



Constitutional Reform Act 2005

2005 CHAPTER 4

PART 3

THE SUPREME COURT

Acting judges

38 Acting judges

- (1) At the request of the President of the Supreme Court any of the following may act as a judge of the Court—
 - (a) a person who holds office as a senior territorial judge;
 - (b) a member of the supplementary panel under section 39.
- (2) A request under subsection (1) may be made by the Deputy President of the Court if there is no President or the President is unable to make that request.
- (3) In section 26(7) of the Judicial Pensions and Retirement Act 1993 (c. 8) (requirement not to act in certain capacities after the age of 75) for paragraph (b) substitute—
 - “(b) act as a judge of the Supreme Court under section 38 of the Constitutional Reform Act 2005;”.
- (4) Every person while acting under this section is, subject to subsections (5) and (6), to be treated for all purposes as a judge of the Supreme Court (and so may perform any of the functions of a judge of the Court).
- (5) A person is not to be treated under subsection (4) as a judge of the Court for the purposes of any statutory provision relating to—
 - (a) the appointment, retirement, removal or disqualification of judges of the Court,
 - (b) the tenure of office and oaths to be taken by judges of the Court, or
 - (c) the remuneration, allowances or pensions of judges of the Court.

Changes to legislation: Constitutional Reform Act 2005, Section 38 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

- (6) Subject to section 27 of the Judicial Pensions and Retirement Act 1993, a person is not to be treated under subsection (4) as having been a judge of the Court if he has acted in the Court only under this section.
- (7) Such remuneration and allowances as the Lord Chancellor may with the agreement of the Treasury determine may be paid out of money provided by Parliament to any person who acts as a judge of the Court under this section.
- (8) In this section “office as a senior territorial judge” means office as any of the following—
- (a) a judge of the Court of Appeal in England and Wales;
 - (b) a judge of the Court of Session, but only if the holder of the office is a member of the First or Second Division of the Inner House of that Court;
 - (c) a judge of the Court of Appeal in Northern Ireland, unless the holder holds the office only by virtue of being a puisne judge of the High Court.

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