

*Changes to legislation:* There are currently no known outstanding effects for the Northern Ireland Act 2009, SCHEDULE 2. (See end of Document for details)

## SCHEDULES

### SCHEDULE 2 **U.K.**

Section 2

#### SECTIONS 12 TO 12C OF THE JUDICATURE (NORTHERN IRELAND) ACT 1978

##### Commencement Information

- II** Sch. 2 in force at 12.4.2010 by [S.I. 2010/812](#), [art. 2](#)

##### *Appointment of the Lord Chief Justice and Lords Justices of Appeal*

- 12 (1) Whenever the office of Lord Chief Justice is vacant, Her Majesty may appoint a qualified person to that office by letters patent under the Great Seal of Northern Ireland.
- (2) Her Majesty may, from time to time, appoint a qualified person as a Lord Justice of Appeal by letters patent under the Great Seal of Northern Ireland (but subject to the limit on numbers for the time being imposed by section 3).
- (3) Her Majesty's powers of appointment under this section are exercisable on the Prime Minister's recommendation.
- (4) The Prime Minister must make a recommendation to fill any vacancy in the office of Lord Chief Justice or Lord Justice of Appeal.
- (5) Subsection (4) does not apply to a vacancy in the office of Lord Justice of Appeal while the Lord Chief Justice agrees that it may remain unfilled.
- (6) Before making a recommendation, the Prime Minister must consult—
- the Lord Chief Justice or, if that office is vacant or the Lord Chief Justice is not available, the senior Lord Justice of Appeal who is available, and
  - the Northern Ireland Judicial Appointments Commission.

##### *Appointment of judges of the High Court*

- 12A 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).

##### *Tenure of office: Lord Chief Justice*

- 12B (1) The Lord Chief Justice holds 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 Chief Justice.
- (3) A motion for such an address may be made—

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- (a) in the House of Commons, only by the Prime Minister;
  - (b) 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—
- (a) the Prime Minister has, after consulting the Lord Chancellor, convened a tribunal as set out below, and
  - (b) the tribunal has reported to the Prime Minister recommending that P be removed from the office on the ground of misbehaviour.
- (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.
- (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 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 Chancellor after consulting—
- (a) the President of the Supreme Court of the United Kingdom,
  - (b) the Lord Chief Justice of England and Wales, and
  - (c) 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 chair.
- (14) 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.
- (15) Before the coming into force of section 23 of the Constitutional Reform Act 2005, in subsection (10)(a) 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.

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*Tenure of office: Lords Justices of Appeal and certain High Court judges*

- 12C (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—
- (a) in the House of Commons, only by the Prime Minister;
  - (b) 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—
- (a) the Lord Chief Justice or the Northern Ireland Judicial Appointments Ombudsman has, after consulting the other, convened a tribunal as set out below,
  - (b) the tribunal has reported to the Lord Chief Justice recommending that P be removed from the office on the ground of misbehaviour, and
  - (c) the following has occurred—
    - (i) the Lord Chief Justice has advised the Prime Minister and the Lord Chancellor to accept the tribunal's recommendation, or
    - (ii) 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.
- (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,

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- (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).
  - (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.

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