



# Senior Courts Act 1981

## 1981 CHAPTER 54

### PART I

#### CONSTITUTION OF SUPREME COURT

##### *The Supreme Court*

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

- (1) The Supreme Court of England and Wales shall consist of the Court of Appeal, the High Court of Justice and the Crown Court, each having such jurisdiction as is conferred on it by or under this or any other Act.
- (2) The Lord Chancellor shall be president of the Supreme Court.

##### *The Court of Appeal*

#### **2 The Court of Appeal.**

- (1) The Court of Appeal shall consist of ex-officio judges and not more than eighteen ordinary judges.
- (2) The following shall be ex-officio judges of the Court of Appeal—
  - (a) the Lord Chancellor;
  - (b) any person who has been Lord Chancellor;
  - (c) any Lord of Appeal in Ordinary who at the date of his appointment was, or was qualified for appointment as, an ordinary judge of the Court of Appeal or held an office within paragraphs (d) to (g);
  - (d) the Lord Chief Justice;
  - (e) the Master of the Rolls;
  - (f) the President of the Family Division; and
  - (g) the Vice-Chancellor;

*Status: Point in time view as at 11/01/1995.*

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- but a person within paragraph (b) or (c) shall not be required to sit and act as a judge of the Court of Appeal unless at the Lord Chancellor's request he consents to do so.
- (3) The ordinary judges of the Court of Appeal (including the vice-president, if any, of either division) shall be styled "Lords Justices of Appeal".
  - (4) Her Majesty may by Order in Council from time to time amend subsection (1) so as to increase or further increase the maximum number of ordinary judges of the Court of Appeal.
  - (5) No recommendation shall be made to Her Majesty in Council to make an Order under subsection (4) unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.
  - (6) The Court of Appeal shall be taken to be duly constituted notwithstanding any vacancy in the office of Lord Chancellor, Lord Chief Justice, Master of the Rolls, President of the Family Division or Vice-Chancellor.

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

- C1** S. 2(1) amended by virtue of [S.I. 1983/1705](#), [art. 2](#), [1987/2059](#), art. 2 (maximum number of ordinary judges prescribed by s. 2(1) increased from 18 to 28)  
S. 2(1) amended (11.3.1993) by [S.I. 1993/605](#), [art.2](#) (maximum number of ordinary judges prescribed by s. 2(1) increased to 29)  
S. 2(1) amended (15.12.1994) by [S.I. 1994/3217](#), [art.3](#) (maximum number of ordinary judges prescribed by s. 2(1) increased to 32)  
S. 2(1) amended (25.4.1996) by [S.I. 1996/1142](#), [art.2](#) (maximum number of ordinary judges prescribed by s. 2(1) increased to 35)  
S. 2(1) amended (21.11.2002) by The Maximum Number of Judges Order ([S.I. 2002/2837](#)), {art.2} (maximum number of ordinary judges prescribed by s. 2(1) increased to 37)
- C2** Ss. 2(1), 4(1), 12(1)-(6) modified (9.11.1998) by [1998 c. 42](#), [s. 18\(4\)\(a\)](#) (with [ss. 7\(8\)](#), [22\(5\)](#))  
S. 2(1) modified (27.9.1999) by [1999 c. 22](#), [ss. 68\(3\)\(c\)](#), [108\(3\)\(b\)](#) (with [Sch. 14 para. 7\(2\)](#))

**3 Divisions of Court of Appeal.**

- (1) There shall be two divisions of the Court of Appeal, namely the criminal division and the civil division.
- (2) The Lord Chief Justice shall be president of the criminal division of the Court of Appeal, and the Master of the Rolls shall be president of the civil division of that court.
- (3) The Lord Chancellor may appoint one of the ordinary judges of the Court of Appeal as vice-president of both divisions of that court, or one of those judges as vice-president of the criminal division and another of them as vice-president of the civil division.
- (4) When sitting in a court of either division of the Court of Appeal in which no ex-officio judge of the Court of Appeal is sitting, the vice-president (if any) of that division shall preside.
- (5) Any number of courts of either division of the Court of Appeal may sit at the same time.

