



# Senior Courts Act 1981

## 1981 CHAPTER 54

### PART IV

#### OFFICERS AND OFFICES

##### *Appointment of certain officers of <sup>[F1]</sup>Senior Courts]*

###### Textual Amendments

- F1** Words in s. 88 cross-heading substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 26\(1\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

#### **88 Qualification for office.**

A person shall not be qualified for appointment to any office in the <sup>[F2]</sup>Senior Courts] listed in column 1 of any Part of Schedule 2 unless he is a person of any description specified in relation to that office in column 2 of that Part.

###### Textual Amendments

- F2** Words in s. 88 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 26\(1\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

#### **89 Masters and registrars.**

(1) The power to make appointments to the offices in the <sup>[F3]</sup>Senior Courts] listed in column 1 of Parts II and III of Schedule 2 shall be exercisable by <sup>[F4]</sup>Her Majesty.]

<sup>[F5]</sup>(1A) The maximum number of appointments under subsection (1) is such as may be determined from time to time by the Lord Chancellor with the concurrence of the Treasury.]

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- (2) The person appointed to the office of Queen’s coroner and attorney and master of the Crown Office [<sup>F6</sup>and Registrar of criminal appeals] shall, by virtue of his appointment, be a master of the Queen’s Bench Division.
- [<sup>F7</sup>(3) Her Majesty shall, on the recommendation of the Lord Chancellor, appoint a person to each office listed in the first column of the table in subsection (3C) (“a senior office”).
- (3A) A person may be appointed to a senior office only if—
  - (a) he holds the office in the corresponding entry in the second column of that table (“the qualifying office”), or
  - (b) he does not hold the qualifying office but could be appointed to it in compliance with section 88.
- (3B) Where a person who is to be appointed to a senior office meets the condition in subsection (3A)(b) he shall, when appointed to the senior office, also be appointed to the qualifying office.
- (3C) This is the table referred to in subsections (3) and (3A)—

<i>Senior office</i>	<i>Qualifying office</i>
Senior Master of the Queen's Bench Division	Master of the Queen's Bench Division
Chief Chancery Master	Master of the Chancery Division
Chief Taxing Master	Taxing master of the Senior Courts
[ <sup>F8</sup> Chief Insolvency and Companies Court Judge]	[ <sup>F9</sup> Insolvency and Companies Court Judge]
Senior District Judge of the Family Division	Registrar of the Principal Registry of the Family Division]

- (4) The person appointed Senior Master [<sup>F10</sup>of the Queen's Bench Division] shall hold and perform the duties of the offices of the Queen’s Remembrancer and registrar of judgments.
- [<sup>F11</sup>(5) .....
- [<sup>F12</sup>(7A) A person appointed under subsection (1) is to be paid such salary [<sup>F13</sup>and such allowances], and a person appointed to a senior office is to be paid such additional salary [<sup>F13</sup>and such allowances], as may be determined by the Lord Chancellor with the concurrence of the Treasury.
- (7B) A salary payable under or by virtue of this section—
  - (a) may in any case be increased, but
  - (b) may not, in the case of a salary payable in respect of an office listed in column 1 of Part 2 of Schedule 2 or of a senior office, be reduced, by a determination or further determination under this section.]
- (8) Salaries [<sup>F14</sup>and allowances] payable under or by virtue of this section shall be paid out of money provided by Parliament.

