



Judicature (Northern Ireland) Act 1978

1978 CHAPTER 23

PART I

CONSTITUTION OF THE SUPREME COURT OF JUDICATURE OF NORTHERN IRELAND

1 The Supreme Court.

There shall be a Supreme Court of Judicature of Northern Ireland (in this Act referred to as “the Supreme Court”) which shall consist of—

- (a) Her Majesty’s High Court of Justice in Northern Ireland (in this Act referred to as “the High Court”);
- (b) Her Majesty’s Court of Appeal in Northern Ireland (in this Act referred to as “the Court of Appeal”); and
- (c) Her Majesty’s Crown Court in Northern Ireland (in this Act referred to as “the Crown Court”),

with such jurisdiction as is respectively conferred on those courts by this Act or by any other statutory provision.

2 The High Court.

- (1) The High Court shall consist of the Lord Chief Justice of Northern Ireland (in this Act referred to as “the Lord Chief Justice”)^{F1} . . . and [^{F2}not more than ten puisne judges] who shall be styled “ Judges of the High Court.”
- (2) All the judges of the High Court shall, save as in this Act otherwise expressly provided, have in all respects equal jurisdiction and shall be addressed in the manner in which judges of the High Court of Justice in Northern Ireland were customarily addressed heretofore.
- (3) Her Majesty may by Order in Council from time to time amend subsection (1) so as to vary the maximum number of puisne judges.

Status: Point in time view as at 03/04/2006. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Judicature (Northern Ireland) Act 1978, Part I is up to date with all changes known to be in force on or before 25 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)

- (4) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been approved by resolution of each House of Parliament.

Textual Amendments

- F1** Words in s. 2(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), **Sch. 13**; S.R. 2006/124, **art. 2**, Sch. para. 11(f)
- F2** Words in s. 2(1) substituted (28.7.2004) by **The Maximum Number of Judges (Northern Ireland) Order 2004 (S.I. 2004/1985)**, arts. 1, 2

Modifications etc. (not altering text)

- C1** S. 2(1) modified (9.11.1998) by 1998 c. 42, **ss. 18(4)(c)**, 22(3), (with ss. 7(8), 22(5))
 S. 2(1) modified (27.9.1999) by 1999 c. 22, **ss. 68(3)(c)**, 108(3) (with **Sch. 14 para. 7(2)**)

3 The Court of Appeal.

- (1) The Court of Appeal shall consist of the Lord Chief Justice^{F3} . . . and three other judges who shall be styled “Lords Justices of Appeal”.
- (2) Every judge of the High Court shall be a judge of the Court of Appeal for the purposes of its jurisdiction in a criminal cause or matter and for those purposes shall have all the jurisdiction of a judge of the Court of Appeal.
- (3) All the judges of the Court of Appeal shall, save as in this Act otherwise expressly provided, have in all respects equal jurisdiction and shall be addressed in the manner in which judges of the Court of Appeal in Northern Ireland were customarily addressed heretofore.
- (4) Her Majesty may by Order in Council from time to time amend subsection (1) so as to vary the number of Lords Justices of Appeal.
- (5) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been approved by resolution of each House of Parliament.
- [^{F4}(6) Her Majesty may by Order in Council from time to time create divisions or additional divisions of the Court of Appeal or provide that any division be abolished; and any such Order in Council may contain such provision as may appear to Her Majesty to be necessary or proper for that purpose and may amend or repeal any statutory provision (including any provision of this Act) so far as it appears to Her Majesty to be necessary or expedient to do so in consequence of the Order.]

Textual Amendments

- F3** Words in s. 3(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), **Sch. 13**; S.R. 2006/124, **art. 2**, Sch. para. 11(f)
- F4** S. 3(6) added by **Administration of Justice Act 1982 (c. 53, SIF 38)**, s. 70, **Sch. 8 para. 1**

Modifications etc. (not altering text)

- C2** S. 3(1) modified (9.11.1998) by 1998 c. 42, **ss. 18(4)(c)**, 22(3), (with ss. 7(8), 22(5))
 S. 3(1) modified (27.9.1999) by 1999 c. 22, **ss. 68(3)(C)**, 108(3) (with **Sch. 14 para. 7(2)**)

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4 The Crown Court.

- (1) There shall be a Crown Court in Northern Ireland whose jurisdiction shall be exercisable by the Lord Chief Justice^{F5} . . . , any judge of the High Court or the Court of Appeal or any county court judge.
- (2) The persons mentioned in subsection (1) shall, when exercising the jurisdiction of the Crown Court, be judges of the Crown Court but a county court judge shall not, except when exercising such jurisdiction, be deemed to be a judge of the Supreme Court.
- (3) In any statutory provision relating to the Crown Court (including a provision of this Act) references to a judge of the High Court shall include references to a judge of the Court of Appeal.

