



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 unless he is a barrister of at least ten years' standing or a Recorder who has held that office for at least five years.
- (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.

17 Retirement, removal and disqualifications of Circuit judges

- (1) Subject to subsections (2) to (4) below, a Circuit judge shall vacate his office at the end of the completed year of service in which he attains the age of seventy-two.
- (2) Where the Lord Chancellor considers it desirable in the public interest to retain a Circuit judge in office after the time at which he would otherwise retire in accordance with subsection (1) above, he may from time to time authorise the continuance in

office of that judge until such date, not being later than the date on which the judge attains the age of seventy-five, as he thinks fit.

- (3) For the purposes of subsection (1) above a person who becomes a Circuit judge by virtue of any provision of paragraph 1 of Schedule 2 to this Act shall be treated as completing a year of service on the anniversary of his appointment to the office by virtue of which he becomes a Circuit judge.
- (4) The Lord Chancellor may, if he thinks fit, remove a Circuit judge from office on the ground of incapacity or misbehaviour.
- (5) In Part I of Schedule 1 to the House of Commons Disqualification Act 1957 (which lists judicial offices the holders of which are disqualified for membership of the House of Commons, and of the Senate and House of Commons of Northern Ireland) there shall be inserted, before the entry relating to sheriffs in Scotland, the words " Circuit judge ".
- (6) So long as he holds office as such, no Circuit judge shall practise as a barrister, or act for any remuneration to himself as arbitrator or referee, or be directly or indirectly concerned as a conveyancer, notary public or solicitor.

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.
- (3) Subject to subsection (4) below, the salary determined in accordance with subsection (1) above as payable to a Circuit judge shall be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom to which he had previously been appointed or elected.
- (4) Subsection (3) above shall not apply in the case of a person who—
 - (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 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.

19 Pensions of Circuit judges

- (1) Subject to Part II of Schedule 2 to this Act, the Lord Chancellor may from time to time recommend to the Minister for the Civil Service that there shall be paid to any Circuit

judge an annual sum by way of pension calculated in accordance with subsection (2) below—

- (a) if he vacates his office in accordance with section 17 above; or
- (b) if the Lord Chancellor is satisfied by means of a medical certificate that, by reason of infirmity of mind or body, he is incapable of discharging the duties of his office, and that the incapacity is likely to be permanent; or
- (c) if he retires after fifteen years' service and at the time of his retirement he has attained the age of sixty-five.

- (2) The annual pension payable to a Circuit judge in accordance with this section shall be that fraction of his last annual salary specified in the entry in the second column of the following table which corresponds to the entry in the first column of that table specifying the number of completed years he has served as a Circuit judge:—

TABLE

| Completed years of service | Fraction of last annual salary |
|----------------------------|--------------------------------|
| Less than 5 | Six-fortieths |
| 5 | Ten-fortieths |
| 6 | Eleven-fortieths |
| 7 | Twelve-fortieths |
| 8 | Thirteen-fortieths |
| 9 | Fourteen-fortieths |
| 10 | Fifteen-fortieths |
| 11 | Sixteen-fortieths |
| 12 | Seventeen-fortieths |
| 13 | Eighteen-fortieths |
| 14 | Nineteen-fortieths |
| 15 or more | Twenty-fortieths. |

- (3) If a person to whom a pension has been granted under this section before he has attained the age of seventy-two in consequence of any such incapacity as is referred to in subsection (1)(b) above resumes the duties of a Circuit judge, the payment of the pension granted to him shall be suspended during the period of his resumed service, but at the end of that period the pension shall again be payable and be recalculated in accordance with subsection (2) above, and for that purpose the period of his resumed service shall be added to the period of his former service.
- (4) Sections 2 to 9 and 15 to 17 of the Administration of Justice (Pensions) Act 1950 (lump sums and widows' and dependants' pensions) shall apply in relation to a circuit judge and service as such a judge as they apply in relation to the persons specified in Schedule 1 to that Act and the service specified in that Schedule as their relevant service.
- (5) Notwithstanding that the annual salary of a Circuit judge is abated under section 18(3) above, for the purpose of computing any pension payable to him in respect of his office and any derivative benefits, within the meaning of the Administration of Justice

(Pensions) Act 1950, which depend upon eligibility for such a pension, the amount of his annual salary shall be treated as the amount determined under section 18(1) above in his case and not the amount as so abated.