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## The High Court

### 4 The High Court.

- (1) The High Court shall consist of—
  - (a) the Lord Chancellor;
  - (b) the Lord Chief Justice;
  - (c) the President of the Family Division;
  - (d) the Vice-Chancellor
  - [<sup>F1</sup>(dd) the Senior Presiding Judge];and
  - (e) not more than eighty puisne judges of that court.
- (2) The puisne judges of the High Court shall be styled “Justices of the High Court”.
- (3) All the judges of the High Court shall, except where this Act expressly provides otherwise, have in all respects equal power, authority and jurisdiction.
- (4) Her Majesty may by Order in Council from time to time amend subsection (1) so as to increase or further increase the maximum number of puisne judges of the High Court.
- (5) No recommendation shall be made to Her Majesty in Council to make an Order under subsection (4) unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.
- (6) The High Court shall be taken to be duly constituted notwithstanding any vacancy in the office of Lord Chancellor, Lord Chief Justice, President of the Family Division [<sup>F2</sup>Vice-Chancellor or Senior Presiding Judge].

#### Textual Amendments

**F1** S. 4(1)(dd) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 72(6)(a)

**F2** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 72(6)(b)

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

**C3** Ss. 2(1), 4(1), 12(1)-(6) modified (9.11.1998) by 1998 c. 42, ss. 18(4)(a), 22(2) (with ss. 7(8), 22(5))

**C4** S. 4(1)(e) amended by S.I. 1987/2059, art. 3 (maximum number of puisne judges prescribed by s. 4(1)(e) increased from 80 to 85)

S. 4(1)(e) amended (11.5.1993) by S.I. 1993/1255, art.2

### 5 Divisions of High Court.

- (1) There shall be three divisions of the High Court namely—
  - (a) the Chancery Division, consisting of the Lord Chancellor, who shall be president thereof, the Vice-Chancellor, who shall be vice-president thereof, and such of the puisne judges as are for the time being attached thereto in accordance with this section;
  - (b) the Queen’s Bench Division, consisting of the Lord Chief Justice, who shall be president thereof, and such of the puisne judges as are for the time being so attached thereto; and
  - (c) the Family Division, consisting of the President of the Family Division and such of the puisne judges as are for the time being so attached thereto.

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- (2) The puisne judges of the High Court shall be attached to the various Divisions by direction of the Lord Chancellor; and any such judge may with his consent be transferred from one Division to another by direction of the Lord Chancellor, but shall be so transferred only with the concurrence of the senior judge of the Division from which it is proposed to transfer him.
- (3) Any judge attached to any Division may act as an additional judge of any other Division at the request of the [<sup>F3</sup>Lord Chief Justice made with the concurrence of the President of the Family Division or the Vice-Chancellor, or both, as appropriate].
- (4) Nothing in this section shall be taken to prevent a judge of any Division (whether nominated under section 6(2) or not) from sitting, whenever required, in a divisional court of another Division or for any judge of another Division.
- (5) Without prejudice to the provisions of this Act relating to the distribution of business in the High Court, all jurisdiction vested in the High Court under this Act shall belong to all the Divisions alike.

#### Textual Amendments

**F3** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 125(2), [Sch. 17 para. 12](#)

## 6 The Patents, Admiralty and Commercial Courts.

- (1) There shall be—
  - (a) as part of the Chancery Division, a Patents Court; and
  - (b) as parts of the Queen’s Bench Division, an Admiralty Court and a Commercial Court.
- (2) The judges of the Patents Court, of the Admiralty Court and of the Commercial Court shall be such of the puisne judges of the High Court as the Lord Chancellor may from time to time nominate to be judges of the Patents Court, Admiralty Judges and Commercial Judges respectively.

## 7 Power to alter Divisions or transfer certain courts to different Divisions.

- (1) Her Majesty may from time to time, on a recommendation of the judges mentioned in subsection (2), by Order in Council direct that—
  - (a) any increase or reduction in the number of Divisions of the High Court; or
  - (b) the transfer of any of the courts mentioned in section 6(1) to a different Division,
 be carried into effect in pursuance of the recommendation.
- (2) Those judges are the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, the President of the Family Division and the Vice-Chancellor.
- (3) An Order in Council under this section may include such incidental, supplementary or consequential provisions as appear to Her Majesty necessary or expedient, including amendments of provisions referring to particular Divisions contained in this Act or any other statutory provision.

