

CONSTITUTIONAL REFORM ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 23: The Supreme Court

63. This section establishes the Supreme Court of the United Kingdom, and sets out the composition of the Supreme Court. It also sets out the method of appointing judges, including the President and Deputy President (the process for selection of persons to be recommended for appointment is to be found in sections 26-31). It also provides for the title of the judges of the Supreme Court other than the President and Deputy President.
64. Subsection (2) provides both for complement and method of appointment. The Court will comprise 12 judges, who are to be appointed by Her Majesty by letters patent. By virtue of subsection (5), Her Majesty may, also by letters patent, appoint one of the judges to be President and one to be Deputy President. It will be possible for a person to be appointed as President or Deputy President without having first served as a judge of the Supreme Court (see Section 26(4)).
65. Subsection (3) provides a power for Her Majesty to increase or further increase the number of judges of the Supreme Court by Order in Council. This may only be done, however, if, as set out in subsection (4), a draft of the Order has been laid before and approved by each House of Parliament (that is, by affirmative resolution procedure).
66. Subsection (6) provides that the judges of the Supreme Court other than the President of the Supreme Court and the Deputy President of the Supreme Court (who will have those titles) will be styled 'Justices of the Supreme Court'.
67. Subsection (7) provides that the Court will still be properly constituted even if there is a vacancy among the judges of the Court or in the office of President or Deputy President.