



# Senior Courts Act 1981

## 1981 CHAPTER 54

### PART I **E+W**

#### CONSTITUTION OF [F<sup>1</sup>SENIOR COURTS]

##### *The Court of Appeal*

### 2 The Court of Appeal. **E+W**

- (1) The Court of Appeal shall consist [F<sup>1</sup>of— ]
  - (a) ex-officio judges, and
  - (b) ordinary judges, of whom the maximum full-time equivalent number is [F<sup>2</sup>39]
- (2) The following shall be ex-officio judges of the Court of Appeal—
  - (a) <sup>F<sup>3</sup></sup> .....
  - (b) any person who [F<sup>4</sup>was Lord Chancellor before 12 June 2003];
  - (c) any [F<sup>5</sup>judge of the Supreme Court] who at the date of his appointment was, or was qualified for appointment as, an ordinary judge of the Court of Appeal or held an office within paragraphs (d) to (g);
  - (d) the Lord Chief Justice;
  - (e) the Master of the Rolls;
  - [F<sup>6</sup>(f) the President of the Queen's Bench Division;
  - (g) the President of the Family Division;
  - (h) the Chancellor of the High Court;]

but a person within paragraph (b) or (c) shall not be required to sit and act as a judge of the Court of Appeal unless at the [F<sup>7</sup>request of the Lord Chief Justice] he consents to do so.

[F<sup>8</sup>(2A) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his function under subsection (2) of making requests to persons within paragraphs (b) and (c) of that subsection.]

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[<sup>F9</sup>(3) An ordinary judge of the Court of Appeal (including the vice-president, if any, of either division) shall be styled “Lord Justice of Appeal” or “Lady Justice of Appeal”.]

(4) Her Majesty may by Order in Council from time to time amend subsection (1) so as to increase or further increase the [<sup>F10</sup> maximum full-time equivalent number ] of ordinary judges of the Court of Appeal.

[<sup>F11</sup>(4A) It is for the Lord Chancellor to recommend to Her Majesty the making of an Order under subsection (4).]

(5) No recommendation shall be made to Her Majesty in Council to make an Order under subsection (4) unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.

(6) The Court of Appeal shall be taken to be duly constituted notwithstanding any vacancy in the office of <sup>F12</sup> . . . Lord Chief Justice, Master of the Rolls, [<sup>F13</sup>President of the Queen's Bench Division, President of the Family Division or Chancellor of the High Court].

[<sup>F14</sup>(7) For the purposes of this section the full-time equivalent number of ordinary judges is to be calculated by taking the number of full-time ordinary judges and adding, for each ordinary judge who is not a full-time ordinary judge, such fraction as is reasonable.]

#### Textual Amendments

- F1** Words in s. 2(1) substituted (15.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 13\(2\)](#); S.I. 2013/1725, art. 2(g)
- F2** Word in s. 2(1)(b) substituted (12.11.2015) by [The Maximum Number of Judges Order 2015 \(S.I. 2015/1885\)](#), arts. 1, 2
- F3** S. 2(2)(a) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 146, 148, Sch. 4 para. 115(2)(a), [Sch. 18 Pt. 2](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 paras. 11(f), 30(b)
- F4** Words in s. 2(2)(b) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 115\(2\)\(b\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(f)
- F5** Words in s. 2(2)(c) substituted (1.10.2009) by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 145, 148, [Sch. 17 para. 22\(2\)](#); S.I. 2009/1604, [art. 2\(e\)](#)
- F6** S. 2(2)(f)-(h) substituted (1.10.2005) for s. 2(2)(f)(g) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 115\(2\)\(c\)](#); S.I. 2005/2505, [art. 2\(c\)](#)
- F7** Words in s. 2(2) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 115\(2\)\(d\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(f)
- F8** S. 2(2A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 115\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(f)
- F9** S. 2(3) substituted (26.1.2004) by [Courts Act 2003 \(c. 39\)](#), ss. 63(1), 110; S.I. 2003/3345, [art. 2\(a\)\(ii\)](#)
- F10** Words in s. 2(4) substituted (15.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 13\(3\)](#); S.I. 2013/1725, art. 2(g)
- F11** S. 2(4A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 115\(4\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(f)
- F12** Words in s. 2(6) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 146, 148, Sch. 4 para. 115(5)(a), [Sch. 18 Pt. 2](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 paras. 11(f), 30(b)
- F13** Words in s. 2(6) substituted (1.10.2005) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 115\(5\)\(b\)](#); S.I. 2005/2505, [art. 2\(c\)](#)
- F14** S. 2(7) inserted (15.7.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 13\(4\)](#); S.I. 2013/1725, art. 2(g)