- (6) Any pension granted under this section shall be charged on and paid out of the Consolidated Fund and shall be payable at such intervals, not exceeding three months, as the Treasury may determine.
- (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
 - (b) the amount of any pension under this section, or
 - (c) the reckoning of any service for the purpose of calculating such a pension.

20 Judges of county courts

- (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.
- (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 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) So much of Part I of the County Courts Act 1959 as makes special provision in relation to county court districts within the Duchy of Lancaster shall cease to have effect.
- (6) On the appointed day all appointments of temporary and deputy judges of county courts shall terminate and the provisions of the County Courts Act 1959 relating to such temporary and deputy judges shall cease to have effect.
- (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.

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 he is a barrister or solicitor of at least ten years' standing.
- (3) The appointment of a person as a Recorder shall specify the term for which he is appointed and 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.
- (4) Subject to subsection (5) below the Lord Chancellor may, with the agreement of the Recorder concerned, from time to time extend for such period as he thinks appropriate the term for which a Recorder is appointed.
- (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 the end of the completed year of service in which he attains the age of seventy-two.
- (6) The Lord Chancellor may if he thinks fit terminate the appointment of a Recorder on the ground of incapacity or misbehaviour or of a failure to comply with any requirement specified under subsection (3) above in the terms of his appointment.
- (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.

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 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 Promissory Oaths Act 1871, a Circuit judge shall take the oaths referred to in subsection (1) above before the Lord Chancellor, 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.

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.
- (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.

24 Deputy High Court and Circuit judges

- (1) If it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this subsection in order to facilitate the disposal of business in the High Court or the Crown Court he may appoint a person qualified for appointment as a puisne judge of the High Court under section 9 of the Judicature Act 1925 or any person who has held office as a judge of the Court of Appeal or of the High Court to be a deputy judge of the High Court during such period or on such occasions as the Lord Chancellor thinks fit.
- (2) If it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this subsection in order to facilitate the disposal of business in the Crown Court or a county court he may appoint to be a deputy Circuit judge during such period or on such occasions as he thinks fit—
- (a) any person qualified for appointment as a Circuit judge under section 16 above ;
 - (b) any person who has held office as a judge of the Court of Appeal or of the High Court or as a Circuit judge; or
 - (c) any person who, before the day appointed for the purposes of section 20 above, had retired from office as an official referee or judge of a county court.
- (3) Except as provided by subsection (4) below, during the period or on the occasions for which a deputy judge is appointed under this section, he shall be treated for all purposes as, and accordingly may perform any of the functions of, a puisne judge of the High Court or a Circuit judge, as the case may be.
- (4) A deputy judge appointed under this section shall not be treated as a judge of the High Court or Circuit judge 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 or Circuit judges,
 - (b) the tenure of office and oaths to be taken by judges of the High Court or Circuit judges, or
 - (c) the remuneration, allowances or pensions of judges of the High Court or Circuit judges.

- (5) Notwithstanding the expiry of any period for which a person is appointed under this section a deputy judge of the High Court or a deputy Circuit judge, 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 deputy judge of the High Court or a deputy Circuit judge, and for that purpose and for the purpose of any proceedings subsequent thereon he shall be treated as a judge of the High Court or a Circuit judge, as the case may be.
- (6) There shall be paid, out of money provided by Parliament, to deputy judges of the High Court and deputy Circuit judges appointed under this section such remuneration and allowances as the Lord Chancellor may, with the approval of the Minister for the Civil Service, determine.

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 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.