



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 [^{F1}Senior Courts Act 1981](maximum number of judges) nor as a judge of the [^{F2}Senior Courts] 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 ^{M1}Court of Session Act 1988 (maximum number of judges) or of section 9(1)(c) of the ^{M2}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 ^{M3}Judicature (Northern Ireland) Act 1978 (maximum number of judges) nor as a judge of the [^{F3}Court of Judicature] 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 ^{M4}Courts Act 1971 (salaries etc.);

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- (e) a sheriff is not to count as such for the purposes of section 14 of the ^{M5}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 ^{M6}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 ^{M7}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.
- [^{F4}(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).]

Annotations:

Amendments (Textual)

- F1** Words in s. 18(4)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 4](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F2** Words in s. 18(4)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 4](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F3** Words in s. 18(4)(c) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 6](#); S.I. 2009/1604, [art. 2\(d\)](#)

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F4 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 1988 c. 36.
M2 1973 c. 15.
M3 1978 c. 23.
M4 1971 c. 23.
M5 1907 c. 51.
M6 1959 c. 25 (N.I.).
M7 1971 c. 58.

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Commencement Orders yet to be applied to the Human Rights Act 1998:

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2009/1059](#) Order transitional provisions for effects of commencing SI 2009/812