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- (4) Any Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### *The Crown Court*

## **8 The Crown Court.**

- (1) The jurisdiction of the Crown Court shall be exercisable by—
- any judge of the High Court; or
  - any Circuit judge or Recorder; or
  - subject to and in accordance with the provisions of sections 74 and 75(2), a judge of the High Court, Circuit judge or Recorder sitting with not more than four justices of the peace,
- and any such persons when exercising the jurisdiction of the Crown Court shall be judges of the Crown Court.
- (2) A justice of the peace shall not be disqualified from acting as a judge of the Crown Court for the reason that the proceedings are not at a place within the area for which he was appointed as a justice, or because the proceedings are not related to that area in any other way.
- (3) When the Crown Court sits in the City of London it shall be known as the Central Criminal Court; and the Lord Mayor of the City and any Alderman of the City shall be entitled to sit as judges of the Central Criminal Court with any judge of the High Court or any Circuit judge or Recorder.

### *Other provisions*

## **9 Assistance for transaction of judicial business of Supreme Court.**

- (1) A person within any entry in column 1 of the following Table may [<sup>F4</sup>subject to the provision at the end of that Table,] at any time, at the request of the appropriate authority, act—
- as a judge of a relevant court specified in the request; or
  - if the request relates to a particular division of a relevant court so specified, as a judge of that court in that division.

TABLE

<b>1</b>	<b>2</b>
<b><i>Judge or ex-judge</i></b>	<b><i>Where competent to act on request</i></b>
1. A judge of the Court of Appeal.	The High Court and the Crown Court.
2. A person who has been a judge of the Court of Appeal.	The Court of Appeal, the High Court and the Crown Court.
3. A puisne judge of the High Court.	The Court of Appeal.
4. A person who has been a puisne judge of the High Court.	The Court of Appeal, the High Court and the Crown Court.

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5. A Circuit judge.	The High Court [ <sup>F5</sup> and the Court of Appeal].
[ <sup>F6</sup> 6. A Recorder]	[ <sup>F6</sup> The High Court]

[<sup>F7</sup>The entry in column 2 specifying the Court of Appeal in relation to a Circuit judge only authorises such a judge to act as a judge of a court in the criminal division of the Court of Appeal.]

(2) In subsection (1)—

“the appropriate authority”—

- (a) in the case of a request to a judge of the High Court [<sup>F8</sup>or a Circuit judge] to act in the criminal division of the Court of Appeal as a judge of that court, means the Lord Chief Justice or, at any time when the Lord Chief Justice is unable to make such a request himself or there is a vacancy in the office of Lord Chief Justice, the Master of the Rolls;
- (b) in any other case means the Lord Chancellor;

“relevant court”, in the case of a person within any entry in column 1 of the Table, means a court specified in relation to that entry in column 2 of the Table.

[<sup>F9</sup>But no request shall be made to a Circuit judge to act as a judge of a court in the criminal division of the Court of Appeal unless he is approved for the time being by the Lord Chancellor for the purpose of acting as a judge of that division.]

(3) In the case of—

- (a) a request under subsection (1) to a Lord Justice of Appeal to act in the High Court; or
- (b) any request under that subsection to a puisne judge of the High Court or a Circuit judge,

it shall be the duty of the person to whom the request is made to comply with it.

(4) Without prejudice to section 24 of the <sup>M1</sup>Courts Act 1971 (temporary appointment of deputy Circuit judges and assistant Recorders), 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 to be a deputy judge of the High Court during such period or on such occasions as the Lord Chancellor thinks fit; and during the period or on the occasions for which a person is appointed as a deputy judge under this subsection, he may act as a puisne judge of the High Court.

(5) Every person while acting under this section shall, subject to [<sup>F10</sup>subsections (6) and (6A)], be treated for all purposes as, and accordingly may perform any of the functions of, a judge of the court in which he is acting.

(6) A person shall not by virtue of subsection (5)—

- (a) be treated as a judge of the court in which he is acting for the purposes of section 98(2) or of any statutory provision relating to—
  - (i) the appointment, retirement, removal or disqualification of judges of that court;
  - (ii) the tenure of office and oaths to be taken by such judges; or
  - (iii) the remuneration, allowances or pensions of such judges; or

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- (b) subject to subsection (7), be treated as having been a judge of a court in which he has acted only under this section.
- [<sup>F11</sup>(6A) A Circuit judge or Recorder shall not by virtue of subsection (5) exercise any of the powers conferred on a single judge by sections 31 and 44 of the <sup>M2</sup>Criminal Appeal Act 1968 (powers of single judge in connection with appeals to the Court of Appeal and appeals from the Court of Appeal to the House of Lords).]
- (7) Notwithstanding the expiry of any period for which a person is authorised by virtue of subsection (1) or (4) to act as a judge of a particular court—
- (a) he may attend at that court for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case begun before him while acting as a judge of that court; and
- (b) for that purpose, and for the purpose of any proceedings arising out of any such case or matter, he shall be treated as being or, as the case may be, having been a judge of that court.
- (8) Such remuneration and allowances as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine may be paid out of money provided by Parliament—
- (a) to any person who has been—
- (i) a Lord of Appeal in Ordinary; or
- (ii) a judge of the Court of Appeal; or
- (iii) a judge of the High Court,
- and is by virtue of subsection (1) acting as mentioned in that subsection;
- (b) to any deputy judge of the High Court appointed under subsection (4).