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### Textual Amendments

- F3** Words in s. 89 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 26\(1\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F4** Words in s. 89(1) substituted (3.4.2006 for certain purposes and otherwise prosp.) by [Constitutional Reform Act 2005 \(c. 4\), ss. 14, 148, Sch. 3 para. 3\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 9
- F5** S. 89(1A) inserted (3.4.2006 for certain purposes and otherwise prosp.) by [Constitutional Reform Act 2005 \(c. 4\), ss. 14, 148, Sch. 3 para. 3\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 9
- F6** Words inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 125\(3\), Sch. 18 para. 37](#)
- F7** S. 89(3)-(3C) substituted (3.4.2006) for s. 89(3) by [Constitutional Reform Act 2005 \(c. 4\), ss. 14, 148, Sch. 3 para. 3\(4\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 11 para. 9
- F8** Words in s. 89(3C) substituted (20.2.2019) by [Courts and Tribunals \(Judiciary and Functions of Staff\) Act 2018 \(c. 33\), ss. 2\(1\), 4\(2\)](#)
- F9** Words in s. 89(3C) table substituted (26.2.2018) by [The Alteration of Judicial Titles \(Registrar in Bankruptcy of the High Court\) Order 2018 \(S.I. 2018/130\), art. 1, Sch. para. 6\(a\)](#)
- F10** Words in s. 89(4) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 13 para. 33](#); S.I. 2013/2200, [art. 3\(e\)](#) (with savings in S.I. 2013/2192, regs. 48, 49)
- F11** S. 89(5)(6)(7) repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\), s. 1\(1\), Sch. 1 Pt. I](#)
- F12** S. 89(7A)(7B) inserted (3.4.2006 for certain purposes and otherwise prosp.) by [Constitutional Reform Act 2005 \(c. 4\), ss. 14, 148, Sch. 3 para. 3\(5\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 9
- F13** Words in s. 89(7A) inserted (10.3.2022 for specified purposes, 10.5.2022 in so far as not already in force) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), s. 131\(1\)\(4\)\(b\)\(ii\), Sch. 2 para. 9\(2\)](#)
- F14** Words in s. 89(8) inserted (10.3.2022 for specified purposes, 10.5.2022 in so far as not already in force) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), s. 131\(1\)\(4\)\(b\)\(ii\), Sch. 2 para. 9\(3\)](#)

## 90 Official Solicitor.

- (1) There shall continue to be an Official Solicitor to the [<sup>F15</sup>Senior Courts], who shall be appointed by the Lord Chancellor.
- (2) There shall be paid to the Official Solicitor out of money provided by Parliament such salary as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.
- (3) The Official Solicitor shall have such powers and perform such duties as may for the time being be conferred or imposed on the holder of that office—
  - (a) by or under this or any other Act; or
  - (b) by or in accordance with any direction given (before or after the commencement of this Act) by the Lord Chancellor.

[<sup>F16</sup>(3A) The holder for the time being of the office of Official Solicitor shall have the right to conduct litigation in relation to any proceedings.

- (3B) When acting as Official Solicitor a person who would otherwise have the right to conduct litigation by virtue of [<sup>F17</sup>the fact that he is a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act)] shall be treated as having acquired that right solely by virtue of subsection (3A).]

- (4) If—

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(a) the Official Solicitor is not available because of his absence or for some other reason; or

(b) his office is vacant,

then, during such unavailability or vacancy, any powers or duties of the Official Solicitor shall be exercisable or fall to be performed by any person for the time being appointed by the Lord Chancellor as deputy to the Official Solicitor (and any property vested in the Official Solicitor may accordingly be dealt with by any such person in all respects as if it were vested in him instead).

#### Textual Amendments

**F15** Words in s. 90 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 26\(1\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

**F16** [S. 90\(3A\)\(3B\)](#) inserted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 125\(3\), Sch. 18 para. 39](#)

**F17** Words in s. 90(3B) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\), ss. 208, 211, Sch. 21 para. 47](#) (with [ss. 29, 192, 193](#)); S.I. 2009/3250, [art. 2\(h\)](#)

## 91 Deputies and temporary appointments.

(1) If it appears to <sup>F18</sup>the Lord Chief Justice] that it is expedient to do so in order to facilitate the disposal of business in the <sup>F19</sup>Senior Courts][<sup>F20</sup>or any other court or tribunal to which a person appointed under this subsection may be deployed], he may appoint a person—

(a) to act as a deputy for any person holding an office listed in column 1 of Part II <sup>F21</sup>. . . of Schedule 2; or

(b) to act as a temporary additional officer in any such office,

during such period or on such occasions as <sup>F22</sup>[<sup>F23</sup>the Lord Chancellor may] think fit].

<sup>F24</sup>[<sup>F25</sup>(1ZA) The Lord Chief Justice may not appoint a holder of relevant office under subsection (1) without the concurrence of the Lord Chancellor.]

(1ZB) Section 85 of the Constitutional Reform Act 2005 (selection of certain office holders) does not apply to an appointment to which subsection (1ZA) applies.

(1ZC) In this section a “holder of relevant office” means a person who holds<sup>F26</sup>...—

(a) any office listed in column 1 of Part 2 or 3 of Schedule 2, or

(b) the office of district judge.]

<sup>F27</sup>(1A) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business in the Senior Courts, he may appoint a person—

(a) to act as a deputy for any person holding an office listed in column 1 of Part 3 of Schedule 2; or

(b) to act as a temporary additional officer in any such office,

during such period or on such occasions as the Lord Chancellor may think fit.]

(2) <sup>F28</sup>... A person shall not be qualified for appointment under this section if the office in which he would act by virtue of the appointment is one to which he is not qualified for permanent appointment.

