



# Senior Courts Act 1981

## 1981 CHAPTER 54

### PART IV

#### OFFICERS AND OFFICES

##### *Appointment of certain officers of <sup>[F1]</sup>Senior Courts]*

###### Textual Amendments

- F1** Words in s. 88 cross-heading substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 26\(1\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

#### **88 Qualification for office.**

A person shall not be qualified for appointment to any office in the <sup>[F2]</sup>Senior Courts] listed in column 1 of any Part of Schedule 2 unless he is a person of any description specified in relation to that office in column 2 of that Part.

###### Textual Amendments

- F2** Words in s. 88 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 26\(1\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

#### **89 Masters and registrars.**

(1) The power to make appointments to the offices in the <sup>[F3]</sup>Senior Courts] listed in column 1 of Parts II and III of Schedule 2 shall be exercisable by <sup>[F4]</sup>Her Majesty.]

<sup>[F5]</sup>(1A) The maximum number of appointments under subsection (1) is such as may be determined from time to time by the Lord Chancellor with the concurrence of the Treasury.]

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- (2) The person appointed to the office of Queen’s coroner and attorney and master of the Crown Office [<sup>F6</sup>and Registrar of criminal appeals] shall, by virtue of his appointment, be a master of the Queen’s Bench Division.
- [<sup>F7</sup>(3) Her Majesty shall, on the recommendation of the Lord Chancellor, appoint a person to each office listed in the first column of the table in subsection (3C) (“a senior office”).
- (3A) A person may be appointed to a senior office only if—
- he holds the office in the corresponding entry in the second column of that table (“the qualifying office”), or
  - he does not hold the qualifying office but could be appointed to it in compliance with section 88.
- (3B) Where a person who is to be appointed to a senior office meets the condition in subsection (3A)(b) he shall, when appointed to the senior office, also be appointed to the qualifying office.
- (3C) This is the table referred to in subsections (3) and (3A)—

<i>Senior office</i>	<i>Qualifying office</i>
Senior Master of the Queen's Bench Division	Master of the Queen's Bench Division
Chief Chancery Master	Master of the Chancery Division
Chief Taxing Master	Taxing master of the Senior Courts
Chief Bankruptcy Registrar	Registrar in bankruptcy of the High Court
Senior District Judge of the Family Division	Registrar of the Principal Registry of the Family Division]

- (4) The person appointed Senior Master under subsection (3)(a) shall hold and perform the duties of the offices of the Queen’s Remembrancer and registrar of judgments.
- <sup>F8</sup>(5) .....
- [<sup>F9</sup>(7A) A person appointed under subsection (1) is to be paid such salary, and a person appointed to a senior office is to be paid such additional salary, as may be determined by the Lord Chancellor with the concurrence of the Treasury.
- (7B) A salary payable under or by virtue of this section—
- may in any case be increased, but
  - may not, in the case of a salary payable in respect of an office listed in column 1 of Part 2 of Schedule 2 or of a senior office, be reduced,
- by a determination or further determination under this section.]
- (8) Salaries payable under or by virtue of this section shall be paid out of money provided by Parliament.

#### Textual Amendments

**F3** Words in s. 89 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 26\(1\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

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- F4** Words in s. 89(1) substituted (3.4.2006 for certain purposes and otherwise prosp.) by [Constitutional Reform Act 2005 \(c. 4\), ss. 14, 148, Sch. 3 para. 3\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 9
- F5** S. 89(1A) inserted (3.4.2006 for certain purposes and otherwise prosp.) by [Constitutional Reform Act 2005 \(c. 4\), ss. 14, 148, Sch. 3 para. 3\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 9
- F6** Words inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 125\(3\), Sch. 18 para. 37](#)
- F7** S. 89(3)-(3C) substituted (3.4.2006) for s. 89(3) by [Constitutional Reform Act 2005 \(c. 4\), ss. 14, 148, Sch. 3 para. 3\(4\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 11 para. 9
- F8** S. 89(5)(6)(7) repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\), s. 1\(1\), Sch. 1 Pt. I](#)
- F9** S. 89(7A)(7B) inserted (3.4.2006 for certain purposes and otherwise prosp.) by [Constitutional Reform Act 2005 \(c. 4\), ss. 14, 148, Sch. 3 para. 3\(5\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 9

## 90 Official Solicitor.

- (1) There shall continue to be an Official Solicitor to the [<sup>F10</sup>Senior Courts], who shall be appointed by the Lord Chancellor.
- (2) There shall be paid to the Official Solicitor out of money provided by Parliament such salary as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.
- (3) The Official Solicitor shall have such powers and perform such duties as may for the time being be conferred or imposed on the holder of that office—
  - (a) by or under this or any other Act; or
  - (b) by or in accordance with any direction given (before or after the commencement of this Act) by the Lord Chancellor.

