



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART I

COPYRIGHT

CHAPTER VIII

THE COPYRIGHT TRIBUNAL

The Tribunal

145 The Copyright Tribunal.

- (1) The Tribunal established under section 23 of the ^{M1}Copyright Act 1956 is renamed the Copyright Tribunal.
- (2) The Tribunal shall consist of a chairman and two deputy chairmen appointed by the Lord Chancellor, after consultation with the Lord Advocate, and not less than two or more than eight ordinary members appointed by the Secretary of State.
- (3) A person is not eligible for appointment as chairman or deputy chairman [^{F1}unless—
 - [^{F2}(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis;]
 - (b) he is an advocate or solicitor in Scotland of at least [^{F3}5] years' standing;
 - (c) he is a member of the Bar of Northern Ireland or [^{F4}solicitor of the Court of Judicature of Northern Ireland] of at least [^{F3}5] years' standing; or
 - (d) he has held judicial office.]

Textual Amendments

- F1** Words substituted by [Courts and Legal Services Act 1990](#) (c. 41, SIF 37), s. 71(2), [Sch. 10 para. 73](#)
- F2** S. 145(3)(a) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007](#) (c. 15), ss. 50(6), 148, [Sch. 10 para. 20\(2\)](#); S.I. 2008/1653, [art. 2\(b\)\(d\)](#) (with arts. 3, 4)

Changes to legislation: There are currently no known outstanding effects for the Copyright, Designs and Patents Act 1988, Cross Heading: The Tribunal. (See end of Document for details)

- F3** Words in s. 145(3)(b)(c) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c.15), ss. 50(6), 148, **Sch. 10 para. 20(3)**; S.I. 2008/1653, **art. 2(b)(d)** (with arts. 3, 4)
- F4** S. 145(3)(c): words wherever they occur in any enactment substituted (1.10.2009) by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 5**; S.I. 2009/1604, **art. 2**

Modifications etc. (not altering text)

- C1** S. 145: functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by S.I. 1999/678, arts. 2, 3, **Sch.** (with art. 7)
- S. 145 modified (30.6.1999) by S.I. 1999/1748, art. 3, **Sch. 1 para. 10**
- C2** S. 145(2): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, **Sch. 1**(with art. 7); S.I. 1998/3178, **art. 3**

Marginal Citations

- M1** 1956 c. 74.

146 Membership of the Tribunal.

- (1) The members of the Copyright Tribunal shall hold and vacate office in accordance with their terms of appointment, subject to the following provisions.
- (2) A member of the Tribunal may resign his office by notice in writing to the Secretary of State or, in the case of the chairman or a deputy chairman, to the Lord Chancellor.
- (3) The Secretary of State or, in the case of the chairman or a deputy chairman, the Lord Chancellor may by notice in writing to the member concerned remove him from office if—
 - (a) he has become bankrupt or made an arrangement with his creditors or, in Scotland, his estate has been sequestrated or he has executed a trust deed for his creditors or entered into a composition contract, or
 - (b) he is incapacitated by physical or mental illness,
 or if he is in the opinion of the Secretary of State or, as the case may be, the Lord Chancellor otherwise unable or unfit to perform his duties as member.
- [^{F5}(3A) A person who is the chairman or a deputy chairman of the Tribunal shall vacate his office on the day on which he attains the age of 70 years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75 years).]
- (4) If a member of the Tribunal is by reason of illness, absence or other reasonable cause for the time being unable to perform the duties of his office, either generally or in relation to particular proceedings, a person may be appointed to discharge his duties for a period not exceeding six months at one time or, as the case may be, in relation to those proceedings.
- (5) The appointment shall be made—
 - (a) in the case of the chairman or deputy chairman, by the Lord Chancellor, who shall appoint a person who would be eligible for appointment to that office, and
 - (b) in the case of an ordinary member, by the Secretary of State;

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and a person so appointed shall have during the period of his appointment, or in relation to the proceedings in question, the same powers as the person in whose place he is appointed.

- (6) The Lord Chancellor shall consult the Lord Advocate before exercising his powers under this section.
- [^{F6}(7) The Lord Chancellor may exercise his powers to remove a person under subsection (3) or to appoint a person under subsection (4) only with the concurrence of the appropriate senior judge.
- (8) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—
- (a) the person to be removed exercises functions [^{F7}, or the person to be appointed is to exercise functions,] wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
 - (b) the person to be removed exercises functions [^{F7}, or the person to be appointed is to exercise functions,] wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.
- (9) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4).
- (10) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4).
- (11) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4)—
- (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

- F5** S. 146(3A) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para.49**; S.I. 1995/631, **art. 2**
- F6** S. 146(7)-(11) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 199(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 11(r)
- F7** Words in s. 146(8) inserted (3.4.2006) by The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016), art. 4, **Sch. 3**

147 Financial provisions.

- (1) There shall be paid to the members of the Copyright Tribunal such remuneration (whether by way of salaries or fees), and such allowances, as the Secretary of State with the approval of the Treasury may determine.
- (2) The Secretary of State may appoint such staff for the Tribunal as, with the approval of the Treasury as to numbers and remuneration, he may determine.

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- (3) The remuneration and allowances of members of the Tribunal, the remuneration of any staff and such other expenses of the Tribunal as the Secretary of State with the approval of the Treasury may determine shall be paid out of money provided by Parliament.

148 Constitution for purposes of proceedings.

- (1) For the purposes of any proceedings the Copyright Tribunal shall consist of—
- (a) a chairman, who shall be either the chairman or a deputy chairman of the Tribunal, and
 - (b) two or more ordinary members.
- (2) If the members of the Tribunal dealing with any matter are not unanimous, the decision shall be taken by majority vote; and if, in such a case, the votes are equal the chairman shall have a further, casting vote.
- (3) Where part of any proceedings before the Tribunal has been heard and one or more members of the Tribunal are unable to continue, the Tribunal shall remain duly constituted for the purpose of those proceedings so long as the number of members is not reduced to less than three.
- (4) If the chairman is unable to continue, the chairman of the Tribunal shall—
- (a) appoint one of the remaining members to act as chairman, and
 - (b) appoint a suitably qualified person to attend the proceedings and advise the members on any questions of law arising.
- (5) A person is “suitably qualified” for the purposes of subsection (4)(b) if he is, or is eligible for appointment as, a deputy chairman of the Tribunal.

Changes to legislation:

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