise, the Prime Minister and the Lord Chancellor have consulted the Lord Chief Justice about the recommendation.
- (5) No motion is to be made in the House of Commons for the purposes of subsection (3) unless the Prime Minister has laid a copy of the tribunal's report before that House.
- (6) No motion is to be made in the House of Lords for the purposes of subsection (3) unless the person making it has laid a copy of the tribunal's report before that House.
- (7) If the Prime Minister and the Lord Chancellor are considering the making of motions for the purposes of subsection (3), the Prime Minister may, with the agreement of the Lord Chief Justice, suspend P from the office.
- (8) If P is suspended, P may not carry out any functions of the office (but P's other rights as holder of the office are unaffected).
- (9) A tribunal is to consist of—
- (a) a person who holds high judicial office (within the meaning of Part 3 of the Constitutional Reform Act 2005) and who does not hold (and has never held) the office of Lord Chief Justice, Lord Justice of Appeal or judge of the High Court,
  - (b) a person who is or has been a judge of the Court of Appeal of England and Wales or the Inner House of the Court of Session, and
  - (c) a lay member of the Northern Ireland Judicial Appointments Commission (see section 3(5)(c) of the Justice (Northern Ireland) Act 2002).
- (10) The persons within subsection (9)(a) and (b) are to be selected by the Lord Chief Justice after consulting—
- (a) the Lord Chancellor,
  - (b) the President of the Supreme Court of the United Kingdom,
  - (c) the Lord Chief Justice of England and Wales, and
  - (d) the Lord President of the Court of Session;
- (or, where an office is vacant or an office holder is not available, some other appropriate person).
- (11) The person within subsection (9)(c) is to be selected by the Northern Ireland Judicial Appointments Ombudsman.
- (12) The person within subsection (9)(a) is to be the chair of the tribunal.
- (13) The tribunal's procedure is to be determined by the Lord Chief Justice.
- (14) If the tribunal recommends as mentioned in subsection (4)(b), the Lord Chief Justice must send the Prime Minister and the Lord Chancellor—
- (a) a copy of the tribunal's report,
  - (b) any comments that the Lord Chief Justice wishes to make on the report, and
  - (c) any comments that the Northern Ireland Judicial Appointments Ombudsman wishes to make on the report.
- (15) The [F35Department of Justice] may pay a member of a tribunal any such allowances or fees as it may determine.

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(16) Nothing in subsections (1) to (15) applies to a judge of the High Court appointed after the coming into force of section 7 of the Justice (Northern Ireland) Act 2002 (as to the removal and suspension of whom see that section).

(17) Before the coming into force of section 23 of the Constitutional Reform Act 2005, in subsection (10)(b) the reference to the President of the Supreme Court of the United Kingdom is to be read as a reference to the senior Lord of Appeal in Ordinary.]

#### Textual Amendments

- F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**
- F33** Ss. 12-12C substituted for ss. 12, 12B (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 2(1), 5(7), **Sch. 2** (with [Sch. 5 paras. 10, 11](#)); [S.I. 2010/812](#), art. 2
- F35** Words in s. 12C(15) substituted (N.I.) (12.4.2010) by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\)](#), s. 3(2), **Sch. para. 5(1)**; [S.R. 2010/147](#), art. 2(2)

### 13 Tenure of office, oath, etc.

- (1) <sup>F36</sup> .....
- <sup>F37</sup>(2) .....
- <sup>F37</sup>(3) .....
- <sup>F37</sup>(4) .....
- <sup>F37</sup>(5) .....

#### Textual Amendments

- F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**
- F36** S. 13(1) repealed (3.4.2006) by [2002 c. 26](#), ss. 86, 87(1), [Sch. 13](#); [S.R. 2006/124](#), **art. 2**, [Sch.](#)
- F37** S. 13(2)-(5) repealed (15.10.2002) by [2002 c. 26](#), s. 86, **Sch. 13**; [S.R. 2002/319](#), **art. 2 Sch.**

### 14 Vacation of office.

- (1) The Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court may vacate his office by resignation in writing under his hand addressed to [<sup>F38</sup>Her Majesty].
- (2) The High Court and the Court of Appeal shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any judge of either court.
- (3) Nothing in subsection (1) shall affect the operation of section 12 of the <sup>M1</sup>Administration of Justice Act 1973 (retirement of higher judiciary in the event of incapacity).

#### Textual Amendments

- F15** S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**
- F38** Words in s. 14(1) substituted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), s. 5(7), **Sch. 4 para. 14** (with [Sch. 5 para. 16](#)); [S.I. 2010/812](#), art. 2

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#### Marginal Citations

M1 1973 c. 15.

### 15 Power of judges to act in cases relating to rates and taxes.

- (1) The Lord Chief Justice, a Lord Justice of Appeal, a judge of the High Court or a judge of the Crown Court shall not be incapable of acting in his judicial office in any proceeding by reason of his being as one of several ratepayers or as one of any other class of persons liable, in common with others, to contribute to or eligible to be benefited by any rate or tax which may be increased, diminished or in any way affected by that proceeding.
- (2) In this section the expression “rate or tax” means any rate, tax, duty or assessment whether public, general or local, and also any fund formed from the proceeds of any such rate, tax, duty or assessment, or applicable to the purposes to which any such rate, tax, duty or assessment might be applied or similar purposes.]

#### Textual Amendments

F15 S. 3(6) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 1**

**Status:**

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**Changes to legislation:**

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