#### Textual Amendments

- F4** Words in s. 9(1) inserted (11.1.1995) by 1994 c. 33, s. 52(2)(a); S.I. 1994/3258, art.2.
- F5** Words in Table in s. 9(1) inserted (11.1.1995) by 1994 c. 33, s. 52(2)(b); S.I. 1994/3258, art.2.
- F6** Entry added by Administration of Justice Act 1982 (c. 53, SIF 37), s. 58
- F7** Words in s. 9(1) inserted (11.1.1995) by 1994 c. 33, s. 52(2)(c); S.I. 1994/3258, art.2.
- F8** Words in definition of “the appropriate authority” in s. 9(2) inserted (11.1.1995) by 1994 c. 33, s. 52(3)(a); S.I. 1994/3258, art.2.
- F9** Words in s. 9(2) inserted (11.1.1995) by 1994 c. 33, s. 52(3)(b); S.I. 1994/3258, art.2.
- F10** Words in s. 9(5) substituted (11.1.1995) by 1994 c. 33, s. 52(4); S.I. 1994/3258, art.2.
- F11** S. 9(6A) inserted (11.1.1995) by 1994 c. 33, s. 52(5); S.I. 1994/3258, art.2.

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

- C5** S. 9 restricted (*prosp.*) by 1993 c. 8, ss. 26(7)(c), 31(2) (with Sch. 7 paras. 2(2), 3(2), 4)

#### Marginal Citations

- M1** 1971 c. 23.
- M2** 1968 c. 19.

## 10 Appointment of judges of Supreme Court.

- (1) Whenever the office of Lord Chief Justice, Master of the Rolls, President of the Family Division or Vice-Chancellor is vacant, Her Majesty may by letters patent appoint a qualified person to that office.

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- (2) Subject to the limits on numbers for the time being imposed by sections 2(1) and 4(1), Her Majesty may from time to time by letters patent appoint qualified persons as Lords Justices of Appeal or as puisne judges of the High Court.
- (3) No person shall be qualified for appointment—
- (a) as Lord Chief Justice, Master of the Rolls, President of the Family Division or Vice-Chancellor, unless he is qualified for appointment as a Lord Justice of Appeal or is a judge of the Court of Appeal;
  - (b) as a Lord Justice of Appeal, <sup>F12</sup>unless—
    - (i) he has a 10 year High Court qualification within the meaning of section 71 of the Courts and Legal Services Act 1990; or
    - (ii) he is a judge of the High Court;]; or
  - (c) as a puisne judge of the High Court, <sup>F13</sup>unless—
    - (i) he has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act <sup>M3</sup>1990; or
    - (ii) he is a Circuit judge who has held that office for at least 2 years.]
- (4) Every person appointed to an office mentioned in subsection (1) or as a Lord Justice of Appeal or puisne judge of the High Court shall, as soon as may be after his acceptance of office, take the oath of allegiance and the judicial oath, as set out in the <sup>M4</sup>Promissory Oaths Act 1868, in the presence of the Lord Chancellor.

#### Textual Amendments

**F12** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 71\(1\)\(a\)](#)

**F13** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 71\(1\)\(b\)](#)

#### Marginal Citations

**M3** [1990 c.41\(37\)](#).

**M4** [1868 c. 72](#).

## 11 Tenure of office of judges of Supreme Court.

- (1) This section applies to the office of any judge of the Supreme Court except the Lord Chancellor.
- (2) A person appointed to an office to which this section applies shall vacate it on the day on which he attains the age of seventy-five years unless by virtue of this section he has ceased to hold it before then.
- (3) A person appointed to an office to which this section applies shall hold that office during good behaviour, subject to a power of removal by Her Majesty on an address presented to Her by both Houses of Parliament.
- (4) A person holding an office within section 2(2)(d) to (g) shall vacate that office on becoming Lord Chancellor or a Lord of Appeal in Ordinary.
- (5) A Lord Justice of Appeal shall vacate that office on becoming an ex-officio judge of the Court of Appeal.
- (6) A puisne judge of the High Court shall vacate that office on becoming a judge of the Court of Appeal.



