



# Copyright, Designs and Patents Act 1988

## 1988 CHAPTER 48

### PART I

#### COPYRIGHT

#### CHAPTER VIII

##### THE COPYRIGHT TRIBUNAL

##### *The Tribunal*

#### **146 Membership of the Tribunal.**

- (1) The members of the Copyright Tribunal shall hold and vacate office in accordance with their terms of appointment, subject to the following provisions.
- (2) A member of the Tribunal may resign his office by notice in writing to the Secretary of State or, in the case of the chairman or a deputy chairman, to the Lord Chancellor.
- (3) The Secretary of State or, in the case of the chairman or a deputy chairman, the Lord Chancellor may by notice in writing to the member concerned remove him from office if—
  - (a) he has become bankrupt or made an arrangement with his creditors or, in Scotland, his estate has been sequestrated or he has executed a trust deed for his creditors or entered into a composition contract, or
  - (b) he is incapacitated by physical or mental illness,or if he is in the opinion of the Secretary of State or, as the case may be, the Lord Chancellor otherwise unable or unfit to perform his duties as member.

[<sup>F1</sup>(3A) A person who is the chairman or a deputy chairman of the Tribunal shall vacate his office on the day on which he attains the age of [<sup>F2</sup>75].]

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*Changes to legislation:* There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 146. (See end of Document for details)

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- (4) If a member of the Tribunal is by reason of illness, absence or other reasonable cause for the time being unable to perform the duties of his office, either generally or in relation to particular proceedings, a person may be appointed to discharge his duties for a period not exceeding six months at one time or, as the case may be, in relation to those proceedings.
- (5) The appointment shall be made—
- (a) in the case of the chairman or deputy chairman, by the Lord Chancellor, who shall appoint a person who would be eligible for appointment to that office, and
  - (b) in the case of an ordinary member, by the Secretary of State;
- and a person so appointed shall have during the period of his appointment, or in relation to the proceedings in question, the same powers as the person in whose place he is appointed.
- (6) The Lord Chancellor shall consult the Lord Advocate before exercising his powers under this section.
- [<sup>F3</sup>(7) The Lord Chancellor may exercise his powers to remove a person under subsection (3) or to appoint a person under subsection (4) only with the concurrence of the appropriate senior judge.
- (8) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—
- (a) the person to be removed exercises functions [<sup>F4</sup>, or the person to be appointed is to exercise functions,] wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
  - (b) the person to be removed exercises functions [<sup>F4</sup>, or the person to be appointed is to exercise functions,] wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.
- (9) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4).
- (10) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4).
- (11) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4)—
- (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).]

#### Textual Amendments

**F1** S. 146(3A) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para.49**; S.I. 1995/631, **art. 2**

**F2** Word in s. 146(3A) substituted (10.3.2022) by **Public Service Pensions and Judicial Offices Act 2022** (c. 7), s. 131(1)(4)(a), **Sch. 1 para. 22** (with Sch. 1 para. 43)

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**Changes to legislation:** There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 146. (See end of Document for details)

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| <p><b>F3</b> S. 146(7)-(11) inserted (3.4.2006) by <a href="#">Constitutional Reform Act 2005 (c. 4)</a>, ss. 15(1), 148, <b>Sch. 4 para. 199(2)</b>; <a href="#">S.I. 2006/1014</a>, <b>art. 2(a)</b>, Sch. 1 paras. 10, 11(r)</p> <p><b>F4</b> Words in s. 146(8) inserted (3.4.2006) by <a href="#">The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016)</a>, art. 4, <b>Sch. 3</b></p> |
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**Changes to legislation:**

There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Section 146.