

SCHEDULES

SCHEDULE 13

JUDICIAL APPOINTMENTS

PART 4

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

Appointments by Her Majesty on Lord Chancellor's recommendation but where selection is to be reported to Lord Chief Justice or Senior President of Tribunals

- 29 (1) Schedule 14 to the Constitutional Reform Act 2005 (Judicial Appointments Commission: relevant offices and enactments) is amended as follows.
- (2) The table in Part 1 (appointments by Her Majesty on the Lord Chancellor's recommendation) becomes Table 1 of that Part called "Appointments where the Commission reports to the Lord Chancellor".
- (3) Move the entries for the following offices from Table 1 of Part 1 to form Table 2 of that Part called "Appointments where the Commission reports to the Lord Chief Justice" (and with the same column headings)—
- Circuit judge
 - Recorder
 - Master, Queen's Bench Division
 - Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals
 - Admiralty Registrar
 - Master, Chancery Division
 - Registrar in Bankruptcy of the High Court
 - Taxing Master of the Senior Courts
 - District judge of the principal registry of the Family Division
 - Senior Master of the Queen's Bench Division
 - Chief Chancery Master
 - Chief Taxing Master
 - Chief Bankruptcy Registrar
 - Senior District Judge of the Family Division
 - District judge
 - District Judge (Magistrates' Courts) appointed under section 22(1) of the Courts Act 2003
 - Senior District Judge (Chief Magistrate) designated under section 23 of that Act
 - Deputy Senior District Judge (Chief Magistrate) designated under that section
- (4) In Table 1 of Part 1 omit the entries for the following former offices—

Status: This is the original version (as it was originally enacted).

Senior District Judge (Chief Magistrate) designated under subsection (2) of section 10A of the Justices of the Peace Act 1997

Deputy Senior District Judge (Chief Magistrate) designated under that subsection

- (5) Move the entry for the following office from Table 1 of Part 1 to form Table 3 of that Part called “Appointments where the Commission reports to the Senior President of Tribunals” (and with the same column headings)—
- Judge of the Upper Tribunal by appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007
- 30 (1) Schedule 3 to the Tribunals, Courts and Enforcement Act 2007 (judges and other members of the Upper Tribunal) is amended as follows.
- (2) 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”.
- (3) In paragraph 1(3) (meaning of “gain experience in law”) for “Lord Chancellor” substitute “Senior President of Tribunals”.

Recommended appointments: further provisions

- 31 In section 16 of the Courts Act 1971 (appointment of Circuit judges) omit subsection (4) (health).
- 32 (1) Section 21 of the Courts Act 1971 (appointment of Recorders) is amended as follows.
- (2) In subsection (5) (neither initial term nor extension under subsection (4) may extend appointment beyond judicial retirement age) for “(4)” substitute “(4A)”.
- (3) After subsection (7) insert—
- “(8) Subject to the preceding provisions of this section, a person appointed under this section is to hold and vacate office as a Recorder in accordance with the terms of the person’s appointment, and those terms (including the terms specified under subsection (3)) are (subject to subsection (4)) to be such as the Lord Chancellor may determine.
- (9) The Lord Chief Justice may nominate a senior judge (as defined in section 109(5) of the Constitutional Reform Act 2005) to exercise functions of the Lord Chief Justice under subsection (4) or (4C).”
- (4) In list A in paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005 (protected functions of Lord Chancellor) in the entries for the Courts Act 1971 for “Section 21(2), (4) and (7)” substitute “Section 21”.
- 33 In section 89(4) of the Senior Courts Act 1981 (additional offices and duties of Senior Master appointed under subsection (3)(a)) for “under subsection (3)(a)” substitute “of the Queen’s Bench Division”.

Deputy Circuit judges to be appointed by Lord Chief Justice

- 34 (1) Section 24 of the Courts Act 1971 (deputy Circuit judges and assistant Recorders) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In subsection (1) (appointment to facilitate disposal of certain business) for “a county court” substitute “county court or any other court or tribunal to which a person appointed under this subsection may be deployed”.
- (3) In subsection (1)(a) (Lord Chancellor’s power to appoint deputy circuit judges) for “Lord Chancellor may, with the concurrence of the Lord Chief Justice,” substitute “Lord Chief Justice may, with the concurrence of the Lord Chancellor,”.
- (4) In subsection (1A) (appointment as deputy Circuit judge not to be such as to continue beyond person’s 75th birthday) after “such as to” insert “, or be extended under subsection (5B) below so as to,”.
- (5) After subsection (5) (remuneration) insert—
 - “(5A) A person may be removed from office as a deputy Circuit judge—
 - (a) only by the Lord Chancellor with the agreement of the Lord Chief Justice, and
 - (b) only on—
 - (i) the ground of inability or misbehaviour, or
 - (ii) a ground specified in the person’s terms of appointment.
 - (5B) Subject to subsections (1A) and (5C), the Lord Chancellor must extend the period of a person’s appointment as a deputy Circuit judge (including a period already extended under this subsection) before its expiry; and for this purpose a person appointed to be a deputy Circuit judge on certain occasions is to be treated as having been appointed for a period that expires when the occasions end.
 - (5C) Extension under subsection (5B)—
 - (a) requires the person’s agreement,
 - (b) is to be for such period as the Lord Chancellor thinks fit, 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 the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.
 - (5D) Subject to the preceding provisions of this section, a person appointed under this section is to hold and vacate office as a deputy Circuit judge in accordance with the terms of the person’s appointment, which are to be such as the Lord Chancellor may determine.”
- (6) In subsection (6) (Lord Chief Justice’s power to delegate under section 24(1)(a))—
 - (a) for “judicial office holder (as defined in section 109(4))” substitute “senior judge (as defined in section 109(5))”, and
 - (b) after “subsection (1)(a)” insert “or (5A)(a)”.
- (7) In Schedule 4 to the Constitutional Reform Act 2005 omit paragraph 71(2)(c) (superseded amendment of section 24(1)(a) of the Courts Act 1971).

