



# Judicature (Northern Ireland) Act 1978

## 1978 CHAPTER 23

### PART VI

#### DEPARTMENTS AND OFFICERS

#### 68 Departments.

- (1) There shall be established the departments of the Supreme Court specified in the first column of Schedule 2.
- (2) The business to be assigned to each department shall—
  - (a) be prescribed by rules of court; and
  - (b) subject to any directions given by the Lord Chancellor under subsection (4), be transacted under the supervision of the [<sup>F1</sup>officer] specified in relation to that department in the second column of Schedule 2.
- (3) The Lord Chancellor may by order made after consultation with the Lord Chief Justice establish at such place as may be specified in the order a branch office of the Probate and Matrimonial Office which—
  - (a) may transact such of the business of that Office as may be so specified; and
  - (b) shall, subject to subsection (4), be under the supervision of a circuit registrar.
- [<sup>F2</sup>(4) The officer supervising a department shall discharge his functions in accordance with directions given by the Lord Chancellor.]
- (5) The Lord Chancellor may by order made after consultation with the Lord Chief Justice at any time modify Schedule 2 by—
  - (a) removing any department and any entry relating thereto from that Schedule;
  - (b) adding any department and any entry relating thereto to that Schedule;
  - (c) amending the name of any department or amending any entry relating to any department in that Schedule.
- (6) An order under subsection (5) may make provision for any incidental, consequential, transitional or supplementary matters for which it appears to the Lord Chancellor to be necessary or expedient for the purpose of the order to provide, and may amend or

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repeal any statutory provision (including any provision of this Act) so far as may be necessary or expedient in consequence of the order.

#### Textual Amendments

- F1** Word in s. 68(2)(b) substituted (1.5.2004) by Courts Act 2003 (c. 39), ss. 103(5)(a), 110(1); S.I. 2004/1104, art. 3(e)
- F2** S. 68(4) substituted (1.5.2004) by Courts Act 2003 (c. 39), ss. 103(5)(b), 110(1); S.I. 2004/1104, art. 3(e)

VALID FROM 03/04/2006

#### [<sup>F3</sup>68A Lord Chancellor's duty

- (1) The Lord Chancellor is under a duty to ensure that there is an efficient and effective system to support the carrying on of the business of—
- (a) the Supreme Court,
  - (b) county courts,
  - (c) magistrates' courts, and
  - (d) coroners' courts,
- and that appropriate services are provided for those courts.
- (2) The Lord Chancellor must, within 18 months of the coming into force of this section, and afterwards annually, prepare and lay before both Houses of Parliament a report as to the way in which he has discharged his duty under subsection (1).]

#### Textual Amendments

- F3** S. 68A inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 10, 148(1); S.I. 2006/1014, art. 2(a), Sch. 1 para. 6

#### 69 Northern Ireland Court Service.

- (1) There shall be a unified and distinct civil service of the Crown, to be called the Northern Ireland Court Service and hereafter referred to as “the Court Service”, the functions of which shall be—
- (a) to facilitate the conduct of the business of the following courts, namely—
    - (i) the Supreme Court;
    - (ii) county courts;
    - (iii) magistrates' courts; and
    - (iv) coroners' courts;
  - (b) to give effect to judgments to which [<sup>F4</sup>the Judgment Enforcement (Northern Ireland) Order 1981] applies; and
  - (c) to discharge such other functions in relation to the courts mentioned in paragraph (a) or the enforcement of the judgments mentioned in paragraph (b) as are conferred on, or transferred to, it or any of its officers by or under this Act or any other statutory provision.

