

CONSTITUTIONAL REFORM ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Other Provisions Relating to the Judiciary

Commentary on Sections

Section 137: Parliamentary Disqualification

362. In summary, section 137 has the effect of barring members of the Supreme Court of the United Kingdom from membership of the House of Commons and the Northern Ireland Assembly; and of barring them, and certain other holders of judicial office which exclude the holder from membership of the House of Commons, from sitting and voting in the House of Lords while they hold that office.
363. Subsection (1) inserts the office of ‘Judge of the Supreme Court’ into Part 1 of Schedule 1 to the House of Commons Disqualification Act 1975. Subsection (2) makes corresponding provision for the Northern Ireland Assembly Disqualification Act 1975 (specific provision in relation to the Scottish Parliament and National Assembly for Wales being unnecessary because disqualification for membership of those bodies is tied to the House of Commons Disqualification Act). This of itself ensures that the holders of that office are, for as long as they hold it, disqualified for membership of the House of Commons. Taken with subsection (3), this has the effect of making it impossible to hold full-time high judicial office and at the same time be an active member of the House of Lords.
364. Subsection (3) bars holders of any “disqualifying judicial office” (defined in subsection (4) as the offices in Schedule 1 to the House of Commons Disqualification Act 1975 and the corresponding list in the Northern Ireland Assembly Disqualification Act 1975) from sitting or voting in the House of Lords or in any Lords Committee or Joint Committee. Such a person does not cease to be a member of the House while this disqualification continues, however.
365. Subsection (3) means that a person who is disqualified from sitting and voting in the House of Lords by virtue of subsection (2) is not disqualified from receiving a writ of summons to the House of Lords.