Status: This is the original version (as it was originally enacted).

Deputy and temporary Masters etc to be appointed by Lord Chief Justice

- 35 (1) Section 91 of the Senior Courts Act 1981 (deputy and temporary Masters, Registrars etc of the High Court) is amended as follows.
- (2) In subsection (1) (Lord Chancellor’s power of appointment)—
- (a) for “the Lord Chancellor”, in the first place, substitute “the Lord Chief Justice”, and
 - (b) after “to facilitate the disposal of business in the Senior Courts” insert “or any other court or tribunal to which a person appointed under this subsection may be deployed”.
- (3) For subsection (1ZA) (if person to be appointed is a current or former holder of certain judicial offices, Lord Chief Justice must concur) substitute—
- “(1ZA) The Lord Chief Justice may not appoint a holder of relevant office under subsection (1) without the concurrence of the Lord Chancellor.”
- (4) After subsection (6) (remuneration) insert—
- “(6A) A person appointed under subsection (1) may be removed from office—
- (a) only by the Lord Chancellor with the agreement of the Lord Chief Justice, and
 - (b) only on—
 - (i) the ground of inability or misbehaviour, or
 - (ii) a ground specified in the person’s terms of appointment.
- (6B) Subject to subsection (6C), the period of a person’s appointment under subsection (1) (including a period already extended under this subsection) must be extended by the Lord Chancellor before its expiry; and for this purpose a person appointed under subsection (1) to act under this section on certain occasions is to be treated as having been appointed for a period that expires when the occasions end.
- (6C) Extension under subsection (6B)—
- (a) requires the person’s agreement,
 - (b) is to be for such period as the Lord Chancellor thinks fit, 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 the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.
- (6D) Subject to the preceding provisions of this section (but subject in the first place to the Judicial Pensions and Retirement Act 1993), a person appointed under subsection (1) is to hold and vacate office in accordance with the terms of the person’s appointment, which are to be such as the Lord Chancellor may determine.”
- (5) In subsection (7) (delegation of functions by Lord Chief Justice)—
- (a) for “judicial office holder (as defined in section 109(4))” substitute “senior judge (as defined in section 109(5))”, and
 - (b) for “subsection (1ZA)” substitute “subsection (1) or (6A)(a)”.

Status: This is the original version (as it was originally enacted).

- (6) In list A in paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005 (protected functions of Lord Chancellor) in the entries for the Senior Courts Act 1981 for “Section 91(1), (1A) and (6)” substitute “Section 91”.
- (7) In consequence of the previous provisions of this paragraph, in the Tribunals, Courts and Enforcement Act 2007 omit sections 57(2)(a) and (5) and 144(5).

Deputy district judges to be appointed by Lord Chief Justice

- 36 (1) Section 102 of the Senior Courts Act 1981 (deputy district judges for the High Court) is amended as follows.
- (2) In subsection (1) (Lord Chancellor’s power of appointment)—
 - (a) for “Lord Chancellor” substitute “Lord Chief Justice”, and
 - (b) after “to facilitate the disposal of business in the High Court” insert “or any other court or tribunal to which a person appointed under this subsection may be deployed”.
 - (3) In subsection (1B) (Lord Chief Justice’s concurrence needed in certain cases) for “Lord Chancellor may not appoint a person under subsection (1) without the concurrence of the Lord Chief Justice” substitute “Lord Chief Justice may not appoint a person under subsection (1) without the concurrence of the Lord Chancellor”.
 - (4) After subsection (5) (remuneration) insert—
 - “(5ZA) A person appointed under this section may be removed from office as a deputy district judge—
 - (a) only by the Lord Chancellor with the agreement of the Lord Chief Justice, and
 - (b) only on—
 - (i) the ground of inability or misbehaviour, or
 - (ii) a ground specified in the person’s terms of appointment.
 - (5ZB) Subject to subsection (5ZC), the term of a person’s appointment under this section (including a term already extended under this subsection) must be extended by the Lord Chancellor before its expiry.
 - (5ZC) Extension under subsection (5ZB)—
 - (a) requires the person’s agreement,
 - (b) is to be for such term as the Lord Chancellor thinks fit, 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 the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.
 - (5ZD) Subject to the preceding provisions of this section (but subject in the first place to the Judicial Pensions and Retirement Act 1993), a person appointed under this section is to hold and vacate office as a deputy district judge in accordance with the terms of the person’s appointment, which are to be such as the Lord Chancellor may determine.

