



# Judicature (Northern Ireland) Act 1978

## 1978 CHAPTER 23

### PART I

#### CONSTITUTION OF THE SUPREME COURT OF JUDICATURE OF NORTHERN IRELAND

#### **1 The Supreme Court**

There shall be a Supreme Court of Judicature of Northern The Supreme Ireland (in this Act referred to as "the Supreme Court") which Court, shall consist of—

- (a) Her Majesty's High Court of Justice in Northern Ireland to this Act referred to as "the High Court");
- (b) Her Majesty's Court of Appeal in Northern Ireland (in this Act referred to as "the Court of Appeal"); and
- (c) Her Majesty's Crown Court in Northern Ireland (in this Act referred to as "the Crown Court"),

with such jurisdiction as is respectively conferred on those courts by this Act or by any other statutory provision.

#### **2 The High Court**

- (1) The High Court shall consist of the Lord Chief Justice of Northern Ireland (in this Act referred to as "the Lord Chief Justice") who shall be president thereof and not more than six puisne judges who shall be styled "Judges of the High Court".
- (2) All the judges of the High Court shall, save as in this Act otherwise expressly provided, have in all respects equal jurisdiction and shall be addressed in the manner in which judges of the High Court of Justice in Northern Ireland were customarily addressed heretofore.
- (3) Her Majesty may by Order in Council from time to time amend subsection (1) so as to vary the maximum number of puisne judges.

- (4) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been approved by resolution of each House of Parliament.

### **3 The Court of Appeal**

- (1) The Court of Appeal shall consist of the Lord Chief Justice who shall be president thereof and three other judges who shall be styled " Lords Justices of Appeal ".
- (2) Every judge of the High Court shall be a judge of the Court of Appeal for the purposes of its jurisdiction in a criminal cause or matter and for those purposes shall have all the jurisdiction of a judge of the Court of Appeal.
- (3) All the judges of the Court of Appeal shall, save as in this Act otherwise expressly provided, have in all respects equal jurisdiction and shall be addressed in the manner in which judges of the Court of Appeal in Northern Ireland were customarily addressed heretofore.
- (4) Her Majesty may by Order in Council from time to time amend subsection (1) so as to vary the number of Lords Justices of Appeal.
- (5) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been approved by resolution of each House of Parliament.

### **4 The Crown Court**

- (1) There shall be a Crown Court in Northern Ireland whose jurisdiction shall be exercisable by the Lord Chief Justice who shall be president thereof, any judge of the High Court or the Court of Appeal or any county court judge.
- (2) The persons mentioned in subsection (1) shall, when exercising the jurisdiction of the Crown Court, be judges of the Crown Court but a county court judge shall not, except whet exercising such jurisdiction, be deemed to be a judge of the Supreme Court.
- (3) In any statutory provision relating to the Crown Court (including a provision of this Act) references to a judge of the High Court shall include references to a judge of the Court of Appeal.

### **5 Divisions of the High Court**

- (1) There shall be three divisions of the High Court, namely—
- (a) the Chancery Division ;
  - (b) the Queen's Bench Division ; and
  - (c) the Family Division.
- (2) Her Majesty may by Order in Council from time to time create additional divisions of the High Court or provide that any division be abolished and any such Order in Council may contain such provision as may be necessary or proper for that purpose.
- (3) A judge of the High Court may sit in any division.

- (4) Without prejudice to any statutory provision relating to or affecting the distribution of business in the High Court, all jurisdiction vested in the High Court shall belong to all the divisions alike.

## **6 Judges of one court empowered to assist another**

- (1) A Lord Justice of Appeal may at any time at the request of the Lord Chief Justice sit and act as a judge of the High Court.
- (2) A judge of the High Court shall, if requested to do so by the Lord Chief Justice, sit and act as a judge of the Court of Appeal when that court is exercising jurisdiction other than jurisdiction in a criminal cause or matter.

## **7 Further assistance for transaction of judicial business**

- (1) A person who not being a judge of the High Court or the Court of Appeal—
- (a) holds or has held the office of a Lord of Appeal in Ordinary and before his appointment to that office had practised for not less than ten years at the Bar of Northern Ireland ; or
  - (b) has held the office of a judge of the High Court or the Court of Appeal,
- may at any time at the request of the Lord Chancellor sit and act as a judge of the High Court or the Court of Appeal.
- (2) A county court judge shall, if requested to do so by the Lord Chancellor, sit and act as a judge of the High Court.
- (3) 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 judge of the High Court to sit and act as a judge of the High Court.
- (4) For any period during which a person who does not hold office as a Lord of Appeal in Ordinary or as a county court judge sits and acts under this section there may be paid to him such remuneration and allowances as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.

