

Changes to legislation: There are currently no known outstanding effects for the Crime and Courts Act 2013, Cross Heading: Senior President of Tribunals to make certain appointments to First-tier and Upper Tribunals. (See end of Document for details)

SCHEDULES

SCHEDULE 13

JUDICIAL APPOINTMENTS

PART 4

JUDICIAL APPOINTMENTS: SELECTION, AND TRANSFER OF POWERS OF LORD CHANCELLOR

Senior President of Tribunals to make certain appointments to First-tier and Upper Tribunals

42 The Tribunals, Courts and Enforcement Act 2007 is amended as follows.

Commencement Information

II Sch. 13 para. 42 in force at 1.10.2013 by [S.I. 2013/2200](#), **art. 3(e)** (with savings in [S.I. 2013/2192](#), regs. 48, 49)

43 In section 7(7) (Lord Chancellor's power to appoint Chamber Presidents for the First-tier Tribunal or the Upper Tribunal) for “Lord Chancellor” substitute “Senior President of Tribunals”.

Commencement Information

12 Sch. 13 para. 43 in force at 1.10.2013 by [S.I. 2013/2200](#), **art. 3(e)** (with savings in [S.I. 2013/2192](#), regs. 48, 49)

44 (1) In section 8 (power of Senior President of Tribunals to delegate) after subsection (1) insert—

“(1A) A function under paragraph 1(1) or 2(1) of Schedule 2 may be delegated under subsection (1) only to a Chamber President of a chamber of the Upper Tribunal.”

(2) In section 8(2) (functions which the Senior President of Tribunals may not delegate) for “under section 7(9)” substitute “under any of the following—

section 7(7);

section 7(9);

paragraph 2(1) of Schedule 3;

paragraph 7(1) of Schedule 3;

paragraph 2 of Schedule 4;

paragraph 5(1) and (3) of Schedule 4;

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paragraph 5(5) to (8) of Schedule 4;
 paragraph 5A(2)(a) of Schedule 4;
 paragraph 5A(3)(a) of Schedule 4.”

(3) In section 46 (delegation of functions by Lord Chief Justice etc) after subsection (6) insert—

“(7) In Schedules 2 to 4 “senior judge” means—

- (a) the Lord Chief Justice of England and Wales,
- (b) the Lord President of the Court of Session,
- (c) the Lord Chief Justice of Northern Ireland, or
- (d) the Senior President of Tribunals.”

Commencement Information

I3 Sch. 13 para. 44 in force at 1.10.2013 by [S.I. 2013/2200](#), [art. 3\(e\)](#) (with savings in [S.I. 2013/2192](#), regs. 48, 49)

45 (1) Schedule 2 (judges and other members of the First-tier Tribunal) is amended as follows.

(2) In paragraphs 1(1) and 2(1) (Lord Chancellor's power to appoint) for “Lord Chancellor” substitute “ Senior President of Tribunals ”.

(3) In paragraph 1(2)(d) (eligibility for appointment as judge based on experience gained in law) for “Lord Chancellor's opinion” substitute “ opinion of the Senior President of Tribunals ”.

(4) In paragraph 1(3) (meaning of “gain experience in law”) for “Lord Chancellor” substitute “ Senior President of Tribunals ”.

(5) In paragraph 4 (terms of appointment) after sub-paragraph (2) (salaried appointee may be removed from office only by Lord Chancellor and only on ground of inability or misbehaviour) insert—

“(2A) If the terms of the person's appointment provide that the person is appointed on a fee-paid basis, the person may be removed from office—

- (a) only by the Lord Chancellor (and in accordance with paragraph 3), and
- (b) only on—
 - (i) the ground of inability or misbehaviour, or
 - (ii) a ground specified in the person's terms of appointment.

(2B) If the period (or extended period) for which the person is appointed ends before—

- (a) the day on which the person attains the age of 70, or
- (b) if different, the day that for the purposes of section 26 of the Judicial Pensions and Retirement Act 1993 is the compulsory retirement date for the office concerned in the person's case,

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then, subject to sub-paragraph (2C), the Lord Chancellor must extend the period of the person's appointment (including a period already extended under this sub-paragraph) before it ends.