Status: This is the original version (as it was originally enacted).

- (5ZE) The Lord Chief Justice may nominate a senior judge (as defined in section 109(5) of the Constitutional Reform Act 2005) to exercise the Lord Chief Justice’s functions under subsection (1) or (5ZA)(a).”
- (5) In subsection (5A) (delegation of Lord Chief Justice’s functions) omit “(1B) or”.
- (6) In list A in paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005 (protected functions of Lord Chancellor) in the entries for the Senior Courts Act 1981 for “Section 102(1)” substitute “Section 102”.
- 37 (1) Section 8 of the County Courts Act 1984 (deputy district judges for the county court) is amended as follows.
- (2) In subsection (1) (Lord Chancellor’s power of appointment) for “Lord Chancellor” substitute “Lord Chief Justice”.
- (3) In subsection (1ZB) (Lord Chief Justice’s concurrence needed in certain cases) for “Lord Chancellor may not appoint a person under subsection (1) without the concurrence of the Lord Chief Justice” substitute “Lord Chief Justice may not appoint a person under subsection (1) without the concurrence of the Lord Chancellor”.
- (4) In subsection (1A) (ages beyond which appointments may not extend) in each of paragraphs (a) and (b) after “shall not be such as to” insert “, or be extended under subsection (3B) so as to,”.
- (5) After subsection (3) (remuneration) insert—
- “(3A) A person appointed under this section may be removed from office as a deputy district judge—
- (a) only by the Lord Chancellor with the agreement of the Lord Chief Justice, and
- (b) only on—
- (i) the ground of inability or misbehaviour, or
- (ii) a ground specified in the person’s terms of appointment.
- (3B) Subject to subsections (1A) and (3C), the term of a person’s appointment under this section (including a term already extended under this subsection) must be extended by the Lord Chancellor before its expiry.
- (3C) Extension under subsection (3B)—
- (a) requires the person’s agreement,
- (b) is to be for such term as the Lord Chancellor thinks fit, 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 the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.
- (3D) Subject to the preceding provisions of this section, a person appointed under this section is to hold and vacate office as a deputy district judge in accordance with the terms of the person’s appointment, which are to be such as the Lord Chancellor may determine.

Status: This is the original version (as it was originally enacted).

(3E) The Lord Chief Justice may nominate a senior judge (as defined in section 109(5) of the Constitutional Reform Act 2005) to exercise the Lord Chief Justice’s functions under subsection (1) or (3A)(a).”

(6) In subsection (4) (delegation of Lord Chief Justice’s functions) omit “(1ZB) or”.

(7) In list A in paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005 (protected functions of Lord Chancellor) in the entries for the County Courts Act 1984 for “Section 8(1) and (3)” substitute “Section 8”.

Deputy District Judges (Magistrates’ Courts) to be appointed by Lord Chief Justice

38 (1) Section 24 of the Courts Act 2003 (Deputy District Judges (Magistrates’ Courts)) is amended as follows.

(2) In subsection (1) (Lord Chancellor’s power of appointment) for “Lord Chancellor”, in the first place, substitute “Lord Chief Justice”.

(3) For subsection (4) (removal from office to be by Lord Chancellor with concurrence of Lord Chief Justice but only on ground of incapacity or misbehaviour) substitute—

“(4) A person may be removed from office as a Deputy District Judge (Magistrates’ Courts)—

(a) only by the Lord Chancellor with the agreement of the Lord Chief Justice, and

(b) only on—

(i) the ground of inability or misbehaviour, or

(ii) a ground specified in the person’s terms of appointment.

(4A) Subject to subsection (4B), the period of a person’s appointment under this section (including a period already extended under this subsection) must be extended by the Lord Chancellor before its expiry.

(4B) Extension under subsection (4A)—

(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 the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.

(4C) Subject to the preceding provisions of this section (but subject in the first place to the Judicial Pensions and Retirement Act 1993), a person appointed under this section is to hold and vacate office as a Deputy District Judge (Magistrates’ Courts) in accordance with the terms of the person’s appointment, which are to be such as the Lord Chancellor may determine.

(4D) The Lord Chief Justice may nominate a senior judge (as defined in section 109(5) of the Constitutional Reform Act 2005) to exercise the Lord Chief Justice’s functions under subsection (1) or (4)(a).”

Status: This is the original version (as it was originally enacted).

- (4) In list A in paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005 (protected functions of Lord Chancellor) in the entries for the Courts Act 2003 at the appropriate place insert “Section 24”.

Lay justices to be appointed by Lord Chief Justice

- 39 (1) Section 10 of the Courts Act 2003 (justices of the peace who are not District Judges (Magistrates’ Courts)) is amended as follows.
- (2) In subsection (1) (Lord Chancellor’s power of appointment) for “Lord Chancellor” substitute “Lord Chief Justice”.
- (3) After that subsection insert—
- “(1A) Subject to the following provisions of this section and to sections 11 to 15, a person appointed under subsection (1) is to hold and vacate office as a justice of the peace in accordance with the terms of the person’s appointment, which are to be such as the Lord Chancellor may determine.”
- (4) After subsection (2) insert—
- “(2ZA) The Lord Chief Justice must ensure that arrangements for the exercise, so far as affecting any local justice area, of the function under subsection (1) include arrangements for consulting persons appearing to the Lord Chief Justice to have special knowledge of matters relevant to the exercise of that function in relation to that area.”
- (5) In subsection (2A) (Lord Chancellor to ensure local consultation takes place in relation to the exercise of functions under subsections (1) and (2)) for “subsections (1) and” substitute “subsection”.
- (6) After subsection (6) insert—
- “(6A) The Lord Chief Justice may nominate a senior judge (as defined in section 109(5) of the Constitutional Reform Act 2005) to exercise functions of the Lord Chief Justice under subsection (1).”
- (7) In subsection (7) (delegation of Lord Chief Justice’s functions) after “subsection (2)” insert “, (2ZA)”.

