



# Courts Act 1971

## 1971 CHAPTER 23

### PART III

#### JUDGES

#### 16 Appointment of Circuit Judges.

- (1) Her Majesty may from time to time appoint as Circuit judges, to serve in the Crown Court and county courts and to carry out such other judicial functions as may be conferred on them under this or any other enactment, such qualified persons as may be recommended to Her by the Lord Chancellor.
- (2) The maximum number of Circuit judges shall be such as may be determined from time to time by the Lord Chancellor with the concurrence of the Minister for the Civil Service.
- (3) No person shall be qualified to be appointed a Circuit judge [<sup>F1</sup>unless—
  - [<sup>F2</sup>(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;]
  - (b) he is a Recorder; or
  - (c) he has held as a full-time appointment for at least 3 years one of the offices listed in Part IA of Schedule 2.]
- (4) Before recommending any person to Her Majesty for appointment as a Circuit judge, the Lord Chancellor shall take steps to satisfy himself that that person's health is satisfactory.
- (5) The provisions of Part I of Schedule 2 to this Act shall have effect with respect to the appointment as Circuit judges of the holders of certain judicial offices, and the supplementary provisions in Part II of that Schedule shall have effect.

#### Textual Amendments

- F1** S. 16(3)(a)–(c) substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 31\(1\)](#)

*Changes to legislation: There are currently no known outstanding effects for the Courts Act 1971, Part III. (See end of Document for details)*

**F2** S. 16(3)(a) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 50, 148, **Sch. 10 para. 9(2)**; S.I. 2008/1653, **art. 2(d)** (with arts. 3, 4)

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

**C1** S. 16(3)(c) modified by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(6), **Sch. 19 para. 5**

**17 Retirement, removal and disqualifications of Circuit judge.**

[<sup>F3</sup>(1) Subject to subsection (4) below <sup>F4</sup>... a Circuit judge shall vacate his office on the day on which he attains the age of [<sup>F5</sup>75].]

<sup>F6</sup>(2) .....

<sup>F6</sup>(3) .....

(4) The Lord Chancellor may, if he thinks fit [<sup>F7</sup>and if the Lord Chief Justice agrees], remove a Circuit judge from office on the ground of incapacity or misbehaviour.

<sup>F8</sup>(5) .....

<sup>F9</sup>(6) .....

**Textual Amendments**

**F3** S. 17(1) substituted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 8(2)**; S.I. 1995/631, **art. 2**

**F4** Words in s. 17(1) omitted (10.3.2022) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(a), **Sch. 1 para. 11(2)(a)** (with Sch. 1 para. 43)

**F5** Word in s. 17(1) substituted (10.3.2022) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(a), **Sch. 1 para. 11(2)(b)** (with Sch. 1 para. 43)

**F6** S. 17(2)(3) repealed (31.3.1995) by 1993 c. 8, s. 26, Sch. 6 para. 8(3)(4), **Sch.9**; S.I. 1995/631, **art. 2**

**F7** Words in s. 17(4) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 68**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(e)

**F8** S. 17(5) repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3** and Northern Ireland Assembly Disqualification Act 1975 (c. 25), **Sch. 3 Pt. I**

**F9** S. 17(6) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

**18 Salaries and allowances of Circuit judges.**

(1) Subject to Part II of Schedule 2 to this Act, there shall be paid to each Circuit judge such salary as may be determined by the Lord Chancellor with the consent of the Minister for the Civil Service.

(2) Every salary payable under this section—

- (a) shall be charged on and paid out of the Consolidated Fund;
- (b) shall begin from the date of appointment and accrue due from day to day;
- (c) shall be payable at such intervals, not exceeding three months, as the Treasury may determine; and
- (d) may be increased, but not reduced, by a further determination under this section.

<sup>F10</sup>(3) .....

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- <sup>F11</sup>(4) . . . . .
- (a) became a Circuit judge by virtue of having held any of the offices specified in paragraph 1 of Schedule 2 to this Act, and
  - (b) held that office before 10th May 1967 (that is to say before the passing of the <sup>M1</sup>Superannuation (Miscellaneous Provisions) Act 1967).
- (5) There shall be paid to Circuit judges out of money provided by Parliament such allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.

**Textual Amendments**

**F10** S. 18(3) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), ss. 84(c), 125(7), **Sch. 20**

**F11** S. 18(4) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**

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

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

**Marginal Citations**

**M1** 1967 c. 28.

- 19** <sup>F12</sup>(1) . . . . .
- <sup>F13</sup>(5) . . . . .
- <sup>F14</sup>(6) . . . . .
- (7) The decision of the Minister for the Civil Service shall be final on any question arising with regard to—
- (a) the application of any of the provisions of this section to any person, or
  - <sup>F15</sup>(b) . . . . .

