



Human Rights Act 1998

1998 CHAPTER 42

Judges of the European Court of Human Rights

18 Appointment to European Court of Human Rights.

- (1) In this section “judicial office” means the office of—
 - (a) Lord Justice of Appeal, Justice of the High Court or Circuit judge, in England and Wales;
 - (b) judge of the Court of Session or sheriff, in Scotland;
 - (c) Lord Justice of Appeal, judge of the High Court or county court judge, in Northern Ireland.
- (2) The holder of a judicial office may become a judge of the European Court of Human Rights (“the Court”) without being required to relinquish his office.
- (3) But he is not required to perform the duties of his judicial office while he is a judge of the Court.
- (4) In respect of any period during which he is a judge of the Court—
 - (a) a Lord Justice of Appeal or Justice of the High Court is not to count as a judge of the relevant court for the purposes of section 2(1) or 4(1) of the ^{M1}Supreme Court Act 1981 (maximum number of judges) nor as a judge of the Supreme Court for the purposes of section 12(1) to (6) of that Act (salaries etc.);
 - (b) a judge of the Court of Session is not to count as a judge of that court for the purposes of section 1(1) of the ^{M2}Court of Session Act 1988 (maximum number of judges) or of section 9(1)(c) of the ^{M3}Administration of Justice Act 1973 (“the 1973 Act”) (salaries etc.);
 - (c) a Lord Justice of Appeal or judge of the High Court in Northern Ireland is not to count as a judge of the relevant court for the purposes of section 2(1) or 3(1) of the ^{M4}Judicature (Northern Ireland) Act 1978 (maximum number of judges) nor as a judge of the Supreme Court of Northern Ireland for the purposes of section 9(1)(d) of the 1973 Act (salaries etc.);
 - (d) a Circuit judge is not to count as such for the purposes of section 18 of the ^{M5}Courts Act 1971 (salaries etc.);

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Changes to legislation: There are currently no known outstanding effects for the Human Rights Act 1998, Cross Heading: Judges of the European Court of Human Rights. (See end of Document for details)

- (e) a sheriff is not to count as such for the purposes of section 14 of the ^{M6}Sheriff Courts (Scotland) Act 1907 (salaries etc.);
 - (f) a county court judge of Northern Ireland is not to count as such for the purposes of section 106 of the ^{M7}County Courts Act Northern Ireland) 1959 (salaries etc.).
- (5) If a sheriff principal is appointed a judge of the Court, section 11(1) of the ^{M8}Sheriff Courts (Scotland) Act 1971 (temporary appointment of sheriff principal) applies, while he holds that appointment, as if his office is vacant.
- (6) Schedule 4 makes provision about judicial pensions in relation to the holder of a judicial office who serves as a judge of the Court.
- (7) The Lord Chancellor or the Secretary of State may by order make such transitional provision (including, in particular, provision for a temporary increase in the maximum number of judges) as he considers appropriate in relation to any holder of a judicial office who has completed his service as a judge of the Court.
- [^{F1}(7A) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(a)—
- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of England and Wales;
 - (b) before making the order, that person must consult the Lord Chief Justice of England and Wales.
- (7B) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(c)—
- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of Northern Ireland;
 - (b) before making the order, that person must consult the Lord Chief Justice of Northern Ireland.
- (7C) The Lord Chief Justice of England and Wales may nominate a judicial office holder (within the meaning of section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.
- (7D) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
- (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

F1 S. 18(7A)-(7D) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 278**; S.I. 2006/1014, **art. 2**, Sch. 1 para. 11(v)

Marginal Citations

M1 1981 c. 54.
M2 1988 c. 36.
M3 1973 c. 15.

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| M4 | 1978 c. 23. |
| M5 | 1971 c. 23. |
| M6 | 1907 c. 51. |
| M7 | 1959 c. 25 (N.I.). |
| M8 | 1971 c. 58. |

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