



Constitutional Reform Act 2005

2005 CHAPTER 4

PART 2

ARRANGEMENTS TO MODIFY THE OFFICE OF LORD CHANCELLOR

Continued judicial independence

3 Guarantee of continued judicial independence

- (1) The Lord Chancellor, other Ministers of the Crown and all with responsibility for matters relating to the judiciary or otherwise to the administration of justice must uphold the continued independence of the judiciary.
- (2) Subsection (1) does not impose any duty which it would be within the legislative competence of the Scottish Parliament to impose.
- (3) A person is not subject to the duty imposed by subsection (1) if he is subject to the duty imposed by section 1(1) of the Justice (Northern Ireland) Act 2002 (c. 26).
- (4) The following particular duties are imposed for the purpose of upholding that independence.
- (5) The Lord Chancellor and other Ministers of the Crown must not seek to influence particular judicial decisions through any special access to the judiciary.
- (6) The Lord Chancellor must have regard to—
 - (a) the need to defend that independence;
 - (b) the need for the judiciary to have the support necessary to enable them to exercise their functions;
 - (c) the need for the public interest in regard to matters relating to the judiciary or otherwise to the administration of justice to be properly represented in decisions affecting those matters.
- (7) In this section “the judiciary” includes the judiciary of any of the following—
 - (a) the Supreme Court;

Changes to legislation: Constitutional Reform Act 2005, Cross Heading: Continued judicial independence is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) any other court established under the law of any part of the United Kingdom;
- (c) any international court.

[^{F1}(7A) In this section “the judiciary” also includes every person who—

- (a) holds an office listed in Schedule 14 or holds an office listed in subsection (7B), and
- (b) but for this subsection would not be a member of the judiciary for the purposes of this section.

(7B) The offices are those of—

- (a) Senior President of Tribunals;
- (b) President of Employment Tribunals (Scotland);
- (c) Vice President of Employment Tribunals (Scotland);
- (d) member of a panel of [^{F2}Employment Judges] (Scotland);
- (e) member of a panel of members of employment tribunals that is not a panel of [^{F2}Employment Judges];
- (f) ^{F3}

(8) In subsection (7) “international court” means the International Court of Justice or any other court or tribunal which exercises jurisdiction, or performs functions of a judicial nature, in pursuance of—

- (a) an agreement to which the United Kingdom or Her Majesty's Government in the United Kingdom is a party, or
- (b) a resolution of the Security Council or General Assembly of the United Nations.

Textual Amendments

- F1** S. 3(7A)(7B) inserted (19.9.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), **ss. 1**, 148; [S.I. 2007/2709](#), **art. 2(a)**
- F2** Words in s. 3(7B)(d)(e) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 14 para. 13(1)**; [S.I. 2013/2200](#), **art. 3(g)**
- F3** S. 3(7B)(f) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), **art. 9**, **Sch. 3 para. 217**

4 Guarantee of continued judicial independence: Northern Ireland

(1) For section 1 of the Justice (Northern Ireland) Act 2002 (c. 26) (guarantee of continued judicial independence) substitute—

“1 Guarantee of continued judicial independence

- (1) The following persons must uphold the continued independence of the judiciary—
- (a) the First Minister,
 - (b) the deputy First Minister,
 - (c) Northern Ireland Ministers, and
 - (d) all with responsibility for matters relating to the judiciary or otherwise to the administration of justice, where that responsibility is to be discharged only in or as regards Northern Ireland.

Changes to legislation: *Constitutional Reform Act 2005, Cross Heading: Continued judicial independence is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (2) The following particular duty is imposed for the purpose of upholding that independence.
 - (3) The First Minister, the deputy First Minister and Northern Ireland Ministers must not seek to influence particular judicial decisions through any special access to the judiciary.
 - (4) In this section “the judiciary” includes the judiciary of any of the following—
 - (a) the Supreme Court;
 - (b) any other court established under the law of any part of the United Kingdom;
 - (c) any international court.
 - (5) In subsection (4) “international court” means the International Court of Justice or any other court or tribunal which exercises jurisdiction, or performs functions of a judicial nature, in pursuance of—
 - (a) an agreement to which the United Kingdom or Her Majesty's Government in the United Kingdom is a party, or
 - (b) a resolution of the Security Council or General Assembly of the United Nations.”
- (2) In section 91(2) of that Act (extent: provisions not restricted to Northern Ireland), before paragraph (a) insert—
“(za) section 1,”.

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. 132(4A) words substituted by [2015 c. 2 s. 83\(1\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(2\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(3\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(4\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(6\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(8\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(9\)](#)
- Sch. 7 para. 4Pt. A words inserted by [2007 c. 15 s. 144\(10\)\(a\)](#)
- Sch. 7 para. 4Pt. A words substituted by [2007 c. 15 s. 144\(10\)\(b\)](#)