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- (2) The officers and other staff of the Court Service shall be appointed by the Lord Chancellor, with the concurrence of the Minister for the Civil Service as to numbers and terms and conditions of service, and shall discharge their functions in accordance with directions given by the Lord Chancellor.
- (3) The principal civil service pension scheme within the meaning of section 2 of the <sup>M1</sup>Superannuation Act 1972 shall, with the necessary adaptations, apply to such officers and staff.
- (4) The functions exercisable by the Court Service under subsection (1) shall include the functions heretofore exercisable by—
- (a) the officers and other persons employed in the Supreme Court;
  - (b) the persons employed in the county court service by virtue of section 108 of the <sup>M2</sup>County Courts Act (Northern Ireland) 1959 or any other officer of a county court;
  - (c) clerks of petty sessions and persons employed in the offices of clerks of petty sessions;
  - (d) the Enforcement of Judgments Office; and
  - (e) the officers of coroners' courts,
- other than those functions which by or under this Act become the functions of statutory officers.
- (5) The offices of clerk of the Crown and peace and county court registrar are hereby abolished.
- (6) The Lord Chancellor may by order make provision—
- (a) for the payment by him of compensation to or in respect of persons who suffer loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to the provisions of this section;
  - (b) for the transfer to a statutory officer of all or any of the functions of an office abolished by subsection (5);
  - (c) for such other incidental, consequential, transitional or supplementary matters (including the amendment or repeal of any provision of this Act or of any other statutory provision) as appear to the Lord Chancellor to be necessary or proper in connection with the establishment of the Court Service.

#### Textual Amendments

**F4** Words substituted by S.I. 1981/226 (N.I. 6), Sch. 2 para. 25

#### Marginal Citations

**M1** 1972 c. 11.

**M2** 1959 c. 25. (N.I.)

## 70 Appointment and qualification of statutory officers.

- (1) Appointments to the offices listed in column 1 of Schedule 3 shall be made by the Lord Chancellor after consultation with the Lord Chief Justice and with the concurrence of the Minister for the Civil Service as to numbers and terms and conditions of service and persons holding such offices are in this Act referred to as “statutory officers”.

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- (2) Subject to subsection (3), a person shall not be qualified for appointment to any of the offices listed in column 1 of Schedule 3 unless <sup>F5</sup>he is—
- (a) a barrister or solicitor <sup>F6</sup>. . . who has at least the number of years' standing specified in relation to that office in column 3 of that Schedule; or
  - (b) the holder of any other office so listed.]
- (3) In exceptional circumstances, where it appears to the Lord Chancellor that a suitable appointment cannot be made in accordance with the provisions of subsection (2) and Schedule 3, he may, notwithstanding those provisions, after consultation with the Lord Chief Justice, appoint any barrister, solicitor or other person whom he considers to be suitable for appointment having regard to his knowledge and experience.
- (4) Without prejudice to section 68, the functions of the holder of each office listed in column 1 of Schedule 3 shall include the functions specified in relation to that office in column 4 of that Schedule (being functions heretofore exercised by the holder of the office or offices so specified) and accordingly—
- (a) for a reference in any statutory provision relating to those functions to any office listed in column 4 of Schedule 3 or to the holder of any such office there shall be substituted a reference to the appropriate corresponding office listed in column 1 of that Schedule or to the holder of that office, as the case may be; and
  - (b) the offices specified in column 4 of Schedule 3 are hereby abolished.
- (5) The Lord Chancellor may by order made after consultation with the Lord Chief Justice at any time modify Schedule 3 by:—
- (a) removing any office and any entry relating thereto from that Schedule;
  - (b) adding any office and any entry relating thereto to that Schedule;
  - (c) amending the title of any office or amending any entry relating to any office in that Schedule.
- (6) An order under subsection (5) may make provision for any incidental, consequential, transitional or supplementary matters for which it appears to the Lord Chancellor to be necessary or expedient for the purpose of the order to provide and may amend or repeal any statutory provision (including any provision of this Act) so far as may be necessary or expedient in consequence of the order.

