



# Human Rights Act 1998

## 1998 CHAPTER 42

### *Judges of the European Court of Human Rights*

#### **18 Appointment to European Court of Human Rights.**

- (1) In this section “judicial office” means the office of—
  - (a) Lord Justice of Appeal, Justice of the High Court or Circuit judge, in England and Wales;
  - (b) judge of the Court of Session or sheriff, in Scotland;
  - (c) Lord Justice of Appeal, judge of the High Court or county court judge, in Northern Ireland.
- (2) The holder of a judicial office may become a judge of the European Court of Human Rights (“the Court”) without being required to relinquish his office.
- (3) But he is not required to perform the duties of his judicial office while he is a judge of the Court.
- (4) In respect of any period during which he is a judge of the Court—
  - (a) a Lord Justice of Appeal or Justice of the High Court is not to count as a judge of the relevant court for the purposes of section 2(1) or 4(1) of the <sup>M1</sup>Supreme Court Act 1981 (maximum number of judges) nor as a judge of the Supreme Court for the purposes of section 12(1) to (6) of that Act (salaries etc.);
  - (b) a judge of the Court of Session is not to count as a judge of that court for the purposes of section 1(1) of the <sup>M2</sup>Court of Session Act 1988 (maximum number of judges) or of section 9(1)(c) of the <sup>M3</sup>Administration of Justice Act 1973 (“the 1973 Act”) (salaries etc.);
  - (c) a Lord Justice of Appeal or judge of the High Court in Northern Ireland is not to count as a judge of the relevant court for the purposes of section 2(1) or 3(1) of the <sup>M4</sup>Judicature (Northern Ireland) Act 1978 (maximum number of judges) nor as a judge of the Supreme Court of Northern Ireland for the purposes of section 9(1)(d) of the 1973 Act (salaries etc.);
  - (d) a Circuit judge is not to count as such for the purposes of section 18 of the <sup>M5</sup>Courts Act 1971 (salaries etc.);

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*Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998, Cross Heading: Judges of the European Court of Human Rights. (See end of Document for details)*

- (e) a sheriff is not to count as such for the purposes of section 14 of the <sup>M6</sup>Sheriff Courts (Scotland) Act 1907 (salaries etc.);
  - (f) a county court judge of Northern Ireland is not to count as such for the purposes of section 106 of the <sup>M7</sup>County Courts Act Northern Ireland) 1959 (salaries etc.).
- (5) If a sheriff principal is appointed a judge of the Court, section 11(1) of the <sup>M8</sup>Sheriff Courts (Scotland) Act 1971 (temporary appointment of sheriff principal) applies, while he holds that appointment, as if his office is vacant.
- (6) Schedule 4 makes provision about judicial pensions in relation to the holder of a judicial office who serves as a judge of the Court.
- (7) The Lord Chancellor or the Secretary of State may by order make such transitional provision (including, in particular, provision for a temporary increase in the maximum number of judges) as he considers appropriate in relation to any holder of a judicial office who has completed his service as a judge of the Court.
- [<sup>F1</sup>(7A) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(a)—
- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of England and Wales;
  - (b) before making the order, that person must consult the Lord Chief Justice of England and Wales.
- (7B) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(c)—
- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of Northern Ireland;
  - (b) before making the order, that person must consult the Lord Chief Justice of Northern Ireland.
- (7C) The Lord Chief Justice of England and Wales may nominate a judicial office holder (within the meaning of section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.
- (7D) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
- (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. 18(7A)-(7D) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 278**; S.I. 2006/1014, **art. 2**, Sch. 1 para. 11(v)

#### Marginal Citations

**M1** 1981 c. 54.  
**M2** 1988 c. 36.  
**M3** 1973 c. 15.

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**Status:** Point in time view as at 03/04/2006.

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| <b>M4</b> | 1978 c. 23.        |
| <b>M5</b> | 1971 c. 23.        |
| <b>M6</b> | 1907 c. 51.        |
| <b>M7</b> | 1959 c. 25 (N.I.). |
| <b>M8</b> | 1971 c. 58.        |

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