



# Trade Marks Act 1994

## 1994 CHAPTER 26

### PART III

#### ADMINISTRATIVE AND OTHER SUPPLEMENTARY PROVISIONS

##### *Legal proceedings and appeals*

#### **77 Persons appointed to hear and determine appeals.**

- (1) For the purposes of section 76 an “appointed person” means a person appointed by the Lord Chancellor to hear and decide appeals under this Act.
- (2) A person is not eligible for such appointment unless—
  - [<sup>F1</sup>(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 [<sup>F2</sup>5] years’ standing;
  - (c) he is a member of the Bar of Northern Ireland or [<sup>F3</sup>solicitor of the Court of Judicature of Northern Ireland] of at least [<sup>F4</sup>5] years’ standing; or
  - (d) he has held judicial office.
- (3) An appointed person shall hold and vacate office in accordance with his terms of appointment, subject to the following provisions—
  - (a) there shall be paid to him such remuneration (whether by way of salary or fees), and such allowances, as the Secretary of State with the approval of the Treasury may determine;
  - (b) he may resign his office by notice in writing to the Lord Chancellor;
  - (c) the Lord Chancellor may by notice in writing remove him from office if—
    - (i) he has become bankrupt or [<sup>F5</sup>a debt relief order (under Part 7A of the Insolvency Act 1986) has been made in respect of him or he has 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
    - (ii) he is incapacitated by physical or mental illness,

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*Changes to legislation: There are currently no known outstanding effects for the Trade Marks Act 1994, Section 77. (See end of Document for details)*

or if he is in the opinion of the Lord Chancellor otherwise unable or unfit to perform his duties as an appointed person.

- (4) The Lord Chancellor shall consult the Lord Advocate before exercising his powers under this section.
- [<sup>F6</sup>(5) The Lord Chancellor may remove a person from office under subsection (3)(c) only with the concurrence of the appropriate senior judge.
- (6) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—
- (a) the person to be removed exercises 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 wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.]

#### Textual Amendments

- F1** S. 77(2)(a) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 25\(2\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F2** Word in s. 77(2)(b) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 25\(3\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F3** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 5](#); S.I. 2009/1604, art. 2(d)
- F4** Word in s. 77(2)(c) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 25\(3\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F5** Words in s. 77(3)(c)(i) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), art. 1, [Sch. 2 para. 31](#) (with art. 5)
- F6** S. 77(5)(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 238](#); S.I. 2006/1014, art. 2(a), [Sch. 1 para. 11\(v\)](#)

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

- C1** S. 77: 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. 77 modified (30.6.1999) by [S.I. 1999/1748](#), art. 3, [Sch. 1 para. 17](#)
- S. 77: 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. 2(1)
- C2** [S. 77\(1\)](#) applied (with modifications) (31.12.2020) by Regulation (EU) No. 33/2019, Art. 32b(1)(2) (as inserted by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), 26(31), [Sch. 8 Pt. 3](#))
- C3** [S. 77\(1\)](#) applied (with modifications) (31.12.2020) by Regulation (EU) No. 1151/2012, Art. 14b(1)(2) (as inserted by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), 18, [Sch. 2 Pt. 3](#))
- C4** [S. 77\(1\)](#) applied (with modifications) (31.12.2020) by Regulation (EU) No. 251/2014, Art. 19b(1)(2) (as inserted by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), 21, [Sch. 4 Pt. 3](#))
- C5** [S. 77\(1\)](#) applied (with modifications) (31.12.2020) by Regulation (EU) No. 1308/2013, Art. 102b(1)(2) (as inserted by [The Agricultural Products, Food and Drink \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1637\)](#), regs. 1(7), 20, [Sch. 3 Pt. 2](#))

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**C6** S. 77(1) applied (with modifications) (31.12.2020) by Regulation (EU) 2019/787, Art. 36b(1)(2) (as inserted by [The Agricultural Products, Food and Drink \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1661\)](#), reg. 1(3), **Sch. 5 Pt. 2**)

**Status:**

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**Changes to legislation:**

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