



Tribunals, Courts and Enforcement Act 2007

2007 CHAPTER 15

PART 2

JUDICIAL APPOINTMENTS

53 Transfer from salaried to fee-paid judicial office

- (1) The Constitutional Reform Act 2005 (c. 4) is amended as follows.
- (2) After section 94 insert—

“94A Appointments not subject to section 85: courts

- (1) Where this section applies to an appointment—
 - (a) section 85 does not apply, but
 - (b) the Lord Chancellor may not make the appointment without the concurrence of the Lord Chief Justice.
- (2) This section applies to the appointment of a person, on a fee-paid basis, to an office in the table below (the “proposed appointment”) if the person—
 - (a) holds the corresponding qualifying office (or one of them) on a salaried basis, or
 - (b) ceased to hold the corresponding qualifying office (or one of them) within two years ending with the date when the proposed appointment takes effect and, immediately before ceasing to hold that office, held it on a salaried basis.

| <i>Proposed appointment (fee-paid)</i> | <i>Qualifying office (salaried)</i> |
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An office listed in Part 2 of
Schedule 14.

The same office.

Status: Point in time view as at 19/07/2007. This version of this provision has been superseded.

Changes to legislation: Tribunals, Courts and Enforcement Act 2007, Section 53 is up to date with all changes known to be in force on or before 22 June 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)

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| Deputy District Judge (Magistrates' Courts). | District Judge (Magistrates' Courts), Senior District Judge (Chief Magistrate), or Deputy Senior District Judge (Chief Magistrate). |
| Assistant Judge Advocate General, or a person appointed temporarily to assist the Judge Advocate General. | Judge Advocate of Her Majesty's Fleet, Judge Advocate General, Vice Judge Advocate General, or Assistant Judge Advocate General. |

- (3) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4)) to exercise his function under subsection (1)(b).
- (4) In this section “salaried” and “fee-paid” have the meaning given by paragraph 1(2) of Schedule 7 to the Judicial Pensions and Retirement Act 1993 (c. 8).

94B Appointments not subject to section 85: tribunals

- (1) Where this section applies to a recommendation or appointment—
- (a) section 85 does not apply, but
 - (b) the Lord Chancellor may not make the recommendation or appointment without the concurrence of the Senior President of Tribunals.
- (2) In the case of the appointment of a person as a deputy judge of the Upper Tribunal, if the person holds or has held an office listed in section 6(1) of the Tribunals, Courts and Enforcement Act 2007, the Lord Chancellor must also consult the Lord Chief Justice before making the appointment.
- (3) This section applies to, or to a recommendation to Her Majesty for, the appointment of a person, on a fee-paid basis, to an office in the table below (the “proposed appointment”) if the person—
- (a) holds the corresponding qualifying office (or one of them) on a salaried basis, or
 - (b) subject to subsection (4), ceased to hold the corresponding qualifying office (or one of them) within two years ending with the date when the proposed appointment takes effect and, immediately before ceasing to hold that office, held it on a salaried basis.

Proposed appointment (fee-paid)

An office listed in Part 3 of Schedule 14 (other than the office of Chamber President or Deputy Chamber President of a chamber of the Upper Tribunal or the First-tier Tribunal).

Deputy Child Support Commissioner.

Qualifying office (salaried)

The same office, or a more senior office, listed in Part 3 of Schedule 14, in the same tribunal or body (but excluding the Upper Tribunal and the First-tier Tribunal).

Chief Child Support Commissioner, or Child Support Commissioner.

Status: Point in time view as at 19/07/2007. This version of this provision has been superseded.

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| Deputy Social Security Commissioner. | Chief Social Security Commissioner, or Social Security Commissioner. |
| Deputy judge of the Upper Tribunal. | Ordinary judge of the Court of Appeal in England and Wales, Lord Justice of Appeal in Northern Ireland, Judge of the Court of Session, Puisne judge of the High Court in England and Wales or Northern Ireland, Circuit judge, Sheriff in Scotland, County court judge in Northern Ireland, District judge in England and Wales or Northern Ireland, District Judge (Magistrates' Courts), or Judge of the Upper Tribunal by virtue of any of paragraphs (a) to (f) or (i) of section 5(1) of the Tribunals, Courts and Enforcement Act 2007. |
| Judge of the First-tier Tribunal by appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007. | Transferred-in judge of the First-tier Tribunal (see section 31(2) of that Act). |
| Other member of the First-tier Tribunal by appointment under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007. | Transferred-in other member of the First-tier Tribunal (see section 31(2) of that Act). |
| Judge of the Upper Tribunal by appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007. | Transferred-in judge of the Upper Tribunal (see section 31(2) of that Act). |
| Other member of the Upper Tribunal by appointment under paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007. | Transferred-in other member of the Upper Tribunal (see section 31(2) of that Act). |
| Deputy judge of the Upper Tribunal by appointment under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007. | Deputy judge of the Upper Tribunal under section 31(2) of that Act. |

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- (4) In subsection (3)(b) the words “within two years ending with the date when the proposed appointment takes effect” do not apply if—

Status: Point in time view as at 19/07/2007. This version of this provision has been superseded.

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- (a) the proposed appointment is to the office of deputy judge of the Upper Tribunal, and
 - (b) the corresponding qualifying office is—
 - (i) ordinary judge of the Court of Appeal in England and Wales,
 - (ii) Lord Justice of Appeal in Northern Ireland,
 - (iii) judge of the Court of Session, or
 - (iv) puisne judge of the High Court in England and Wales or Northern Ireland.
- (5) In this section “salaried” and “fee-paid” have the meaning given by paragraph 1(2) of Schedule 7 to the Judicial Pensions and Retirement Act 1993.”
- (3) After section 85(2) (restriction on recommendations and appointments) insert—
- “(2A) This section is subject to—
- (a) section 30(4) of the Courts-Martial (Appeals) Act 1951,
 - (b) sections 91(1ZB) and 102(1C) of the Supreme Court Act 1981,
 - (c) section 8(1ZC) of the County Courts Act 1984, and
 - (d) sections 94A and 94B below.”
- (4) After section 85(3) (power to amend Schedule 14) add—
- “(4) The Lord Chancellor may by order amend section 94A or 94B if he thinks that the amendment is consequential on an amendment made to Schedule 14 by an order under subsection (3).”
- (5) Section 97 (Scotland and Northern Ireland) is amended as follows.
- (6) In subsection (1)—
- (a) for “This section applies” substitute “ Subsections (2) and (3) apply ”, and
 - (b) after paragraph (c) insert—
 - “(ca) section 94B(2);”.
- (7) After subsection (3) add—
- “(4) Subsections (2) and (3) apply to the reference in section 94A(1) to the Lord Chancellor obtaining the concurrence of the Lord Chief Justice as they apply to a reference in a provision specified in subsection (1) to the Lord Chancellor consulting the Lord Chief Justice.
- (5) The Lord President of the Court of Session may nominate any of the following to exercise his function under section 94A(1)(b)—
- (a) a judge who is a member of the First or Second Division of the Inner House of the Court of Session;
 - (b) the Senior President of Tribunals.
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his function under section 94A(1)(b)—
- (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);
 - (c) the Senior President of Tribunals.”

Status:

Point in time view as at 19/07/2007. This version of this provision has been superseded.

Changes to legislation:

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