**Textual Amendments**

**F12** S. 19(1)–(4) repealed by Judicial Pensions Act 1981 (c. 20, SIF 71:2), s. 36(2), **Sch. 4**

**F13** S. 19(5) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(7), **Sch. 20** (subject to a saving in s. 125(6), Sch. 19 para. 10(3))

**F14** S. 19(6) repealed by Judicial Pensions Act 1981 (c. 20, SIF 71:2), s. 36(2), **Sch. 4**

**F15** S. 19(7) paragraphs (b) and (c) repealed by Judicial Pensions Act 1981 (c. 20, SIF 71:2), s. 36(2), **Sch. 4**

**20 Judges of county courts.**

[<sup>F16</sup>(1) Every Circuit judge shall, by virtue of his office, be capable of sitting as a judge for any county court district in England and Wales, and the Lord Chancellor shall assign one or more Circuit judges to each district and may from time to time vary the assignment of Circuit judges among the districts.

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- (2) Subject to any directions given by or on behalf of the Lord Chancellor, in any case where more than one Circuit judge is assigned to a district under subsection (1) above, any function conferred by or under the <sup>M2</sup>County Courts Act 1959 on the judge for a district may be exercised by any of the Circuit judges for the time being assigned to that district.
- (3) The following, that is—  
every judge of the Court of Appeal,  
every judge of the High Court,  
every Recorder,  
shall, by virtue of his office, be capable of sitting as a judge for any county court district in England and Wales and if he consents to do so, shall sit as such a judge at such times and on such occasions as the Lord Chancellor considers desirable.
- (4) Notwithstanding that he is not for the time being assigned to a particular district, a Circuit judge—  
(a) shall sit as a judge of that district at such times and on such occasions as the Lord Chancellor may direct; and  
(b) may sit as a judge of that district in any case where it appears to him that the judge of that district is not, or none of the judges of that district is, available to deal with the case.]
- (5) <sup>F17</sup> .....
- (6) <sup>F17</sup> .....
- (7) Nothing in this Act shall affect the operation, in relation to the superannuation and other benefits payable to or in respect of persons who ceased to be judges of county courts before the day appointed for the coming into force of section 16(5) of this Act, of any enactment repealed or amended by this Act.

#### Textual Amendments

**F16** S. 20(1)–(4) repealed (E.W.) by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(3), **Sch. 4**

**F17** S. 20(5)(6) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), s. 1(1), {Sch. 1 Pt. 1 Group 3}

#### Marginal Citations

**M2** 1959 c. 22.

## 21 Appointment of Recorders.

- (1) Her Majesty may from time to time appoint qualified persons, to be known as Recorders, to act as part-time judges of the Crown Court and to carry out such other judicial functions as may be conferred on them under this or any other enactment.
- (2) Every appointment of a person to be a Recorder shall be of a person recommended to Her Majesty by the Lord Chancellor, and no person shall be qualified to be appointed a Recorder unless [<sup>F18</sup>he satisfies the judicial-appointment eligibility condition on a 7-year basis.]

[<sup>F19</sup>(3) The appointment of a person as a Recorder shall specify the following—

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- (a) the term for which he is appointed;
  - (b) the frequency and duration of the occasions during that term on which he will be required to be available to undertake the duties of a Recorder;
  - (c) the circumstances in which the Lord Chancellor may—
    - (i) decline to extend the term of the appointment, or
    - (ii) terminate the appointment,(other than those in subsection (4C)(a) or (b) and subsection (6)(a) or (b)).
- (4) Circumstances may be specified under subsection (3)(c) in an appointment only if the Lord Chief Justice agrees.
- (4A) Subject to subsections (4B) to (5), the Lord Chancellor must extend the term of a Recorder's appointment (including a term already extended under this subsection) before its expiry, for such term as the Lord Chancellor thinks appropriate.
- (4B) The Lord Chancellor must not extend the term of a Recorder's appointment unless the Recorder agrees to the extension.
- (4C) The Lord Chancellor may, with the agreement of the Lord Chief Justice, decline to extend the term of a Recorder's appointment on any of these grounds—
- (a) the incapacity or misbehaviour of the Recorder;
  - (b) a failure of the Recorder to comply with any requirement specified under subsection (3)(b) in the terms of his appointment;
  - (c) one or more of the circumstances specified under subsection (3)(c) in his appointment applies.]
- (5) Neither the initial term for which a Recorder is appointed nor any extension of that term under subsection (4) above shall be such as to continue his appointment as a Recorder after [<sup>F20</sup>the day on which he attains the age of [<sup>F21</sup>75].]
- [<sup>F22</sup>(6) The Lord Chancellor may, with the agreement of the Lord Chief Justice, terminate the appointment of a Recorder on any of these grounds—
- (a) the incapacity or misbehaviour of the Recorder;
  - (b) a failure of the Recorder to comply with any requirement specified under subsection (3)(b) in the terms of his appointment;
  - (c) one or more of the circumstances specified under subsection (3)(c) in his appointment applies.]
- (7) There shall be paid to Recorders out of money provided by Parliament such remuneration and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.