<sup>F29</sup>(3) . . . . .

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(4) Every person, while acting under this section, shall have all the jurisdiction of a person permanently appointed to the office in which he is acting.

<sup>F30</sup>(5) .....

(6) The Lord Chancellor may, out of money provided by Parliament, pay to any person appointed under this section such remuneration and allowances as he may, with the concurrence of the Minister for the Civil Service, determine.

<sup>F31</sup>(6A) A person appointed under subsection (1) may be removed from office—

- (a) only by the Lord Chancellor with the agreement of the Lord Chief Justice, and
- (b) only on—
  - (i) the ground of inability or misbehaviour, or
  - (ii) a ground specified in the person's terms of appointment.

(6B) Subject to subsection (6C), the period of a person's appointment under subsection (1) (including a period already extended under this subsection) must be extended by the Lord Chancellor before its expiry; and for this purpose a person appointed under subsection (1) to act under this section on certain occasions is to be treated as having been appointed for a period that expires when the occasions end.

(6C) Extension under subsection (6B)—

- (a) requires the person's agreement,
- (b) is to be for such period as the Lord Chancellor thinks fit, and
- (c) may be refused on—
  - (i) the ground of inability or misbehaviour, or
  - (ii) a ground specified in the person's terms of appointment,but only with any agreement of the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.

(6D) Subject to the preceding provisions of this section (but subject in the first place to the Judicial Pensions and Retirement Act 1993), a person appointed under subsection (1) is to hold and vacate office in accordance with the terms of the person's appointment, which are to be such as the Lord Chancellor may determine.]

<sup>F32</sup>(7) The Lord Chief Justice may nominate a <sup>F33</sup>senior judge (as defined in section 109(5)] of the Constitutional Reform Act 2005) to exercise his functions under <sup>F34</sup>subsection (1) or (6A)(a)].]

#### Textual Amendments

- F18** Words in s. 91(1) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 35\(2\)\(a\)](#); S.I. 2013/2200, [art. 3\(e\)](#) (with savings in S.I. 2013/2192, regs. 48, 49)
- F19** Words in s. 91 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, [Sch. 11 para. 26\(1\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F20** Words in s. 91(1) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 35\(2\)\(b\)](#); S.I. 2013/2200, [art. 3\(e\)](#) (with savings in S.I. 2013/2192, regs. 48, 49)
- F21** Words in s. 91(1)(a) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 139\(2\)\(b\)](#), [Sch. 18 Pt. 2](#); S.I. 2006/1014, [art. 2\(a\)](#), [Sch. paras. 11\(p\)](#), 30(b)
- F22** Words in s. 91(1) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 139\(2\)\(c\)](#); S.I. 2006/1014, [art. 2\(a\)](#), [Sch. para. 11\(p\)](#)

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- F23** Words in s. 91(1) substituted (19.7.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 57(2)(b), 148(5)**
- F24** S. 91(1ZA) substituted (1.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 13 para. 35(3)**; S.I. 2013/2200, art. 3(e) (with savings in S.I. 2013/2192, regs. 48, 49)
- F25** S. 91(1ZA)-(1ZC) inserted (19.7.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 57(3), 148(5)**
- F26** Words in s. 91(1ZC) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(c), **Sch. 4 para. 5(3)(a)**; S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F27** S. 91(1A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 139(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. para. 11(p)
- F28** Words in s. 91(2) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(c), **Sch. 4 para. 5(3)(b)**; S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F29** S. 91(3) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(c), **Sch. 4 para. 5(3)(c)**; S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F30** S. 91(5) repealed (31.3.1995) by 1993 c. 8, s. 31, **Sch. 9**; S.I. 1995/631, **art. 2**
- F31** S. 91(6A)-(6D) inserted (1.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 13 para. 35(4)**; S.I. 2013/2200, art. 3(e) (with savings in S.I. 2013/2192, regs. 48, 49)
- F32** S. 91(7) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 139(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. para. 11(p)
- F33** Words in s. 91(7) substituted (1.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 13 para. 35(5)(a)**; S.I. 2013/2200, art. 3(e) (with savings in S.I. 2013/2192, regs. 48, 49)
- F34** Words in s. 91(7) substituted (1.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 13 para. 35(5)(b)**; S.I. 2013/2200, art. 3(e) (with savings in S.I. 2013/2192, regs. 48, 49)

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

- C1** S. 91(1)(3) restricted (31.3.1995) by 1993 c. 8, **s. 26(7)(f)**, (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**.

**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\(2\)](#)