Transfer of appointment powers to Lord Chief Justice: further provisions

- 40 (1) Section 94A of the Constitutional Reform Act 2005 (certain appointments by Lord Chancellor not subject to section 85 but require concurrence of Lord Chief Justice) is amended as follows.
- (2) For subsection (1)(b) (concurrence requirement) substitute—
- “(b) the person who has the power to make the appointment, whether the Lord Chancellor or the Lord Chief Justice, may not make the appointment without the concurrence of the other of them.”
- (3) In subsection (3) (Lord Chief Justice may delegate function under subsection (1)(b)) after “function” insert “of concurring”.
- 41 (1) Schedule 14 to that Act (Judicial Appointments Commission: relevant offices and enactments) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) For the title of Part 2 substitute “COURT-RELATED APPOINTMENTS”.
- (3) The table in Part 2 (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 2 to form Table 2 of that Part called “Appointments by the Lord Chief Justice” (and with the same column headings)—
- Person appointed by the Lord Chancellor as a deputy for a holder of, or as a temporary additional officer in, an office listed in column 1 of Part 2 of Schedule 2 to the Senior Courts Act 1981
 - Deputy district judge appointed under section 102(1) of that Act
 - Deputy district judge appointed under section 8(1) of the County Courts Act 1984
 - Justice of the Peace appointed under section 10(1) of the Courts Act 2003 (justices of the peace other than District Judges (Magistrates’ Courts))
 - Deputy District Judge (Magistrates’ Courts) appointed under section 24(1) of the Courts Act 2003
- (5) In Table 2 of Part 2, in the first of the entries moved by this paragraph to form that table, omit “by the Lord Chancellor”.
- (6) In Table 1 of Part 2 omit the entry for the following former office—
- Justice of the Peace appointed under section 5 of the Justices of the Peace Act 1997

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

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- (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.”
- 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,
- 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,

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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”.
- 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
 - (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,

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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)—
- (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

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- accordance with the person’s terms of appointment, which are to be such as the Lord Chancellor may determine.”
- 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”.
- (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—

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“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,
- 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.”
- 48 (1) Section 94B of the Constitutional Reform Act 2005 (certain appointments by Lord Chancellor not subject to section 85 but require concurrence of Senior President of Tribunals) is amended as follows.
- (2) For subsection (1)(b) (concurrence requirement) substitute—

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- “(b) the person who has the power to make the appointment, whether the Lord Chancellor or the Senior President of Tribunals, may not make the appointment without the concurrence of the other of them.”
- (3) In subsection (2) (Lord Chancellor must also consult Lord Chief Justice in certain cases) for “Lord Chancellor” substitute “Senior President of Tribunals”.
- (4) After subsection (5) insert—
- “(6) Section 8(1) of the Tribunals, Courts and Enforcement Act 2007 (power of Senior President of Tribunals to delegate functions) does not apply to—
- (a) the Senior President of Tribunals’ function of concurring under subsection (1)(b), or
- (b) the Senior President of Tribunals’ function under subsection (2).”
- 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
- 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.)

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Appointments by Lord Chief Justice or Senior President of Tribunals: equalities provisions

- 50 (1) Section 50 of the Equality Act 2010 (public offices: appointments, etc) is amended as follows.
- (2) In subsection (2) (meaning of “public office”) after paragraph (c) insert—
- “(d) an office or post, appointment to which is made by the Lord Chief Justice or the Senior President of Tribunals.”
- (3) In each of subsections (3) to (6), (9) and (11)(b) (offices within subsection (2)(a) or (b)) for “or (b)” substitute “, (b) or (d)”.
- 51 (1) Section 51 of the Equality Act 2010 (public offices: recommendations for appointments, etc) is amended as follows.
- (2) In subsections (1) to (4) (which apply to an office within section 50(2)(a) or (b)) for “or (b)” substitute “, (b) or (d)”.
- (3) In subsection (5) (interpretation) after “50(2)(a)” insert “or (d)”.

Certain deployments to the High Court to be made from pool of selected judges

- 52 In section 9 of the Senior Courts Act 1981 (which includes provision for requesting certain judges to act as judges of other courts) after subsection (2C) insert—
- “(2CA) In the case of a request to a person within entry 5 or 6 in column 1 of the Table to act as a judge of the High Court, the appropriate authority may make the request only if the person is a member of the pool for requests under subsection (1) to persons within that entry.”