#### Textual Amendments

- F18** Words in s. 21(2) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 50, 148, [Sch. 10 para. 9\(3\)](#); S.I. 2008/1653, [art. 2\(d\)](#) (with arts. 3, 4)
- F19** S. 21(3)-(4C) substituted (3.4.2006) for s. 21(3)(4) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 69\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(e)
- F20** Words in s. 21(5) substituted (31.3.1995) by 1993 c. 8, s. 26, [Sch. 6 para. 9\(1\)](#); S.I. 1995/631, [art. 2](#)
- F21** Word in s. 21(5) substituted (10.3.2022) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(a), [Sch. 1 para. 11\(3\)](#) (with Sch. 1 para. 43)

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**F22** S. 21(6) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 4 para. 69\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(e)

## 22 Oaths to be taken by Circuit judges and Recorders.

- (1) Subject to the following provisions of this section, every Circuit judge and every Recorder shall take the oath of allegiance and the judicial oath; and the <sup>M3</sup>Promissory Oaths Act 1868 shall have effect as if the officers named in the Second Part of the Schedule to that Act included Circuit judges and Recorders.
  - (2) Notwithstanding anything in the <sup>M4</sup>Promissory Oaths Act 1871, a Circuit judge shall take the oaths referred to in subsection (1) above before the [<sup>F23</sup>Lord Chief Justice], and a Recorder shall take those oaths before a judge of the Court of Appeal or of the High Court or a Circuit judge.
  - (3) Nothing in this section shall require an oath to be taken by a person who becomes a Circuit judge in accordance with any provision of Part I of Schedule 2 to this Act.
- [<sup>F24</sup>(3A) 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 subsection (2).]

### Textual Amendments

- F23** Words in s. 22(2) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 4 para. 70\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(e)
- F24** S. 22(3A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 4 para. 70\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(e)

### Marginal Citations

- M3** 1868 c. 72.  
**M4** 1871 c. 48.

## [<sup>F25</sup>23 Circuit judge or Recorder sitting as High Court Judge.

- (1) If requested to do so by or on behalf of the Lord Chancellor, a Circuit judge or Recorder shall sit as a judge of the High Court for the hearing of such case or cases or at such place and for such time as may be specified by or on behalf of the Lord Chancellor.
- (2) So long as a Circuit judge or Recorder sits as a judge of the High Court in pursuance of a request under this section he shall be treated, subject to subsection (3) below, for all purposes as, and accordingly may perform any of the functions of, a puisne judge of the High Court.
- (3) A Circuit judge or Recorder sitting as a judge of the High Court in pursuance of a request under this section shall not be treated as a judge of the High Court for the purpose of any provision made by or under any enactment and relating to—
  - (a) the appointment, retirement, removal or disqualification of judges of the High Court,
  - (b) the tenure of office and oaths to be taken by such judges, or
  - (c) the remuneration, allowances or pensions of such judges.

*Changes to legislation: There are currently no known outstanding effects for the Courts Act 1971, Part III. (See end of Document for details)*

- (4) Where a Circuit judge or Recorder is requested to sit as a judge of the High Court for a period of time then, notwithstanding the expiry of that time, he may attend at the High Court for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case which may have been begun before him when sitting as a judge of that court, and for that purpose and for the purpose of any proceedings subsequent thereon he shall be treated as a judge of the High Court.]

#### Textual Amendments

**F25** S. 23 repealed (E.W.) by [Supreme Courts Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

### <sup>F27</sup>24 Deputy Circuit judges <sup>F26</sup> ...

#### Textual Amendments

**F26** Words in s. 24 heading omitted (15.7.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 89\(2\)\(e\)](#); S.I. 2013/1725, art. 2(g)

**F27** S. 24 omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(c), [Sch. 4 para. 3](#); S.I. 2022/1014, reg. 2(d) (with reg. 3)

### [<sup>F28</sup>25 Official referees' business.

- (1) After the appointed day no person shall be appointed to the office of official referee and on and after that day functions conferred on official referees by provisions of rules of the Supreme Court, or by any other provision, shall be discharged in accordance with the provisions of this section.
- (2) Such of the Circuit judges as the Lord Chancellor may from time to time determine shall discharge the said functions conferred on official referees.
- (3) The cases in which jurisdiction or powers of the High Court or a judge of the High Court may be exercised by official referees, whether by virtue of rules of court made under section 15 of the <sup>M5</sup>Administration of Justice Act 1956 or otherwise, shall be known as "official referees' business", and except where the context otherwise requires, any reference in any enactment, in rules of court or in any other document to an official referee shall, in accordance with this section, be construed as, or where the context requires as including, a reference to a Circuit judge discharging the functions of an official referee.
- (4) Subject to rules of court, the distribution of official referees' business, performed in accordance with this section, shall be determined in accordance with directions given by or on behalf of the Lord Chancellor.]

#### Textual Amendments

**F28** Ss. 25, 26 repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

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*Changes to legislation: There are currently no known outstanding effects  
for the Courts Act 1971, Part III. (See end of Document for details)*

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**Marginal Citations**

**M5** 1956 c. 46.



**Changes to legislation:**

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