

CONSTITUTIONAL REFORM ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 Duty to Convene Commission: Special Rules

Terms of Appointment

Section 32: Oath of allegiance and judicial oath

126. This section provides for every judge of the Supreme Court (which includes the President and Deputy President) to be required to take the oath of allegiance to the Sovereign and the Judicial Oath, as soon as may be after accepting that office. The required oaths are described in subsection (6) and are set out in the Promissory Oaths Act 1868. Separate provision is made for the taking of the oaths on appointment as President, Deputy President, and judge.
127. Subsection (1) requires the President to take the oaths in the presence of the Deputy President, or, if there is no Deputy President, the senior ordinary judge (“senior ordinary judge” being defined in section 60(3)(b)).
128. Subsection (2) requires the Deputy President to take the oaths in the presence of the President, or, if there is no President, the senior ordinary judge.
129. Subsection (3) provides that a judge of the Court (excluding the President and Deputy President – see subsection (5)) must take the oaths in the presence of the President, or, if there is no President, the Deputy President, or if there is no Deputy President, the senior ordinary judge.
130. Subsection (4) provides that the President and Deputy President are required to take the oaths in terms of subsections (1) and (2) whether or not the person appointed as President or Deputy President has previously taken the oaths after accepting another office. For example, a person appointed as President having previously served as Deputy President will be required to take the oaths on appointment as President even though he took them on appointment as Deputy President.
131. Subsection (5) provides that a judge of the Court who becomes a Supreme Court judge by virtue of his appointment directly to the Court as President or Deputy President does not have to take the oaths twice, by virtue of subsection (1) or (2) and of subsection (3) – that is to say, in those circumstances, the person appointed as President or Deputy President takes the oaths only once, on account of the appointment as President.