Textual Amendments

F5 Words in s. 4(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), Sch. 13; S.R. 2006/124, art. 2, Sch.

5 Divisions of the High Court.

- (1) There shall be three divisions of the High Court, namely—
 - (a) the Chancery Division;
 - (b) the Queen’s Bench Division; and
 - (c) the Family Division.
- (2) Her Majesty may by Order in Council from time to time create additional divisions of the High Court or provide that any division be abolished and any such Order in Council may contain such provision as may be necessary or proper for that purpose.
- (3) A judge of the High Court may sit in any division.
- (4) Without prejudice to any statutory provision relating to or affecting the distribution of business in the High Court, all jurisdiction vested in the High Court shall belong to all the divisions alike.

6 Judges of one court empowered to assist another.

- (1) A Lord Justice of Appeal may at any time at the request of the Lord Chief Justice sit and act as a judge of the High Court.
- (2) A judge of the High Court shall, if requested to do so by the Lord Chief Justice, sit and act as a judge of the Court of Appeal when that court is exercising jurisdiction other than jurisdiction in a criminal cause or matter.

7 Further assistance for transaction of judicial business.

- (1) A person who not being a judge of the High Court or the Court of Appeal—
 - (a) holds or has held the office of a Lord of Appeal in Ordinary and before his appointment to that office [^{F6}was a member of the Bar of Northern Ireland, or a solicitor of the Supreme Court, of at least ten years’ standing]; or
 - (b) has held the office of a judge of the High Court or the Court of Appeal,

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may [^{F7}at anytime] at the request of the [^{F8}Lord Chief Justice] sit and act as a judge of the High Court or the Court of Appeal [^{F9}at any time on or before the day on which he attains the age of seventy-five.]

- (2) A county court judge shall, if requested to do so by the [^{F8}Lord Chief Justice], sit and act as a judge of the High Court.
- (3) If it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this subsection in order to facilitate the disposal of business in the High Court or the Crown Court he may appoint a person qualified for appointment as a judge of the High Court to sit and act as a judge of the High Court.
- (4) For any period during which a person who does not hold office as a Lord of Appeal in Ordinary or as a county court judge sits and acts under this section there may be paid to him such remuneration and allowances as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.
- [^{F10}(5) The Lord Chief Justice 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

- F6** Words in s. 7(1) substituted (15.10.2002) by 2002 c. 26, s. 18(2); S.R. 2002/319, art. 2, Sch.
- F7** Words in s. 7(1) repealed (31.3.1995) by 1993 c. 8, ss. 26, 31, Sch. 6 para. 7(a), Sch. 9 (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2
- F8** Words in s. 7(1)(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 23(2); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)
- F9** Words in s. 7(1) added (31.3.1995) by 1993 c. 8, ss. 26, 31(2), Sch. 6 para. 7(b) (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2
- F10** S. 7(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 23(3); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)

Modifications etc. (not altering text)

- C3** S. 7 restricted (31.3.1995) by 1993 c. 8, ss. 26(7)(e), 31(2) (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2

8 Additional provisions as to persons rendering judicial assistance.

- (1) A person may sit and act under section 6 or 7 as a judge of a court for the purpose of a particular case or cases or during a specified period and whether or not all the judges of that court are sitting or are available to sit.
- (2) Every person while sitting and acting under section 6 or 7 shall, subject to subsection (3), be treated for all purposes as, and accordingly may perform any of the functions of, a judge of the court in which he is sitting and acting.
- (3) A person shall not by virtue of subsection (2) be treated as a judge of the court in which he is sitting and acting for the purposes of any statutory provision relating to—
 - (a) the appointment, retirement, removal or disqualification of judges of that court;

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- (b) the tenure of office and oaths to be taken by such judges; or
- (c) the remuneration, allowances or pensions of such judges.

^{F11}(4)

Textual Amendments

F11 S. 8(4) repealed (31.3.1995) by 1993 c. 8, ss. 31, **Sch.9** (with **Sch. 7** paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2

[^{F129} **Qualification to be judge of High Court or Court of Appeal**

A person is not qualified for appointment as Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court unless he is—

- (a) a member of the Bar of Northern Ireland of at least ten years' standing; or
- (b) a solicitor of the Supreme Court of at least ten years' standing.]

Textual Amendments

F12 S. 9 substituted (15.10.2002) by 2002 c. 26, s. 18(3); S.R. 2002/319, art. 2, **Sch.**

10 Judicial precedence.

- (1) The Lords Justices of Appeal shall rank among themselves according to the priority of their appointment as judges of the Court of Appeal.
- (2) The judges of the High Court shall rank next after the judges of the Court of Appeal and among themselves according to the priority of their appointment as judges of the High Court.

