



Constitutional Reform Act 2005

2005 CHAPTER 4

PART 4

JUDICIAL APPOINTMENTS AND DISCIPLINE

CHAPTER 2

APPOINTMENTS

Puisne judges and other office holders

85 Selection of puisne judges and other office holders

- (1) Sections 86 to [F188] apply to—
- (a) a recommendation for an appointment to the office of puisne judge of the High Court;
 - (b) a recommendation for an appointment to an office listed in Part 1 of Schedule 14 in exercise of Her Majesty's function under the enactment listed opposite that office;
 - (c) an appointment to an office listed in [F2Table 1 of] Part 2 or 3 of that Schedule in exercise of the Lord Chancellor's function under the enactment listed opposite that office.
 - [F3](d) an appointment to an office listed in Table 2 of Part 2 of that Schedule in exercise of the Lord Chief Justice's function under the enactment listed opposite that office;
 - (e) an appointment to an office listed in Table 2 of Part 3 of that Schedule in exercise of the function of the Senior President of Tribunals under the enactment listed opposite that office.]
- (2) Any such recommendation or appointment must be made in accordance with those sections and section [F494C and regulations made under it].

Changes to legislation: Constitutional Reform Act 2005, Section 85 is up to date with all changes known to be in force on or before 18 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

[^{F5}(2A) This section is subject to—

- ^{F6}(a)
- (b) [^{F7}section 91(1ZB)] of the Supreme Court Act 1981,
- ^{F8}(c)
- [section 94AA below.]
- ^{F9}(d)

(3) The Lord Chancellor may by order make any of the following amendments to Schedule 14—

- (a) an amendment which adds a reference to an enactment under which appointments are made to an office;
- (b) an amendment which adds a reference to an office to which appointments are made under an enactment;
- (c) an amendment consequential on the abolition or change of name of an office;
- (d) an amendment consequential on the substitution of one or more enactments for an enactment under which appointments are made to an office.

[The Lord Chancellor may by order amend section ^{F11}... [^{F12}94AA]^{F13} ... if he thinks that ^{F10}(4) the amendment is consequential on an amendment made to Schedule 14 by an order under subsection (3).]

[The Lord Chancellor may by order provide that this section does not apply to ^{F14}(5) appointments to an office listed in Schedule 14 that is specified in the order.

(6) An office may not be specified in an order under subsection (5) if—

- (a) the provisions governing appointment to the office provide that a person is eligible for appointment only where the person satisfies the single condition specified in the provisions, and
- (b) that condition is one of the conditions listed in subsection (8).

(7) An office may not be specified in an order under subsection (5) if—

- (a) the provisions governing appointment to the office provide that a person is eligible for appointment only where the person satisfies one or some other particular number or all, or at least one or at least some other particular number, of several conditions specified in the provisions, and
- (b) at least one of the conditions specified in the provisions is listed in subsection (8).

(8) The conditions are—

- (a) that the person satisfies the judicial-appointment eligibility condition on an N-year basis (where N is a particular number);
- (b) that the person is a solicitor in Scotland of at least a particular number of years' standing;
- (c) that the person is an advocate in Scotland of at least a particular number of years' standing;
- (d) that the person is a solicitor in Northern Ireland of at least a particular number of years' standing;
- (e) that the person is a barrister in Northern Ireland of at least a particular number of years' standing.

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- (9) Before making an order under subsection (5) the Lord Chancellor must consult the Lord Chief Justice, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland.
- (10) An order under subsection (5)—
- (a) may make different provision for different purposes;
 - (b) may make consequential, transitory, transitional or saving provision.]]

Textual Amendments

- F1** Word in s. 85(1) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 64\(2\)\(a\)](#); S.I. 2013/2200, art. 3(e) (with savings in S.I. 2013/2192, regs. 48, 49)
- F2** Words in s. 85(1)(c) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 64\(2\)\(b\)](#); S.I. 2013/2200, art. 3(e) (with savings in S.I. 2013/2192, regs. 48, 49)
- F3** S. 85(1)(d)(e) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 64\(2\)\(c\)](#); S.I. 2013/2200, art. 3(e) (with savings in S.I. 2013/2192, regs. 48, 49)
- F4** Words in s. 85(2) substituted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 64\(3\)](#); S.I. 2013/2200, art. 3(e) (with savings in S.I. 2013/2192, regs. 48, 49)
- F5** S. 85(2A) inserted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 53(3)
- F6** S. 85(2A)(a) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(c), [Sch. 4 para. 11\(2\)\(a\)\(i\)](#); S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F7** Words in s. 85(2A)(b) substituted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(c), [Sch. 4 para. 11\(2\)\(a\)\(ii\)](#); S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F8** S. 85(2A)(c) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(c), [Sch. 4 para. 11\(2\)\(a\)\(i\)](#); S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F9** S. 85(2A)(d) substituted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(c), [Sch. 4 para. 11\(2\)\(a\)\(iii\)](#); S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F10** S. 85(4) inserted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 53(4)
- F11** Word in s. 85(4) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(c), [Sch. 4 para. 11\(2\)\(b\)\(i\)](#); S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F12** Word in s. 85(4) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 14 para. 3\(4\)](#); S.I. 2013/2200, art. 3(g)
- F13** Words in s. 85(4) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(c), [Sch. 4 para. 11\(2\)\(b\)\(ii\)](#); S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F14** S. 85(5)-(10) inserted (1.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 13 para. 64\(4\)](#); S.I. 2013/2200, art. 3(e) (with savings in S.I. 2013/2192, regs. 48, 49)

Modifications etc. (not altering text)

- C1** S. 85 excluded (19.7.2009) by [Supreme Court Act 1981 \(c. 54\)](#), s. 91(1ZB) (as inserted by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), [ss. 57\(3\)](#))
- C2** S. 85 excluded (19.9.2009) by [Courts-Martial \(Appeals\) Act 1951 \(c. 46\)](#), s. 30(4) (as inserted by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), [ss. 58\(3\)](#); S.I. 2007/2709, [art. 2\(a\)](#))

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Commencement Information

- II** S. 85 wholly in force at 2.4.2007; s. 85 not in force at Royal Assent see s. 148; s. 85(3) in force 1.10.2005 by [S.I. 2005/2505](#); s. 85(1)(b)(c)(2) in force at 3.4.2006 by [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 19](#); s. 85(1)(a) in force at 2.4.2007 by [S.I. 2006/1014](#), [art. 2\(b\)](#), [Sch. 2 para. 2](#)

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