[<sup>F11</sup>(3A) The holder for the time being of the office of Official Solicitor shall have the right to conduct litigation in relation to any proceedings.

(3B) When acting as Official Solicitor a person who would otherwise have the right to conduct litigation by virtue of section 28(2)(a) of the Courts and Legal Services Act 1990 shall be treated as having acquired that right solely by virtue of subsection (3A).]

- (4) If—
  - (a) the Official Solicitor is not available because of his absence or for some other reason; or
  - (b) his office is vacant,

then, during such unavailability or vacancy, any powers or duties of the Official Solicitor shall be exercisable or fall to be performed by any person for the time being appointed by the Lord Chancellor as deputy to the Official Solicitor (and any property vested in the Official Solicitor may accordingly be dealt with by any such person in all respects as if it were vested in him instead).

### Textual Amendments

- F10** Words in s. 90 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 26\(1\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F11** S. 90(3A)(3B) inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 125\(3\), Sch. 18 para. 39](#)

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## 91 Deputies and temporary appointments.

- (1) If it appears to [<sup>F12</sup>the Lord Chancellor] that it is expedient to do so in order to facilitate the disposal of business in the [<sup>F13</sup>Senior Courts], he may appoint a person—
- (a) to act as a deputy for any person holding an office listed in column 1 of Part II <sup>F14</sup> . . . of Schedule 2; or
  - (b) to act as a temporary additional officer in any such office, during such period or on such occasions as [<sup>F15</sup>[<sup>F16</sup>the Lord Chancellor may] think fit].
- [<sup>F17</sup>(1ZA) The Lord Chancellor may not appoint a holder of relevant office under subsection (1) without the concurrence of the Lord Chief Justice.
- (1ZB) Section 85 of the Constitutional Reform Act 2005 (selection of certain office holders) does not apply to an appointment to which subsection (1ZA) applies.
- (1ZC) In this section a “holder of relevant office” means a person who holds, or has held within two years ending with the date when his appointment under this section takes effect—
- (a) any office listed in column 1 of Part 2 or 3 of Schedule 2, or
  - (b) the office of district judge.]
- [<sup>F18</sup>(1A) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business in the Senior Courts, he may appoint a person—
- (a) to act as a deputy for any person holding an office listed in column 1 of Part 3 of Schedule 2; or
  - (b) to act as a temporary additional officer in any such office, during such period or on such occasions as the Lord Chancellor may think fit.]
- (2) Subject to subsection (3), a person shall not be qualified for appointment under this section if the office in which he would act by virtue of the appointment is one to which he is not qualified for permanent appointment.
- [<sup>F19</sup>(3) An appointment under this section may extend until the day on which a person attains the age of seventy-five years if it is an appointment of a holder of relevant office.]
- (4) Every person, while acting under this section, shall have all the jurisdiction of a person permanently appointed to the office in which he is acting.
- <sup>F20</sup>(5) . . . . .
- (6) The Lord Chancellor may, out of money provided by Parliament, pay to any person appointed under this section such remuneration and allowances as he may, with the concurrence of the Minister for the Civil Service, determine.
- [<sup>F21</sup>(7) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under [<sup>F22</sup>subsection (1ZA)].]

### Textual Amendments

**F12** Words in s. 91(1) substituted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), **ss. 57(2)(a)**, 148(5)

**F13** Words in s. 91 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 59**, 148, **Sch. 11 para. 26(1)**; S.I. 2009/1604, **art. 2(d)**

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- F14** Words in s. 91(1)(a) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 139(2)(b), **Sch. 18 Pt. 2**; S.I. 2006/1014, **art. 2(a)**, Sch. paras. 11(p), 30(b)
- F15** Words in s. 91(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 139(2)(c)**; S.I. 2006/1014, **art. 2(a)**, Sch. para. 11(p)
- F16** Words in s. 91(1) substituted (19.7.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 57(2)(b)**, 148(5)
- F17** S. 91(1ZA)-(1ZC) inserted (19.7.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 57(3)**, 148(5)
- F18** S. 91(1A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 139(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. para. 11(p)
- F19** S. 91(3) substituted (19.7.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 57(3)**, 148(5)
- F20** S. 91(5) repealed (31.3.1995) by 1993 c. 8, s. 31, **Sch. 9**; S.I. 1995/631, **art. 2**
- F21** S. 91(7) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 139(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. para. 11(p)
- F22** Words in s. 91(7) substituted (19.7.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 57(5)**, 148(5)

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

- C1** S. 91(1)(3) restricted (31.3.1995) by 1993 c. 8, **s. 26(7)(f)**, (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

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