11 Exercise of functions of Lord Chief Justice.

- (1) Anything which by virtue of this Act or any other statutory provision is for the time being authorised or required to be done to or by the Lord Chief Justice may, if the Lord Chief Justice is not available because of absence or other reason or if his office is vacant, be done during such unavailability or vacancy to or by the senior Lord Justice of Appeal who is available.
- (2) Nothing in subsection (1) shall confer on a Lord Justice of Appeal the power of making a permanent appointment to any office.

12 Appointment of judges.

- (1) Whenever the office of a judge of the High Court or of a Lord Justice of Appeal is vacant, a person may be appointed thereto by Her Majesty by letters patent under the Great Seal of Northern Ireland.
- (2) Whenever the office of Lord Chief Justice becomes vacant, a successor may be appointed by Her Majesty by letters patent under the Great Seal of Northern Ireland.

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PROSPECTIVE

[^{F13}12A Appointment of judges of High Court

Her Majesty may from time to time, on the recommendation of the First Minister and deputy First Minister acting jointly, appoint a qualified person as a judge of the High Court by letters patent under the Great Seal of Northern Ireland (but subject to the limit on numbers for the time being imposed by section 2).]

Textual Amendments

F13 Ss. 12, 12A substituted (*prosp.*) for s. 12 by [2002 c. 26, ss. 4, 87\(1\)](#)

PROSPECTIVE

[^{F14}12A Appointment of judges of the High Court

Her Majesty may, from time to time, appoint a qualified person as a judge of the High Court by letters patent under the Great Seal of Northern Ireland (but subject to the limit on numbers for the time being imposed by section 2).]

Textual Amendments

F14 Ss. 12-12C substituted (*prosp.*) for s. 12, 12B by [Northern Ireland Act 2009 \(c. 3\), ss. 2\(1\), 5\(8\), Sch. 2](#) (with [Sch. 5 paras. 10, 11](#))

[^{F15}12B Tenure of office

- (1) The Lord Chief Justice, Lords Justices of Appeal and judges of the High Court hold office during good behaviour (subject to section 26 of, and Schedule 7 to, the Judicial Pensions and Retirement Act 1993).
- (2) Her Majesty may on an address presented to Her Majesty by both Houses of Parliament remove a person from office as Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court.
- (3) A motion for the presentation of an address to Her Majesty for the removal of a person from any of those offices may be made—
 - (a) to the House of Commons only by the Prime Minister; and
 - (b) to the House of Lords only by the Lord Chancellor or, if the Lord Chancellor is not a member of that House, by another Minister of the Crown at his request.
- (4) No motion for the presentation of such an address may be made unless a tribunal convened under section 135 of the Constitutional Reform Act 2005 has reported to the Lord Chancellor recommending that the person be removed from the office on the ground of misbehaviour.
- (5) The Prime Minister shall lay a copy of the report before the House of Commons before making a motion for the presentation of an address in that House; and a person making

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such a motion in the House of Lords shall lay a copy of the report before that House before making the motion.

- (6) If the Prime Minister and Lord Chancellor are considering the making of motions for the presentation of an address to Her Majesty in relation to the Lord Chief Justice, the Prime Minister may suspend him from office; and if they are considering the making of such motions in relation to a Lord Justice of Appeal or a judge of the High Court the Prime Minister may suspend him from office with the agreement of the Lord Chief Justice.
- (7) If a person is suspended from an office under subsection (6), he may not perform any of the functions of the office (but his other rights as holder of the office are unaffected).]

Textual Amendments

F15 S. 12B inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), [ss. 133, 148\(1\)](#); [S. I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 25](#)

VALID FROM 12/04/2010

[^{F14}12C Tenure of office: Lords Justices of Appeal and certain High Court judges

- (1) Lords Justices of Appeal and judges of the High Court hold office during good behaviour (subject to section 26 of, and Schedule 7 to, the Judicial Pensions and Retirement Act 1993).
- (2) Her Majesty may, on an address of both Houses of Parliament, remove a person (“P”) from office as Lord Justice of Appeal or judge of the High Court.
- (3) A motion for such an address may be made—
- in the House of Commons, only by the Prime Minister;
 - in the House of Lords, only by the Lord Chancellor or, if the Lord Chancellor is not a member of that House, only by another Minister of the Crown at the Lord Chancellor's request.
- (4) No motion is to be made for the purposes of subsection (3) unless—
- the Lord Chief Justice or the Northern Ireland Judicial Appointments Ombudsman has, after consulting the other, convened a tribunal as set out below,
 - the tribunal has reported to the Lord Chief Justice recommending that P be removed from the office on the ground of misbehaviour, and
 - the following has occurred—
 - the Lord Chief Justice has advised the Prime Minister and the Lord Chancellor to accept the tribunal's recommendation, or
 - if the Lord Chief Justice does not so advise, the Prime Minister and the Lord Chancellor have consulted the Lord Chief Justice about the recommendation.
- (5) No motion is to be made in the House of Commons for the purposes of subsection (3) unless the Prime Minister has laid a copy of the tribunal's report before that House.