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- (7) A person who holds an office to which this section applies may at any time resign it by giving the Lord Chancellor notice in writing to that effect.
- (8) The Lord Chancellor, if satisfied by means of a medical certificate that a person holding an office to which this section applies—
  - (a) is disabled by permanent infirmity from the performance of the duties of his office; and
  - (b) is for the time being incapacitated from resigning his office,may, subject to subsection (9), by instrument under his hand declare that person's office to have been vacated; and the instrument shall have the like effect for all purposes as if that person had on the date of the instrument resigned his office.
- (9) A declaration under subsection (8) with respect to a person shall be of no effect unless it is made—
  - (a) in the case of any of the Lord Chief Justice, the Master of the Rolls, the President of the Family Division and the Vice-Chancellor, with the concurrence of two others of them;
  - (b) in the case of a Lord Justice of Appeal, with the concurrence of the Master of the Rolls;
  - (c) in the case of a puisne judge of any Division of the High Court, with the concurrence of the senior judge of that Division.
- (10) ..... F14

**Textual Amendments**

**F14** S. 11(10) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1 Pt. I

**12 Salaries etc. of judges of Supreme Court.**

- (1) Subject to subsections (2) and (3), there shall be paid to judges of the Supreme Court, other than the Lord Chancellor, such salaries as may be determined by the Lord Chancellor with the concurrence of the Minister for the Civil Service.
- (2) Until otherwise determined under this section, there shall be paid to the judges mentioned in subsection (1) the same salaries as at the commencement of this Act.
- (3) Any salary payable under this section may be increased, but not reduced, by a determination or further determination under this section.
- (4) ..... F15
- (5) Salaries payable under this section shall be charged on and paid out of the Consolidated Fund.
- (6) There shall be paid out of money provided by Parliament to any judge of the Court of Appeal or of the High Court, in addition to his salary, such allowances as may be determined by the Lord Chancellor with the concurrence of the Minister for the Civil Service.
- (7) Pensions shall be payable to or in respect of the judges mentioned in subsection (1) in accordance with section 2 of the Judicial Pensions Act 1981.

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### Textual Amendments

**F15** S. 12(4) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), ss. 84(f), 125(7), **Sch. 20** (subject to a saving in s. 125(6), Sch. 19 para. 10(5))

## 13 Precedence of judges of Supreme Court.

- (1) When sitting in the Court of Appeal—
  - (a) the Lord Chief Justice and the Master of the Rolls shall rank in that order; and
  - (b) Lords of Appeal in Ordinary and persons who have been Lord Chancellor shall rank next after the Master of the Rolls and, among themselves, according to the priority of the dates on which they respectively became Lords of Appeal in Ordinary or Lord Chancellor, as the case may be.
- (2) Subject to subsection (1)(b), the President of the Family Division shall rank next after the Master of the Rolls.
- (3) The Vice-Chancellor shall rank next after the President of the Family Division.
- (4) The vice-president or vice-presidents of the divisions of the Court of Appeal shall rank next after the Vice-Chancellor; and if there are two vice-presidents of those divisions, they shall rank, among themselves, according to the priority of the dates on which they respectively became vice-presidents.
- (5) The Lords Justices of Appeal (other than the vice-president or vice-presidents of the divisions of the Court of Appeal) shall rank after the ex-officio judges of the Court of Appeal and, among themselves, according to the priority of the dates on which they respectively became judges of that court.
- (6) The puisne judges of the High Court shall rank next after the judges of the Court of Appeal and, among themselves, according to the priority of the dates on which they respectively became judges of the High Court.

## 14 Power of judge of Supreme or Crown Court to act in cases relating to rates and taxes.

- (1) A judge of the Supreme Court or of the Crown Court shall not be incapable of acting as such in any proceedings by reason of being, as one of a class of ratepayers, taxpayers or persons of any other description, liable in common with others to pay, or contribute to, or benefit from, any rate or tax which may be increased, reduced or in any way affected by those proceedings.
- (2) In this section “rate or tax” means any rate, tax, duty or liability, whether public, general or local, and includes—
  - (a) any fund formed from the proceeds of any such rate, tax, duty or liability; and
  - (b) any fund applicable for purposes the same as, or similar to, those for which the proceeds of any such rate, tax, duty or liability are or might be applied.

**Status:**

Point in time view as at 11/01/1995.

**Changes to legislation:**

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