Main change in selection process

- 53 (1) The Constitutional Reform Act 2005 is amended as follows.
- (2) Omit—
- (a) sections 71 to 75 (selection for appointment of Lord Chief Justice or Head of Division),
- (b) sections 75C to 75G (selection for appointment of Senior President of Tribunals),
- (c) sections 80 to 84 (selection for appointment of ordinary judge of the Court of Appeal),
- (d) sections 89 to 93 (selection for appointment of puisne judge of the High Court or to an office listed in Schedule 14), and
- (e) section 96 (effect of acceptance of selection).
- (3) Before section 95 (but after the italic heading preceding that section) insert—

“94C Selection process

- (1) The Lord Chancellor must by regulations made with the agreement of the Lord Chief Justice—
- (a) make further provision about the process to be applied in a case where the Commission receives a request under section 87;
- (b) make further provision about—

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- (i) membership of selection panels appointed under section 70, 75B or 79, and
 - (ii) the process that is to be applied in a case where a selection panel is required to be appointed under section 70, 75B or 79;
 - (c) secure, subject to section 95 and any provision within subsection (2) (d) that is included in the regulations, that in every case referred to paragraph (a) or (b)(ii) there will come a point in the process when a selection has to be accepted, either unconditionally or subject only to matters such as the selected person's willingness and availability, by or on behalf of the appropriate authority.
- (2) The regulations may in particular—
- (a) provide for process additional to the selection process applied under section 70(2), 75B(2), 79(2) or 88(1), including post-acceptance process;
 - (b) make provision as to things that are, or as to things that are not, to be done—
 - (i) as part of the selection process applied under section 70(2), 75B(2), 79(2) or 88(1), or
 - (ii) in determining what that process is to be;
 - (c) provide for selection on a request under section 87 to be from among persons identified under section 94 in response to advance notice of the request;
 - (d) provide for section 88(1)(c) not to apply where, or to the extent that, the Commission decides that the selection process applied under section 88(1) has not identified candidates of sufficient merit for it to comply with section 88(1)(c);
 - (e) give functions to the Lord Chancellor, including—
 - (i) power to require a selection panel to reconsider a selection under section 70(2), 75B(2) or 79(2) or any subsequent selection,
 - (ii) power to reject a selection under section 70(2) or any subsequent selection,
 - (iii) power to reject a selection under section 75B(2) or 79(2) or any subsequent selection,
 - (iv) power to reject, or require the reconsideration of, initial or subsequent selections made on a request under section 87, and
 - (v) power to require the reconsideration of a decision mentioned in paragraph (d);
 - (f) give functions to the Lord Chief Justice in connection with selection for an office listed in Table 2 of Part 1 or 2 of Schedule 14 or in connection with selection for membership of a pool for requests under section 9(1) of the Senior Courts Act 1981, including—
 - (i) power to reject, or require the reconsideration of, initial or subsequent selections made on a request under section 87, and
 - (ii) power to require the reconsideration of a decision mentioned in paragraph (d);

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- (g) give functions to the Senior President of Tribunals in connection with selection for an office listed in Table 3 of Part 1, or Table 2 of Part 3, of Schedule 14, including—
 - (i) power to reject, or require the reconsideration of, initial or subsequent selections made on a request under section 87, and
 - (ii) power to require the reconsideration of a decision mentioned in paragraph (d);
 - (h) make provision for or in connection with duties mentioned in section 51 of the Equality Act 2010 being duties of the Lord Chief Justice, or Senior President of Tribunals, in relation to an office within Table 2 or 3 of Part 1 of Schedule 14;
 - (i) provide for particular action to be taken by the Commission or a selection panel after the panel has complied with section 70, 75B or 79;
 - (j) provide for particular action to be taken by the Commission after a selection has been made on a request under section 87;
 - (k) provide for the dissolution of a selection panel appointed under section 70, 75B or 79;
 - (l) provide for section 16(2)(a) or (b) not to apply in relation to functions of the Lord Chief Justice—
 - (i) as a member of such a panel (including functions of chairing such a panel), or
 - (ii) in relation to the nomination or appointment of members of such a panel;
 - (m) provide for a person to cease to be a member of such a panel where the person's membership of the panel ceases to contribute to meeting a requirement about the panel's members;
 - (n) provide for a person to become a member of such a panel where another person ceases to be a member of the panel or where another person's membership of the panel ceases to contribute to meeting a requirement about the panel's members;
 - (o) make provision for or in connection with assessments, whether pre-acceptance or post-acceptance, of the health of persons selected;
 - (p) provide for the Lord Chief Justice to nominate a judicial office holder (as defined in section 109(4)) to exercise functions given to the Lord Chief Justice by the regulations (including functions, such as functions as a consultee, given otherwise than in reliance on paragraph (f));
 - (q) make provision prohibiting or restricting delegation by the Senior President of Tribunals of functions given to the Senior President of Tribunals by the regulations (including functions, such as functions as a consultee, given otherwise than in reliance on paragraph (g));
 - (r) make provision as to the meaning of “non-legally-qualified” and “judicial member” in sections 70, 75B and 79.
- (3) Regulations under this section—
- (a) may make different provision for different purposes;
 - (b) may make transitory, transitional or saving provision.