#### Subordinate Legislation Made

**P1** S. 70(5)(6) power exercised (03.06.1991) by [S.R. 1991/230](#)

#### Textual Amendments

**F5** Words in s. 70(2) substituted (15.10.2002) by [2002 c. 26, s. 18\(8\)](#); [S.R. 2002/319, art. 2, Sch.](#)

**F6** Words in s. 70(2)(a) repealed (1.5.2004) by [Courts Act 2003 \(c. 39\), ss. 109\(3\), 110\(1\), Sch. 10](#); [S.I. 2004/1104, art. 3\(h\)\(i\)](#)

## 71 Tenure of office of statutory officers.

- (1) Subject to the following provisions of this section, a statutory officer shall hold office during good behaviour.
- (2) The Lord Chancellor may remove any statutory officer from his office on account of misbehaviour or inability to perform the duties of that office.

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[<sup>F7</sup>(3) Subject to subsection (4) below and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor's power to authorise continuance in office beyond the age of 70, up to the age of 75), a statutory officer shall retire on the day on which he attains the age of 70 years.]

(4) Before appointing a person as a statutory officer the Lord Chancellor may, having regard to the age of the person to be appointed and such other circumstances as the Lord Chancellor considers relevant, direct that subsection (3) shall, in its application to that person, have effect with the substitution for the age of 72 years of such lower age as may be specified in the direction.

#### Textual Amendments

**F7** S. 71(3) substituted (31.3.1995) by 1993 c. 8, ss. 26, 31(2), **Sch. 6**, para.18; S.I. 1995/631, **art. 2**

## 72 Superannuation of statutory officers.

(1) A statutory officer shall be deemed for the purposes of section 1 of the <sup>M3</sup>Superannuation Act 1972 to be employed in the civil service of the state and, subject to the following provisions of this section, the principal civil service pension scheme within the meaning of section 2 of that Act shall apply to him accordingly.

(2) In its application to a statutory officer in respect of his service as such the principal civil service pension scheme shall have effect subject to the modifications set out in Schedule 4.

(3) Subsection (2) shall not apply to a statutory officer appointed by virtue of section 70(3) unless the Lord Chancellor, with the concurrence of the Minister for the Civil Service, so directs.

[<sup>F8</sup>(4) This section does not apply to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.]

#### Textual Amendments

**F8** S. 72(4) added (31.3.1995) by 1993 c. 8, ss. 31, **Sch. 8** para.14; S.I. 1995/631, **art. 2**

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

**C1** S. 72(2): power to amend conferred by S.I. 1986/1888 (N.I. 18), **art. 18(3)(j)**  
S. 72(2): power to modify conferred (N.I.) (7.2.1994) by 1993 c. 49, ss. 182, 183, 184, 186(2), **Sch. 5 Pt. II para. 17(2)(3)(j)**; S.R. 1994/17, **art. 2**

#### Marginal Citations

**M3** 1972 c. 11.

## [<sup>F9</sup>73 Restrictions on practice.

(1) <sup>F10</sup>. . . A statutory officer shall not either directly or indirectly practise as a barrister or solicitor or as an agent for a solicitor.

(2) <sup>F10</sup> . . . . .]

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**Textual Amendments**  
**F9** S. 73 substituted by S.R. 1982/300, art. 5(1)  
**F10** S. 73(2) and word repealed (1.5.2004) by Courts Act 2003 (c. 39), ss. 103(6), 109(3), 110(1), Sch. 10; S.I. 2004/1104, art. 3(e)

**74 Deputies and temporary appointments.**

- (1) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business he may, after consultation with the Lord Chief Justice, appoint a suitably qualified person—
  - (a) to act as a deputy for any statutory officer, or
  - (b) to act as a temporary additional statutory officer,
 during such period or on such occasions as the Lord Chancellor, after consultation with the Lord Chief Justice, thinks fit.
- (2) A person acting in an office by virtue of an appointment under subsection (1) shall have all the powers of a person permanently appointed to that office.
- (3) Where anything is for the time being authorised or required by this Act or any other statutory provision to be done to or by a particular statutory officer and—
  - (a) that statutory officer is not available because of absence or other reason and no person may, by virtue of subsections (1) and (2), exercise his powers; or
  - (b) his office is vacant,
 then it may, unless the Lord Chancellor otherwise directs, be done during such unavailability or vacancy to or by any other statutory officer.
- (4) Where for any purpose it is necessary for a judge of the High Court or the Court of Appeal to sit outside Belfast, he may, with the approval of the Lord Chief Justice, appoint a judge’s registrar.
- (5) The Lord Chancellor may pay to any person appointed under this section such remuneration and allowances as he may, with the consent of the Minister for the Civil Service, determine.

