



Constitutional Reform Act 2005

2005 CHAPTER 4

PART 2

ARRANGEMENTS TO MODIFY THE OFFICE OF LORD CHANCELLOR

Other provisions about the judiciary and courts

16 Functions of the Lord Chief Justice during vacancy or incapacity

- (1) This section applies during any period when—
 - (a) the office of Lord Chief Justice is vacant, or
 - (b) the Lord Chief Justice is incapacitated.
- (2) During such a period—
 - (a) any function of the Lord Chief Justice may be exercised by the senior Head of Division;
 - (b) anything which falls to be done in relation to the Lord Chief Justice may be done in relation to the senior Head of Division.
- (3) The senior Head of Division is—
 - (a) the Master of the Rolls, or
 - (b) the President of the Queen's Bench Division, if the office in paragraph (a) is vacant, or
 - (c) the President of the Family Division, if the offices in paragraphs (a) and (b) are vacant, or
 - (d) the Chancellor of the High Court, if the offices in paragraphs (a), (b) and (c) are vacant.
- (4) For the purposes of this section—
 - (a) the Lord Chief Justice is to be regarded as incapacitated only if at least three of the Heads of Division declare in writing that they are satisfied that he is incapacitated;

Changes to legislation: Constitutional Reform Act 2005, Section 16 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (b) in such a case, the Lord Chief Justice is to be regarded as incapacitated until at least three of the Heads of Division declare in writing that they are satisfied that he is no longer incapacitated.
- (5) In this section—
- (a) “Lord Chief Justice” means the Lord Chief Justice of England and Wales;
 - (b) “incapacitated”, in relation to the Lord Chief Justice, means unable to exercise the functions of that office;
 - (c) “Head of Division” means each of the office holders referred to in subsection (3).

Modifications etc. (not altering text)

C1 S. 16(2)(a) excluded (1.10.2013) by [The Judicial Appointments Regulations 2013 \(S.I. 2013/2192\)](#), regs. 1, 3

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 132(4A) words substituted by [2015 c. 2 s. 83\(1\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(2\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(3\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(4\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(6\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(8\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(9\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(10\)\(a\)](#)
- Sch. 7 para. 4Pt. A words substituted by [2007 c. 15 s. 144\(10\)\(b\)](#)