(2C) Extension under sub-paragraph (2B)—

- (a) requires the person's agreement,
- (b) is to be for such period as the Lord Chancellor considers appropriate, and
- (c) may be refused on—
 - (i) the ground of inability or misbehaviour, or
 - (ii) a ground specified in the person's terms of appointment, but only with any agreement of a senior judge (see section 46(7)), or a nominee of a senior judge, that may be required by those terms.”

(6) In paragraph 4(3) (subject to sub-paragraph (2), person to hold and vacate office in accordance with terms of appointment)—

- (a) for “sub-paragraph (2) (and” substitute “ the preceding provisions of this paragraph (but subject in the first place ”, and
- (b) after “appointment” insert “ , which are to be such as the Lord Chancellor may determine ”.

Commencement Information

I4 Sch. 13 para. 45 in force at 1.10.2013 by [S.I. 2013/2200](#), [art. 3\(e\)](#) (with savings in [S.I. 2013/2192](#), regs. 48, 49)

46 (1) Schedule 3 (judges and other members of the Upper Tribunal) is amended as follows.

(2) In paragraph 2(1) (Lord Chancellor's power to appoint other members of the Upper Tribunal) for “Lord Chancellor” substitute “ Senior President of Tribunals ”.

(3) In paragraph 3(1) (removal from office) before the “or” at the end of paragraph (b) insert—

“(ba) a person who is a deputy judge of the Upper Tribunal (whether by appointment under paragraph 7(1) or as a result of provision under section 31(2)).”.

(4) In paragraph 4 (terms of appointment) after sub-paragraph (2) (salaried appointee may be removed from office only by Lord Chancellor and only on ground of inability or misbehaviour) insert—

“(2A) If the terms of the person's appointment provide that the person is appointed on a fee-paid basis, the person may be removed from office—

- (a) only by the Lord Chancellor (and in accordance with paragraph 3), and
- (b) only on—
 - (i) the ground of inability or misbehaviour, or
 - (ii) a ground specified in the person's terms of appointment.

(2B) If the period (or extended period) for which the person is appointed ends before—

- (a) the day on which the person attains the age of 70, or

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- (b) if different, the day that for the purposes of section 26 of the Judicial Pensions and Retirement Act 1993 is the compulsory retirement date for the office concerned in the person's case,
then, subject to sub-paragraph (2C), the Lord Chancellor must extend the period of the person's appointment (including a period already extended under this sub-paragraph) before it ends.
- (2C) Extension under sub-paragraph (2B)—
 - (a) requires the person's agreement,
 - (b) is to be for such period as the Lord Chancellor considers appropriate, and
 - (c) may be refused on—
 - (i) the ground of inability or misbehaviour, or
 - (ii) a ground specified in the person's terms of appointment, but only with any agreement of a senior judge (see section 46(7)), or a nominee of a senior judge, that may be required by those terms.”
- (5) In paragraph 4(3) (subject to sub-paragraph (2), person to hold and vacate office in accordance with terms of appointment)—
 - (a) for “sub-paragraph (2) (and” substitute “ the preceding provisions of this paragraph (but subject in the first place ”, and
 - (b) after “appointment” insert “ , which are to be such as the Lord Chancellor may determine ”.
- (6) In paragraph 7(1) (Lord Chancellor may appoint deputy judge of the Upper Tribunal for such period as the Lord Chancellor considers appropriate) for “Lord Chancellor”, in the first place, substitute “ Senior President of Tribunals ”.
- (7) In paragraph 7(3) (persons to whom paragraph 7(4) and (5) apply) for “Sub-paragraphs (4) and (5)” substitute “ The following provisions of this paragraph ”.
- (8) For paragraph 7(4) (person to hold and vacate office in accordance with terms of appointment) substitute—
 - “(3A) The person may be removed from office—
 - (a) only by the Lord Chancellor (and in accordance with paragraph 3), and
 - (b) only on—
 - (i) the ground of inability or misbehaviour, or
 - (ii) a ground specified in the person's terms of appointment.
 - (3B) If the period (or extended period) for which the person is appointed ends before—
 - (a) the day on which the person attains the age of 70, or
 - (b) if different, the day that for the purposes of section 26 of the Judicial Pensions and Retirement Act 1993 is the compulsory retirement date for the office concerned in the person's case,
then, subject to sub-paragraph (3C), the Lord Chancellor must extend the period of the person's appointment (including a period already extended under this sub-paragraph) before it ends.
- (3C) Extension under sub-paragraph (3B)—