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- (4) In subsection (1)(c) “the appropriate authority” means—
- (a) the Lord Chancellor where the selection—
 - (i) is on a request under section 69 or 78,
 - (ii) relates to the office of Senior President of Tribunals or puisne judge of the High Court, or
 - (iii) relates to an office listed in Table 1 of Part 1, 2 or 3 of Schedule 14;
 - (b) the Lord Chief Justice where the selection relates to an office listed in Table 2 of Part 1 or 2 of that Schedule;
 - (c) the Senior President of Tribunals where the selection relates to an office listed in Table 3 of Part 1, or Table 2 of Part 3, of that Schedule.
- (5) This section is subject to section 95.”

Other changes in relation to selection process and complaints

- 54 The Constitutional Reform Act 2005 is amended as follows.
- 55 In section 66(1)(a) (Lord Chancellor to consult Lord Chief Justice before issuing guidance about selection procedures) for “consult” substitute “obtain the agreement of”.
- 56 In section 67 (sections 68 to 75 apply in relation to appointment of Lord Chief Justice or Head of Division)—
- (a) in subsection (1) for “75” substitute “70”, and
 - (b) in subsection (2) for “96” substitute “94C and regulations made under it”.
- 57 In section 69 (sections 70 to 75 apply where request made under section 69)—
- (a) in subsection (4) for “Sections 70 to 75 apply” substitute “Section 70 applies”, and
 - (b) in subsection (5) for “Those sections are” substitute “That section is”.
- 58 (1) Section 70 (process for selecting person to be recommended for appointment as Lord Chief Justice or Head of Division) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The panel must have an odd number of members not less than five.
 - (1B) The members of the panel must include—
 - (a) at least two who are non-legally-qualified,
 - (b) at least two judicial members, and
 - (c) at least two members of the Commission,and contributions to meeting more than one of the requirements may be made by the same person’s membership of the panel.
 - (1C) The members of the panel may not include the current holder of the office for which a selection is to be made.
 - (1D) If the panel is convened for the selection of a person to be recommended for appointment as Lord Chief Justice, it is to be chaired by one of its non-legally-qualified members.”

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- (3) In subsection (2)(a) (panel to determine selection process to be applied) after “applied” insert “by it”.
- (4) Omit subsection (2A) (steps that are to be part of selection process).
- (5) In subsection (4) (subsection (3) applies to selection under section 70 or 75) for “section 75” substitute “regulations under section 94C”.
- (6) Omit subsection (5) (if practicable, panel to consult current holder of office).
- 59 In section 75A (sections 75B to 75G apply where request made under paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007)—
- (a) in subsection (1) for “Sections 75B to 75G apply” substitute “Section 75B applies”, and
- (b) in subsection (2) for “Those sections are” substitute “That section is”.
- 60 (1) Section 75B (process for selecting person to be recommended for appointment as Senior President of Tribunals) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The panel must have an odd number of members not less than five.
- (1B) The members of the panel must include—
- (a) at least two who are non-legally-qualified,
- (b) at least two judicial members, and
- (c) at least two members of the Commission,
- and contributions to meeting more than one of the requirements may be made by the same person’s membership of the panel.
- (1C) The members of the panel may not include the Senior President of Tribunals.”
- (3) In subsection (2)(a) (panel to determine selection process to be applied) after “applied” insert “by it”.
- (4) In subsection (5) (subsection (4) applies to selection under section 75B or 75G) for “section 75G” substitute “regulations under section 94C”.
- 61 In section 76 (sections 77 to 84 apply in relation to appointment of ordinary judges of the Court of Appeal)—
- (a) in subsection (1) for “84” substitute “79”, and
- (b) in subsection (2) for “96” substitute “94C and regulations made under it”.
- 62 In section 78 (sections 79 to 84 apply where request made under section 78)—
- (a) in subsection (4) for “Sections 79 to 84 apply” substitute “Section 79 applies”, and
- (b) in subsection (5) for “Those sections are” substitute “That section is”.
- 63 (1) Section 79 (process for selecting person to be recommended for appointment as ordinary judge of Court of Appeal) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The panel must have an odd number of members not less than five.
- (1B) The members of the panel must include—

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- (a) at least two who are non-legally-qualified,
 - (b) at least two judicial members, and
 - (c) at least two members of the Commission,and contributions to meeting more than one of the requirements may be made by the same person's membership of the panel."
- (3) In subsection (2)(a) (panel to determine selection process to be applied) after "applied" insert "by it".
- (4) In subsection (4) (subsection (3) applies to selection under section 79 or 84) for "section 84" substitute "regulations under section 94C".
- 64 (1) Section 85 (sections 86 to 93 apply in relation to appointment of puisne judges of the High Court or to offices listed in Schedule 14) is amended as follows.
 - (2) In subsection (1)—
 - (a) for "93" substitute "88",
 - (b) in paragraph (c) before "Part 2 or 3" insert "Table 1 of", and
 - (c) after paragraph (c) insert—
 - "(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."
 - (3) In subsection (2) for "96" substitute "94C and regulations made under it".
 - (4) After subsection (4) insert—
 - "(5) The Lord Chancellor may by order provide that this section does not apply to 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;