## **8 Additional provisions as to persons rendering judicial assistance**

- (1) A person may sit and act under section 6 or 7 as a judge of a court for the purpose of a particular case or cases or during a specified period and whether or not all the judges of that court are sitting or are available to sit.
- (2) Every person while sitting and acting under section 6 or 7 shall, subject to subsection (3), be treated for all purposes as, and accordingly may perform any of the functions of, a judge of the court in which he is sitting and acting.
- (3) A person shall not by virtue of subsection (2) be treated as a judge of the court in which he is sitting and acting for the purposes of any statutory provision relating to—
- (a) the appointment, retirement, removal or disqualification of judges of that 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) A person who has sat and acted under section 6 or 7 as a judge of any court shall, although any period has expired during which he was so sitting and acting, attend the sittings of that court for the purpose of giving judgment in or otherwise acting in relation to any case heard by him or by that court while he so sat and acted.

## **9 Qualifications of judges of High Court and Court of Appeal**

- (1) Any person who has practised for not less than ten years at the Bar of Northern Ireland shall be qualified for appointment as a judge of the High Court.
- (2) Any person who—
- (a) is a judge of the High Court; or
  - (b) has practised for not less than fifteen years at the Bar of Northern Ireland, shall be qualified for appointment as a Lord Justice of Appeal.
- (3) Any person who—
- (a) is, or is qualified for appointment as, a Lord Justice of Appeal; or
  - (b) holds the office of a Lord of Appeal in Ordinary and before his appointment to that office had practised for not less than ten years at the Bar of Northern Ireland, shall be qualified for appointment as Lord Chief Justice.

## **10 Judicial precedence**

- (1) The Lords Justices of Appeal shall rank among themselves according to the priority of their appointment as judges of the Court of Appeal.
- (2) The judges of the High Court shall rank next after the judges of the Court of Appeal and among themselves according to the priority of their appointment as judges of the High Court.

## **11 Exercise of functions of Lord Chief Justice**

- (1) Anything which by virtue of this Act or any other statutory provision is for the time being authorised or required to be done to or by the Lord Chief Justice may, if the Lord Chief Justice is not available because of absence or other reason or if his office is vacant, be done during such unavailability or vacancy to or by the senior Lord Justice of Appeal who is available.
- (2) Nothing in subsection (1) shall confer on a Lord Justice of Appeal the power of making a permanent appointment to any office.

## **12 Appointment of judges**

- (1) Whenever the office of a judge of the High Court or of a Lord Justice of Appeal is vacant, a person may be appointed thereto by Her Majesty by letters patent under the Great Seal of Northern Ireland.
- (2) Whenever the office of Lord Chief Justice becomes vacant, a successor may be appointed by Her Majesty by letters patent, under the Great Seal of Northern Ireland.

### **13 Tenure of office, oath, etc.**

- (1) Subject to section 2 of the Judicial Pensions Act 1959, the Lord Chief Justice, every Lord Justice of Appeal and every judge of the High Court shall hold his office during good behaviour subject to a power of removal by Her Majesty on an address presented to Her Majesty by both Houses of Parliament.
- (2) Subject to subsection (3), the Lord Chief Justice, every Lord Justice of Appeal and every judge of the High Court shall, before he enters on the execution of his office, take, in the presence of the Lord Chancellor, the oath of allegiance and the judicial oath as defined by the Promissory Oaths Act 1868.
- (3) When the Great Seal of the United Kingdom is in commission, the senior Lord Commissioner for the time being shall represent the Lord Chancellor for the purposes of subsection (2).

### **14 Vacation of office**

- (1) The Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court may vacate his office by resignation in writing under his hand addressed to the Lord Chancellor.
- (2) The High Court and the Court of Appeal shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any judge of either court.
- (3) Nothing in subsection (1) shall affect the operation of section 12 of the Administration of Justice Act 1973 (retirement of higher judiciary in the event of incapacity).

### **15 Power of judges to act in cases relating to rates and taxes**

- (1) The Lord Chief Justice, a Lord Justice of Appeal, a judge of the High Court or a judge of the Crown Court shall not be incapable of acting in his judicial office in any proceeding by reason of his being as one of several ratepayers or as one of any other class of persons liable, in common with others, to contribute to or eligible to be benefited by any rate or tax which may be increased, diminished or in any way affected by that proceeding.
- (2) In this section the expression " rate or tax " means any rate, tax, duty or assessment whether public, general or local, and also any fund formed from the proceeds of any such rate, tax, duty or assessment, or applicable to the purposes to which any such rate, tax, duty or assessment might be applied or similar purposes.