



Courts and Legal Services Act 1990

1990 CHAPTER 41

PART III

JUDICIAL AND OTHER OFFICES AND JUDICIAL PENSIONS

Judicial appointments

71 Qualification for judicial and certain other appointments.

(1) In section 10(3) of the ^{M1}[^{F1}Senior Courts Act 1981]—

- (a) in paragraph (b) (qualification for appointment as Lord Justice of Appeal) for the words “unless he is a barrister of at least fifteen years’ standing or a judge of the High Court” there shall be substituted—

“unless—

(i) he has a 10 year High Court qualification within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(ii) he is a judge of the High Court;”;

- (b) in paragraph (c) (qualification for appointment as puisne judge of the High Court) for the words “unless he is a barrister of at least ten years’ standing” there shall be substituted—

“unless—

(i) he has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(ii) he is a Circuit judge who has held that office for at least 2 years.”

(2) Schedule 10 shall have effect for the purpose of making amendments to other enactments, measures and statutory instruments which relate to qualification for judicial and certain other appointments.

Changes to legislation: Courts and Legal Services Act 1990, Section 71 is up to date with all changes known to be in force on or before 25 May 2023. 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

- (3) For the purposes of this section, a person has—
- (a) a "Senior Courts qualification" if he has a right of audience in relation to all proceedings in the Senior Courts;
 - (b) a "High Court qualification" if he has a right of audience in relation to all proceedings in the High Court;
 - (c) a "general qualification" if he has a right of audience in relation to any class of proceedings in any part of the Senior Courts, or all proceedings in county courts or magistrates' courts;
 - (d) a "Crown Court qualification" if he has a right of audience in relation to all proceedings in the Crown Court;
 - (e) a "county court qualification" if he has a right of audience in relation to all proceedings in the county court;
 - (f) a "magistrates' court qualification" if he has a right of audience in relation to all proceedings in magistrates' courts.
- (4) References in subsection (3) to a right of audience are references to a right of audience exercisable by virtue of an authorisation given by a relevant approved regulator.
- (5) Any reference in any enactment, measure or statutory instrument to a person having such a qualification of a particular number of years' length shall be construed as a reference to a person who—
- (a) for the time being has that qualification, and
 - (b) has had it for a period (which need not be continuous) of at least that number of years.
- (6) Any period during which a person had a right of audience but was, as a result of disciplinary proceedings, prevented by the relevant approved regulator from exercising it shall not count towards the period mentioned in subsection (5)(b).
- (6A) In this section "relevant approved regulator" is to be construed in accordance with section 20(3) of the Legal Services Act 2007.]

(7)

(8)

Textual Amendments

- F1** S. 71: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148\(1\), Sch. 11 para. 1\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F2** Words in s. 71 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 4](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F3** Words in s. 71(3)(e) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 35](#); S.I. 2014/954, [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F4** Words in s. 71(4) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\), ss. 208, 211, Sch. 21 para. 94\(a\)](#) (with [ss. 29, 192, 193](#)); S.I. 2009/3250, [art. 2\(h\)](#) (with [art. 9](#))
- F5** S. 71(6) substituted (27.9.1999) by 1999 c. 22, s. 43, [Sch. 6 paras. 4, 9](#) (with [Sch. 14 para. 7\(2\)](#)); S.I. 1999/2657, [art. 2\(a\)](#)
- F6** Words in s. 71(6) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\), ss. 208, 211, Sch. 21 para. 94\(b\)](#) (with [ss. 29, 192, 193](#)); S.I. 2009/3250, [art. 2\(h\)](#) (with [art. 9](#))

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- F7** S. 71(6A) inserted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208, 211, **Sch. 21 para. 94(c)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)
- F8** S. 71(7)(8) repealed (27.9.1999) by 1999 c.22, s. 106, **Sch. 15 Pt. II** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(ii)(a), Sch. 2 Pt. I para. 2(c)**

Modifications etc. (not altering text)

- C1** S. 71 applied (E.W.S.) (17.6.1992) by Child Support Act 1991 (c. 48, SIF 20), **s. 54** (with s. 9(2)); S.I. 1992/1431, **art. 2, Sch.**
- C2** S. 71 applied (E.W.S.) (1.7.1992) by Social Security Administration Act 1992 (c. 5, SIF 113:1), **ss. 191, 192(4)**
- C3** S. 71 modified (1.4.1999) by 1998 c. 41, s. 45(7), **Sch. 7 Pt. III para. 26(2)(a)** (with s. 73); S.I. 1999/505, **art. 2**
- C4** S. 71 applied (1.3.2000) by S.I. 2000/261, **rule 2(2)(a)**
- C5** S. 71 applied (28.4.2003) by 2002 c. 9, ss. 107, 136(2), Sch. 9 para. 4(2) (with s. 129); S.I. 2003/1028, **art. 2**

Marginal Citations

- M1** 1981 c. 54.

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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. 58A(2)(fe) inserted by [2021 c. 17 s. 53](#)