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- (6) No motion is to be made in the House of Lords for the purposes of subsection (3) unless the person making it has laid a copy of the tribunal's report before that House.
- (7) If the Prime Minister and the Lord Chancellor are considering the making of motions for the purposes of subsection (3), the Prime Minister may, with the agreement of the Lord Chief Justice, suspend P from the office.
- (8) If P is suspended, P may not carry out any functions of the office (but P's other rights as holder of the office are unaffected).
- (9) A tribunal is to consist of—
 - (a) a person who holds high judicial office (within the meaning of Part 3 of the Constitutional Reform Act 2005) and who does not hold (and has never held) the office of Lord Chief Justice, Lord Justice of Appeal or judge of the High Court,
 - (b) a person who is or has been a judge of the Court of Appeal of England and Wales or the Inner House of the Court of Session, and
 - (c) a lay member of the Northern Ireland Judicial Appointments Commission (see section 3(5)(c) of the Justice (Northern Ireland) Act 2002).
- (10) The persons within subsection (9)(a) and (b) are to be selected by the Lord Chief Justice after consulting—
 - (a) the Lord Chancellor,
 - (b) the President of the Supreme Court of the United Kingdom,
 - (c) the Lord Chief Justice of England and Wales, and
 - (d) the Lord President of the Court of Session;(or, where an office is vacant or an office holder is not available, some other appropriate person).
- (11) The person within subsection (9)(c) is to be selected by the Northern Ireland Judicial Appointments Ombudsman.
- (12) The person within subsection (9)(a) is to be the chair of the tribunal.
- (13) The tribunal's procedure is to be determined by the Lord Chief Justice.
- (14) If the tribunal recommends as mentioned in subsection (4)(b), the Lord Chief Justice must send the Prime Minister and the Lord Chancellor—
 - (a) a copy of the tribunal's report,
 - (b) any comments that the Lord Chief Justice wishes to make on the report, and
 - (c) any comments that the Northern Ireland Judicial Appointments Ombudsman wishes to make on the report.
- (15) The justice department (within the meaning of the Justice (Northern Ireland) Act 2002) may pay a member of a tribunal any such allowances or fees as it may determine.
- (16) Nothing in subsections (1) to (15) applies to a judge of the High Court appointed after the coming into force of section 7 of the Justice (Northern Ireland) Act 2002 (as to the removal and suspension of whom see that section).

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(17) Before the coming into force of section 23 of the Constitutional Reform Act 2005, in subsection (10)(b) the reference to the President of the Supreme Court of the United Kingdom is to be read as a reference to the senior Lord of Appeal in Ordinary.]

Textual Amendments

F14 Ss. 12-12C substituted (prosp.) for s. 12, 12B by Northern Ireland Act 2009 (c. 3), ss. 2(1), 5(8), **Sch. 2** (with **Sch. 5** paras. 10, 11)

13 Tenure of office, oath, etc.

- (1) ^{F16}
- ^{F17}(2)
- ^{F17}(3)
- ^{F17}(4)
- ^{F17}(5)

Textual Amendments

F16 S. 13(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), **Sch. 13**; S.R. 2006/124, **art. 2**, **Sch.**
F17 S. 13(2)-(5) repealed (15.10.2002) by 2002 c. 26, s. 86, **Sch. 13**; S.R. 2002/319, **art. 2** **Sch.**

14 Vacation of office.

- (1) The Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court may vacate his office by resignation in writing under his hand addressed to the Lord Chancellor.
- (2) The High Court and the Court of Appeal shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any judge of either court.
- (3) Nothing in subsection (1) shall affect the operation of section 12 of the ^{M1}Administration of Justice Act 1973 (retirement of higher judiciary in the event of incapacity).

Marginal Citations

M1 1973 c. 15.

15 Power of judges to act in cases relating to rates and taxes.

- (1) The Lord Chief Justice, a Lord Justice of Appeal, a judge of the High Court or a judge of the Crown Court shall not be incapable of acting in his judicial office in any proceeding by reason of his being as one of several ratepayers or as one of any other class of persons liable, in common with others, to contribute to or eligible to be benefited by any rate or tax which may be increased, diminished or in any way affected by that proceeding.

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- (2) In this section the expression “rate or tax” means any rate, tax, duty or assessment whether public, general or local, and also any fund formed from the proceeds of any such rate, tax, duty or assessment, or applicable to the purposes to which any such rate, tax, duty or assessment might be applied or similar purposes.

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