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- (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.
- (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.”
- 65 (1) Section 86 (duty to fill vacancies) is amended as follows.
- (2) After subsection (1) (duty to make a recommendation to fill vacancy for a puisne judge of the High Court or in an office listed in Part 1 of Schedule 14) insert—
- “(1A) The Lord Chancellor must, as soon as is reasonably practicable after being informed by the Lord Chief Justice that a selection under this Chapter for a recommendation for an appointment to an office listed in Table 2 of Part 1 of that Schedule has been accepted unconditionally or subject to conditions that have since been met, make a recommendation of the selected person for an appointment to that office.
- (1B) The Lord Chancellor must, as soon as is reasonably practicable after being informed by the Senior President of Tribunals that a selection under this Chapter for a recommendation for an appointment to an office listed in Table 3 of Part 1 of that Schedule has been accepted unconditionally or subject to conditions that have since been met, make a recommendation of the selected person for an appointment to that office.”
- (3) In subsection (2) (Lord Chancellor must fill vacancy in office listed in Part 2 or 3 of Schedule 14) after “listed in” insert “Table 1 of”.
- (4) After that subsection insert—
- “(2A) The Lord Chief Justice must make an appointment to fill any vacancy in an office listed in Table 2 of Part 2 of that Schedule.
- (2B) The Senior President of Tribunals must make an appointment to fill any vacancy in an office listed in Table 2 of Part 3 of that Schedule.”
- (5) After subsection (3) insert—
- “(4) Subsections (2A) and (2B) do not apply to a vacancy while the Lord Chancellor agrees that it may remain unfilled.”
- 66 (1) Section 87 (request for selection of person to fill vacancy for High Court judge or in an office listed in Schedule 14) is amended as follows.
- (2) After subsection (1) insert—

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- “(1A) The Lord Chancellor may request the Commission to select a person for membership of a pool for requests under section 9(1) of the Senior Courts Act 1981, and a person may become a member of such a pool only by selection on a request under this subsection.”
- (3) In subsection (4) (sections 88 to 93 apply where request made under section 87) for “Sections 88 to 93 apply” substitute “Section 88 applies”.
- (4) In subsection (5) for “Those sections are” substitute “That section is”.
- 67 In section 88 (selection process: puisne judges of High Court and other office holders)—
- (a) omit subsection (2) (insufficient candidates of merit),
 - (b) omit subsection (3) (required elements of selection process),
 - (c) in subsection (4) (duty to arrange selection of one person for each recommendation or appointment to which a request relates) for “or appointment” substitute “, appointment or pool membership”, and
 - (d) in subsection (5) (subsection (4) applies to selection under section 88, 92 or 93) for “section 92 or 93” substitute “regulations under section 94C”.
- 68 For section 94 (Commission’s duty to identify persons suitable for selection on a future request) substitute—

“94 Power to require persons to be identified for future requests

- (1) If the Lord Chancellor gives the Commission notice of a request which the Lord Chancellor expects to make under section 87, the Commission must seek to identify persons it considers would be suitable for selection on the request.
 - (2) The Lord Chancellor may, by regulations made with the agreement of the Lord Chief Justice, make provision about how the Commission is to comply with a duty imposed on it by subsection (1).
 - (3) The regulations may in particular—
 - (a) make provision as to things that are, or as to things that are not, to be done—
 - (i) in complying with such a duty, or
 - (ii) in determining how to comply with such a duty;
 - (b) provide for the making of reports.
 - (4) Regulations under this section—
 - (a) may make different provision for different purposes;
 - (b) may make consequential, supplementary, transitory, transitional or saving provision.”
- 69 (1) Section 95 (Lord Chancellor’s power to withdraw or modify a request) is amended as follows.
- (2) In subsection (2) before paragraph (a) insert—
- “(za) the Lord Chancellor may withdraw or modify a request in consequence of a vacancy, or perceived need for an additional office-holder, having been filled or partly filled by change in the

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amount of time required to be devoted to the duties of office by an existing holder of the office concerned.”.

- (3) In that subsection after paragraph (b) insert—
- “(ba) so far as a request relates to any pool membership, the Lord Chancellor may withdraw or modify it after consulting the Lord Chief Justice;”.
- (4) In subsection (2)(c) (withdrawal of request where selection process unsatisfactory)—
- (a) for “he”, in both places, substitute “the Lord Chancellor”, and
- (b) for “or appointments” substitute “, appointments or pool memberships”.
- (5) In subsection (3) (selection already accepted may not be changed in consequence of modification or part-withdrawal of request) after “accepted” insert “unconditionally or subject only to matters such as the selected person’s willingness and availability”.
- (6) In subsection (4) (request may not be withdrawn on ground of unsatisfactory process after exercise of power to accept, reject or require reconsideration of selection) for the words after “if” substitute “a selection made pursuant to the request—
- (a) has been accepted unconditionally or subject only to matters such as the selected person’s willingness and availability, or
- (b) in exercise of power conferred by regulations under section 94C, has been rejected or required to be reconsidered.”
- 70 (1) Section 97 (consultation under certain provisions to be with head of the judiciary in Scotland or Northern Ireland instead of with Lord Chief Justice of England and Wales) is amended as follows.
- (2) In subsection (1) (list of provisions requiring consultation)—
- (a) omit paragraphs (b), (c) and (e), and
- (b) in paragraph (d) for “95(2)(a), (b)” substitute “95(2)(b)”.
- (3) In subsection (4) (modification where requirement is to obtain concurrence rather than to consult) after “section 94A(1)” insert “or 95(2)(a)”.
- 71 (1) In section 99 (judicial appointments: complaints) after subsection (3) insert—
- “(3A) An LCJ complaint is a complaint by a qualifying complainant of maladministration by the Lord Chief Justice or the Lord Chief Justice’s nominee, or anyone acting on behalf of either of them, in connection with—
- (a) selection under this Part for an office listed in Table 2 of Part 1 or 2 of Schedule 14,
- (b) appointment to an office listed in Table 2 of Part 2 of that Schedule, or
- (c) selection under this Part for membership of a pool for requests under section 9(1) of the Senior Courts Act 1981,
- or of maladministration by the Lord Chief Justice or the Master of the Rolls or the Lord Chief Justice’s nominee, or anyone acting on behalf of any of them, in connection with the making of requests under section 9(1) of that Act.
- (3B) An SPT complaint is a complaint by a qualifying complainant of maladministration by the Senior President of Tribunals or a person to whom the Senior President has delegated functions, or anyone acting on behalf of either of them, in connection with—