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- (a) requires the person's agreement,
 - (b) is to be for such period as the Lord Chancellor considers appropriate, and
 - (c) may be refused on—
 - (i) the ground of inability or misbehaviour, or
 - (ii) a ground specified in the person's terms of appointment,but only with any agreement of a senior judge (see section 46(7)), or a nominee of a senior judge, that may be required by those terms.
- (4) Subject to the previous provisions of this paragraph (but subject in the first place to the Judicial Pensions and Retirement Act 1993), a person is to hold and vacate office as a deputy judge of the Upper Tribunal in accordance with the person's terms of appointment, which are to be such as the Lord Chancellor may determine.”

Commencement Information

I5 Sch. 13 para. 46 in force at 1.10.2013 by S.I. 2013/2200, art. 3(e) (with savings in S.I. 2013/2192, regs. 48, 49)

- 47 (1) Schedule 4 (chambers, and chamber presidents, for the First-tier Tribunal or the Upper Tribunal) is amended as follows.
- (2) In the italic headings before each of paragraphs 1 and 2 for “by Lord Chancellor” substitute “ under section 7(7) ”.
 - (3) In paragraph 2(1) (duty to consult before appointing senior court judge as chamber president) for “Lord Chancellor must consult the Senior President of Tribunals before the Lord Chancellor” substitute “ Senior President of Tribunals must consult the Lord Chancellor before the Senior President of Tribunals ”.
 - (4) In paragraph 2(2) to (4) (which relate to the power under section 7(7)) for “Lord Chancellor”, in each place, substitute “ Senior President of Tribunals ”.
 - (5) In paragraph 2 after sub-paragraph (4) insert—

“(4A) The Senior President of Tribunals may make a request under sub-paragraph (2), (3) or (4) only with the Lord Chancellor's concurrence.”
 - (6) In paragraph 2(5) (judge nominated must be appointed as Chamber President) for “Lord Chancellor” substitute “ Senior President of Tribunals ”.
 - (7) In paragraph 3(1) (Chamber President to hold and vacate office in accordance with terms of appointment)—
 - (a) for “(subject” substitute “ but subject to paragraph 5A (and subject in the first place ”, and
 - (b) at the end insert “ , and those terms are to be such as the Lord Chancellor may determine. ”
 - (8) In paragraph 5(1) (Lord Chancellor's power to appoint Deputy Chamber Presidents for the First-tier or Upper Tribunal) for “Lord Chancellor” substitute “ Senior President of Tribunals ”.

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- (9) In paragraph 5(3) and (5) to (7) (which relate to the power under paragraph 5(1)) for “Lord Chancellor”, in each place, substitute “ Senior President of Tribunals ”.
- (10) In paragraph 5(3)(a) (duty to consult Senior President of Tribunals) for “Senior President of Tribunals” substitute “ Lord Chancellor ”.
- (11) In paragraph 5 after sub-paragraph (7) insert—
- “(7A) The Senior President of Tribunals may make a request under sub-paragraph (5), (6) or (7) only with the Lord Chancellor's concurrence.”
- (12) In paragraph 5(8) (judge nominated must be appointed as Deputy Chamber President) for “Lord Chancellor” substitute “ Senior President of Tribunals ”.
- (13) In paragraph 5(9) (Deputy Chamber President to hold and vacate office in accordance with terms of appointment)—
- (a) for “(subject” substitute “ but subject to paragraph 5A (and subject in the first place ”, and
- (b) at the end insert “ , and those terms are to be such as the Lord Chancellor may determine. ”
- (14) After paragraph 5 insert—

*“Chamber Presidents and Deputies: removal
 from office and extension of appointment*

