



Constitutional Reform Act 2005

2005 CHAPTER 4

PART 3

THE SUPREME COURT

Appointment of judges

26 Selection of members of the Court

- (1) This section applies to a recommendation for an appointment to one of the following offices—
- judge of the Supreme Court;
 - President of the Court;
 - Deputy President of the Court.

(2) A recommendation may be made only by the Prime Minister.

(3) The Prime Minister—

- must recommend any person [^{F1}who is selected as a result of the convening of a selection commission under this section];
- may not recommend any other person.

[^{F2}(4) Where a person who is not a judge of the Court is recommended for appointment as President or Deputy President, the recommendation must also recommend the person for appointment as a judge.]

(5) If there is a vacancy in [^{F3}the office of President of the Court or in the office of Deputy President of the Court,] or it appears to him that there will soon be such a vacancy, the Lord Chancellor must convene a selection commission for the selection of a person to be recommended.

[^{F4}(5A) If—

- the full-time equivalent number of judges of the Court is less than the maximum specified in section 23(2), or it appears to the Lord Chancellor that

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the full-time equivalent number of judges of the Court will soon be less than that maximum, and

- (b) the Lord Chancellor, or the senior judge of the Court, after consulting the other considers it desirable that a recommendation be made for an appointment to the office of judge of the Court,

the Lord Chancellor must convene a selection commission for the selection of a person to be recommended.

(5B) In subsection (5A)(b) “the senior judge of the Court” means—

- (a) the President of the Court, or
 (b) if there is no President, the Deputy President, or
 (c) if there is no President and no Deputy President, the senior ordinary judge.]

(6) Schedule 8 is about selection commissions.

[^{F5}(7) Subsections (5) and (5A) are subject to Schedule 8 (cases where duty to convene a selection commission are suspended).

(7A) For the purposes of this section and Schedule 8, a person is selected as a result of the convening of a selection commission if the person's selection is the final outcome of—

- (a) the selection process mentioned in section 27(1) being applied by the commission, and
 (b) any process provided for by regulations under section 27A being applied in the particular case.]

(8) [^{F6}Section 27 applies] where a selection commission is convened under this section.

Textual Amendments

- F1** Words in s. 26(3)(a) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 7\(2\)](#); S.I. 2013/2200, art. 3(d) (with savings in S.I. 2013/2193, reg. 23)
- F2** S. 26(4) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 7\(3\)](#); S.I. 2013/2200, art. 3(d) (with savings in S.I. 2013/2193, reg. 23)
- F3** Words in s. 26(5) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 3\(2\)](#); S.I. 2013/2200, art. 3(d) (with savings in S.I. 2013/2193, reg. 23)
- F4** S. 26(5A)(5B) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 3\(3\)](#); S.I. 2013/2200, art. 3(d) (with savings in S.I. 2013/2193, reg. 23)
- F5** S. 26(7)(7A) substituted for s. 26(7) (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 7\(4\)](#); S.I. 2013/2200, art. 3(d) (with savings in S.I. 2013/2193, reg. 23)
- F6** Words in s. 26(8) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 7\(5\)](#); S.I. 2013/2200, art. 3(d) (with savings in S.I. 2013/2193, reg. 23)

Changes to legislation:

Constitutional Reform Act 2005, Section 26 is up to date with all changes known to be in force on or before 21 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.

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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\(10\)\(b\)](#)