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- (a) selection under this Part for an office listed in Table 3 of Part 1 of Schedule 14 or in Table 2 of Part 3 of that Schedule, or
 - (b) appointment to an office listed in Table 2 of Part 3 of that Schedule.”
- 72 In section 100 (duty to make arrangements to investigate complaints) after subsection (2) insert—
 - “(2A) The Lord Chief Justice must make arrangements for investigating any LCJ complaint made to the Lord Chief Justice.
 - (2B) The Senior President of Tribunals must make arrangements for investigating any SPT complaint made to the Senior President of Tribunals.”
- 73 (1) Section 101 (complaints to the Judicial Conduct and Appointments Ombudsman) is amended as follows.
 - (2) In subsections (1)(a) and (4)(a) (investigation of complaints previously made to Judicial Appointments Commission or Lord Chancellor) for “or the Lord Chancellor” substitute “, the Lord Chancellor, the Lord Chief Justice or the Senior President of Tribunals”.
 - (3) In subsection (1)(b) for “Commission’s or Lord Chancellor’s decision” substitute “decision of the Commission, the Lord Chancellor, the Lord Chief Justice or the Senior President of Tribunals”.
- 74 In section 102 (Ombudsman’s reports and recommendations)—
 - (a) in subsection (2)(c) (recommended action) for “or the Lord Chancellor” substitute “, the Lord Chancellor, the Lord Chief Justice or the Senior President of Tribunals”, and
 - (b) in subsection (4) (compensation not to be recommended for failure to be appointed to an office) after “office” insert “, or selected for membership of a pool,”.
- 75 (1) Section 103 (Ombudsman’s reports) is amended as follows.
 - (2) For subsection (2) (drafts of reports) substitute—
 - “(2) The Ombudsman must submit a draft of the report to the Lord Chancellor and to—
 - (a) the Commission if the complaint was a Commission complaint;
 - (b) the Lord Chief Justice if the complaint was an LCJ complaint;
 - (c) the Senior President of Tribunals if the complaint was an SPT complaint.”
 - (3) In subsection (3) (duty to have regard to comments on draft) for “or the Commission” substitute “the Commission, the Lord Chief Justice or the Senior President of Tribunals”.
 - (4) After subsection (5) insert—
 - “(5A) If the complaint was an LCJ complaint the Ombudsman must send the report in duplicate to the Lord Chancellor and the Lord Chief Justice.
 - (5B) If the complaint was an SPT complaint the Ombudsman must send the report in duplicate to the Lord Chancellor and the Senior President of Tribunals.”

Status: This is the original version (as it was originally enacted).

- 76 (1) Section 104 (referrals to Judicial Conduct and Appointments Ombudsman of matters relating to Judicial Appointments Commission) is amended as follows.
- (2) In subsection (1) (duty to investigate matter referred by Lord Chancellor) after “Lord Chancellor” insert “, the Lord Chief Justice or the Senior President of Tribunals”.
- (3) In subsection (3) (report on referred matter) after “Lord Chancellor” insert “, the Lord Chief Justice and the Senior President of Tribunals”.
- 77 In section 105 (provision of information to Ombudsman) after “The Commission” insert “, the Lord Chief Justice, the Senior President of Tribunals”.
- 78 In section 144(5) (orders and regulations subject to affirmative procedure) after paragraph (a) insert—
- “(aa) an order under section 85(5);
(ab) regulations under section 94 or 94C;”.
- 79 In paragraph 2 of Schedule 7 (functions of Lord Chancellor under the Act are protected from transfer to other Ministers etc) after “under this Act” insert “, including any function under provision inserted into this Act by—
- (a) the Crime and Courts Act 2013, or
(b) any earlier or later enactment”.
- 80 In Schedule 12 (the Judicial Appointments Commission) in paragraphs 20(6) and 27(3) (selection panels under section 70 or 79) after “70” insert “, 75B”.

Changes in relation to selection process: consequential repeals

- 81 Omit Part 5 of this Schedule (amendments which come into force on the passing of this Act, but which are superseded on amendments made by this Part of this Schedule being brought into force).