- 5A (1) This paragraph applies to a person—
- (a) appointed under section 7(6) or (7) as a Chamber President, or
- (b) appointed under paragraph 5(1) or (2) as a Deputy Chamber President of a chamber.
- (2) If the terms of the person's appointment provide that the person is appointed otherwise than on a fee-paid basis, the person may be removed from office—
- (a) only by the Lord Chancellor with the concurrence of the Senior President of Tribunals, and
- (b) only on the ground of inability or misbehaviour.
- (3) If the terms of the person's appointment provide that the person is appointed on a fee-paid basis, the person may be removed from office—
- (a) only by the Lord Chancellor with the concurrence of the Senior President of Tribunals, and
- (b) only on—
- (i) the ground of inability or misbehaviour, or
- (ii) a ground specified in the person's terms of appointment.
- (4) If the period (or extended period) for which the person is appointed ends before—
- (a) the day on which the person attains the age of 70, or
- (b) if different, the day that for the purposes of section 26 of the Judicial Pensions and Retirement Act 1993 is the compulsory retirement date for the office concerned in the person's case,

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then, subject to sub-paragraph (5), the Lord Chancellor must extend the period of the person's appointment (including a period already extended under this sub-paragraph) before it ends.

- (5) Extension under sub-paragraph (4)—
- (a) requires the person's agreement,
 - (b) is to be for such period as the Lord Chancellor considers appropriate, and
 - (c) may be refused on—
 - (i) the ground of inability or misbehaviour, or
 - (ii) a ground specified in the person's terms of appointment, but only with any agreement of a senior judge (see section 46(7)), or a nominee of a senior judge, that may be required by those terms.”

Commencement Information

I6 Sch. 13 para. 47 in force at 1.10.2013 by [S.I. 2013/2200](#), [art. 3\(e\)](#) (with savings in [S.I. 2013/2192](#), regs. 48, 49)

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Textual Amendments

F1 Sch. 13 para. 48 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. 15](#); [S.I. 2022/1014](#), reg. 2(d) (with reg. 3)

- 49 (1) Schedule 14 to that Act (Judicial Appointments Commission: relevant offices and enactments) is amended as follows.
- (2) For the title of Part 3 substitute “TRIBUNAL-RELATED AND OTHER APPOINTMENTS”.
- (3) The table in Part 3 (appointments by the Lord Chancellor) becomes Table 1 of that Part called “ Appointments by the Lord Chancellor ”.
- (4) Move the entries for the following offices from Table 1 of Part 3 to form Table 2 of that Part called “Appointments by the Senior President of Tribunals” (and with the same column headings)—
- Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, by appointment under section 7(7) of the Tribunals, Courts and Enforcement Act 2007, but not where appointed in accordance with paragraph 2(2) to (5) of Schedule 4 to that Act
 - Judge of the First-tier Tribunal by appointment under paragraph 1(1) of Schedule 2 to that Act
 - Other member of the First-tier Tribunal by appointment under paragraph 2(1) of that Schedule
 - Other member of the Upper Tribunal by appointment under paragraph 2(1) of Schedule 3 to that Act
 - Deputy judge of the Upper Tribunal by appointment under paragraph 7(1) of that Schedule

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Deputy Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, but not where appointed in accordance with paragraph 5(5) to (8) of Schedule 4 to that Act

- (5) In the entry in Part 3 for Deputy Chief Coroner appointed under paragraph 2(5) of Schedule 8 to the Coroners and Justice Act 2009, for “2(5)” substitute “2(6)”.
- (6) In paragraph 51 of Schedule 21 to the Coroners and Justice Act 2009 (which inserts entries at the end of Part 3 of Schedule 14 to the 2005 Act)—
- (a) after “at the end of” insert “Table 1 of”, and
 - (b) for “2(5)” substitute “2(6)”.

(Accordingly, the power to commence that paragraph 51 becomes a power to commence it as amended by this sub-paragraph.)

Commencement Information

- I7** Sch. 13 para. 49(1)-(5) (6)(b) in force at 1.10.2013 by [S.I. 2013/2200](#), [art. 3\(e\)](#) (with savings in [S.I. 2013/2192](#), regs. 48, 49)
- I8** Sch. 13 para. 49(6)(a) in force at 1.10.2013 for specified purposes by [S.I. 2013/2200](#), [art. 3\(f\)](#)

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