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#### Modifications etc. (not altering text)

- C1** S. 2(1) amended by virtue of [S.I. 1983/1705](#), [art. 2](#), 1987/2059, art. 2 (maximum number of ordinary judges prescribed by s. 2(1) increased from 18 to 28)  
S. 2(1) amended (11.3.1993) by [S.I. 1993/605](#), [art.2](#) (maximum number of ordinary judges prescribed by s. 2(1) increased to 29)  
S. 2(1) amended (15.12.1994) by [S.I. 1994/3217](#), [art.3](#) (maximum number of ordinary judges prescribed by s. 2(1) increased to 32)  
S. 2(1) amended (25.4.1996) by [S.I. 1996/1142](#), [art.2](#) (maximum number of ordinary judges prescribed by s. 2(1) increased to 35)  
S. 2(1) amended (21.11.2002) by The Maximum Number of Judges Order ([S.I. 2002/2837](#)), {art.2} (maximum number of ordinary judges prescribed by s. 2(1) increased to 37)
- C2** Ss. 2(1), 4(1), 12(1)-(6) modified (9.11.1998) by 1998 c. 42, [s. 18\(4\)\(a\)](#) (with [ss. 7\(8\)](#), [22\(5\)](#))  
S. 2(1) modified (27.9.1999) by 1999 c. 22, [ss. 68\(3\)\(c\)](#), [108\(3\)\(b\)](#) (with [Sch. 14 para. 7\(2\)](#))

### 3 Divisions of Court of Appeal. **E+W**

- (1) There shall be two divisions of the Court of Appeal, namely the criminal division and the civil division.
- (2) The Lord Chief Justice shall be president of the criminal division of the Court of Appeal, and the Master of the Rolls shall be president of the civil division of that court.
- (3) The <sup>F15</sup>Lord Chief Justice may, after consulting the Lord Chancellor] appoint one of the ordinary judges of the Court of Appeal as vice-president of both divisions of that court, or one of those judges as vice-president of the criminal division and another of them as vice-president of the civil division.
- (4) When sitting in a court of either division of the Court of Appeal in which no ex-officio judge of the Court of Appeal is sitting, the vice-president (if any) of that division shall preside.
- (5) Any number of courts of either division of the Court of Appeal may sit at the same time.
- <sup>F16</sup>(6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (3).]

#### Textual Amendments

- F15** Words in [s. 3\(3\)](#) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), [ss. 15](#), [148](#), [Sch. 4 para. 116\(2\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 11\(g\)](#)
- F16** [S. 3\(6\)](#) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), [ss. 15](#), [148](#), [Sch. 4 para. 116\(3\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 11\(g\)](#)

**Changes to legislation:**

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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. 31(3)(a) word inserted by [2015 c. 2 s. 85\(1\)\(a\)](#)
- s. 31(3)(a) word inserted by [2015 c. 2 s. 85\(1\)\(a\)](#)
- s. 31(3)(b) and word inserted by [2015 c. 2 s. 85\(1\)\(b\)](#)
- s. 31(3)(b) and word inserted by [2015 c. 2 s. 85\(1\)\(b\)](#)
- s. 31(3A)(3B) inserted by [2015 c. 2 s. 85\(2\)](#)
- s. 31(3A)(3B) inserted by [2015 c. 2 s. 85\(2\)](#)