



# Human Rights Act 1998

## 1998 CHAPTER 42

### *Judges of the European Court of Human Rights*

#### **18 Appointment to European Court of Human Rights.**

- (1) In this section “judicial office” means the office of—
  - (a) Lord Justice of Appeal, Justice of the High Court or Circuit judge, in England and Wales;
  - (b) judge of the Court of Session or sheriff, in Scotland;
  - (c) Lord Justice of Appeal, judge of the High Court or county court judge, in Northern Ireland.
- (2) The holder of a judicial office may become a judge of the European Court of Human Rights (“the Court”) without being required to relinquish his office.
- (3) But he is not required to perform the duties of his judicial office while he is a judge of the Court.
- (4) In respect of any period during which he is a judge of the Court—
  - (a) a Lord Justice of Appeal or Justice of the High Court is not to count as a judge of the relevant court for the purposes of section 2(1) or 4(1) of the [<sup>F1</sup>Senior Courts Act 1981](maximum number of judges) nor as a judge of the [<sup>F2</sup>Senior Courts] for the purposes of section 12(1) to (6) of that Act (salaries etc.);
  - (b) a judge of the Court of Session is not to count as a judge of that court for the purposes of section 1(1) of the <sup>M1</sup>Court of Session Act 1988 (maximum number of judges) or of section 9(1)(c) of the <sup>M2</sup>Administration of Justice Act 1973 (“the 1973 Act”) (salaries etc.);
  - (c) a Lord Justice of Appeal or judge of the High Court in Northern Ireland is not to count as a judge of the relevant court for the purposes of section 2(1) or 3(1) of the <sup>M3</sup>Judicature (Northern Ireland) Act 1978 (maximum number of judges) nor as a judge of the [<sup>F3</sup>Court of Judicature] of Northern Ireland for the purposes of section 9(1)(d) of the 1973 Act (salaries etc.);
  - (d) a Circuit judge is not to count as such for the purposes of section 18 of the <sup>M4</sup>Courts Act 1971 (salaries etc.);

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*Changes to legislation:* There are currently no known outstanding effects for the Human Rights Act 1998, Cross Heading: Judges of the European Court of Human Rights. (See end of Document for details)

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- (e) a sheriff is not to count as such for the purposes of section 14 of the <sup>M5</sup>Sheriff Courts (Scotland) Act 1907 (salaries etc.);
  - (f) a county court judge of Northern Ireland is not to count as such for the purposes of section 106 of the <sup>M6</sup>County Courts Act Northern Ireland) 1959 (salaries etc.).
- (5) If a sheriff principal is appointed a judge of the Court, section 11(1) of the <sup>M7</sup>Sheriff Courts (Scotland) Act 1971 (temporary appointment of sheriff principal) applies, while he holds that appointment, as if his office is vacant.
- (6) Schedule 4 makes provision about judicial pensions in relation to the holder of a judicial office who serves as a judge of the Court.
- (7) The Lord Chancellor or the Secretary of State may by order make such transitional provision (including, in particular, provision for a temporary increase in the maximum number of judges) as he considers appropriate in relation to any holder of a judicial office who has completed his service as a judge of the Court.
- [<sup>F4</sup>(7A) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(a)—
- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of England and Wales;
  - (b) before making the order, that person must consult the Lord Chief Justice of England and Wales.
- (7B) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(c)—
- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of Northern Ireland;
  - (b) before making the order, that person must consult the Lord Chief Justice of Northern Ireland.
- (7C) The Lord Chief Justice of England and Wales may nominate a judicial office holder (within the meaning of section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.
- (7D) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F1** Words in s. 18(4)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 4; S.I. 2009/1604, art. 2\(d\)](#)
- F2** Words in s. 18(4)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 4; S.I. 2009/1604, art. 2\(d\)](#)
- F3** Words in s. 18(4)(c) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 6; S.I. 2009/1604, art. 2\(d\)](#)
- F4** S. 18(7A)-(7D) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 4 para. 278; S.I. 2006/1014, art. 2, Sch. 1 para. 11\(v\)](#)

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**Changes to legislation:** *There are currently no known outstanding effects for the Human Rights Act 1998, Cross Heading: Judges of the European Court of Human Rights. (See end of Document for details)*

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**Marginal Citations**

- M1** 1988 c. 36.
- M2** 1973 c. 15.
- M3** 1978 c. 23.
- M4** 1971 c. 23.
- M5** 1907 c. 51.
- M6** 1959 c. 25 (N.I.).
- M7** 1971 c. 58.

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