**[<sup>F11</sup>75 Official Solicitor.**

- [<sup>F12</sup>(1) The Lord Chancellor, after consultation with the Lord Chief Justice, may appoint as Official Solicitor to the Supreme Court a person who is—
  - (a) a solicitor of the Supreme Court of at least 7 years' standing, or
  - (b) a member of the Bar of Northern Ireland of at least 7 years' standing.]
  - (2) The Official Solicitor shall have such powers and perform such duties as may be prescribed and as may be conferred or imposed on him—
    - (a) by or under this or any other Act; or
    - (b) by or in accordance with any direction given by the Lord Chancellor.
  - (3) <sup>F13</sup> .....
  - (4) The court may, in accordance with rules of court, order the costs of the Official Solicitor in respect of any business done by him to be paid out of any fund the subject of

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the proceedings or by any party to the proceedings and such costs shall be ascertained on taxation or measured.

- (5) Where any powers or duties have been or are hereafter conferred on the Official Solicitor then, unless and until the court or a judge otherwise directs in any particular case, those powers may be exercised and those duties shall be performed by the holder of the office for the time being, and no further order or appointment shall be necessary by reason only that the person on whom the powers and duties were conferred or imposed has died or ceased to hold office.]
- [<sup>F14</sup>(6) The Official Solicitor shall hold and vacate office in accordance with the terms of his appointment (which may include provision about retirement, dismissal or resignation).
- (7) The Lord Chancellor may pay to the Official Solicitor such remuneration and allowances as the Lord Chancellor may determine with the consent of the Treasury.
- (8) Service as the Official Solicitor is employment in the civil service of the State for the purposes of section 1 of the Superannuation Act 1972 (Principal Civil Service Pension Scheme).
- (9) While the office of Official Solicitor is vacant or the Official Solicitor is unable or unwilling to act, the Lord Chancellor may, after consultation with the Lord Chief Justice, appoint a person as temporary Official Solicitor; and the temporary Official Solicitor—
- (a) may be appointed only if qualified for appointment as Official Solicitor,
  - (b) shall have all the powers and duties of the Official Solicitor, and
  - (c) may be paid remuneration and allowances by the Lord Chancellor with the consent of the Treasury.]

#### Textual Amendments

**F11** S. 75 substituted by S.R. 1982/300, art. 4

**F12** S. 75(1) substituted (1.5.2004) by Courts Act 2003 (c. 39), ss. 103(3), 110(1); S.I. 2004/1104, art. 3(e)

**F13** S. 75(3) repealed (1.10.2003) by 2002 c. 26, ss. 86, 87(1), Sch. 13; S.R. 2003/416, art. 2(2)

**F14** S. 75(6)-(9) inserted (1.5.2004) by Courts Act 2003 (c. 39), ss. 103(4), 110(1); S.I. 2004/1104, art. 3(e)

## 76 Property held by officers.

Any property whatsoever held in his official capacity by any of the following, that is to say—

- (a) a statutory officer;
- (b) the Accountant General of the Supreme Court;
- (c) [<sup>F15</sup>the Official Solicitor;]
- (d) any member of the Northern Ireland Court Service;
- (e) any person appointed by the High Court to hold the property for the purposes of or in connection with any proceedings,

shall, on his dying, becoming bankrupt, ceasing to hold office or ceasing to act for the purposes of or in connection with any such proceedings, vest in the person appointed to succeed him without any conveyance, assignment or transfer.

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#### Textual Amendments

**F15** S. 76(c) revived (1.5.2004) by Courts Act 2003 (c. 39), **ss. 103(7), 110(1)** (with s. 103(8)); S.I. 2004/1104, **art. 3(e)**



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