

## SCHEDULES

### SCHEDULE 14

Section 21

#### DEPLOYMENT OF THE JUDICIARY

##### PART 1

#### DEPLOYMENT UNDER SECTION 9 OF THE SENIOR COURTS ACT 1981

##### *Requests for assistance under section 9(1) of the Senior Courts Act 1981*

- 1 (1) Section 9 of the Senior Courts Act 1981 (which includes provision for certain judges to act as judges of other courts) is amended as follows.
- (2) In the table in subsection (1) (judges deployable to certain courts) in column 2 of each of entries 2 and 4 (person who has been a judge of the Court of Appeal, or has been a puisne judge of the High Court, may be asked to act as a judge of the Court of Appeal, High Court or Crown Court) before “and the Crown Court” insert “, the family court, the county court”.
- (3) In that table after entry 4 insert—
- “4A. The Senior President of Tribunals. | The Court of Appeal and the High Court.”
- (4) In that table, in column 1 of entry 6 (Recorders) after “Recorder” insert “or a person within subsection (1ZB)”.
- (5) After subsection (1) insert—
- “(1ZA) The Senior President of Tribunals is to be treated as not being within any entry in column 1 of the Table other than entry 4A.
- (1ZB) A person is within this subsection if the person—
- (a) is a Chamber President, or a Deputy Chamber President, of a chamber of the Upper Tribunal or of a chamber of the First-tier Tribunal,
  - (b) is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007,
  - (c) is a transferred-in judge of the Upper Tribunal (see section 31(2) of that Act),
  - (d) is a deputy judge of the Upper Tribunal (whether under paragraph 7 of Schedule 3 to, or section 31(2) of, that Act), or
  - (e) is the President of Employment Tribunals (England and Wales) or the President of Employment Tribunals (Scotland).”

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- (6) In subsection (2B) (requests under certain entries in table in subsection (1) to be made only after consulting Lord Chancellor) after “3,” insert “4A,”.
- (7) In subsection (2D) (requests to Circuit judge or Recorder to act in High Court require concurrence of Judicial Appointments Commission)—
  - (a) omit “or Recorder”, and
  - (b) for “High Court” substitute “Court of Appeal”.
- (8) For subsection (3) (certain requests under subsection (1) must be complied with) substitute—
  - “(3) The person to whom a request is made under subsection (1) must comply with the request, but this does not apply to—
    - (a) a request made to a person who has been a judge of the Court of Appeal,
    - (b) a request made to a person who has been a puisne judge of the High Court and is not a judge of the Court of Appeal, or
    - (c) a request made to the Senior President of Tribunals if the holder of that office is a judge of the Court of Session or of the High Court, or Court of Appeal, in Northern Ireland.”
- (9) In subsection (6A) (Circuit judge or Recorder not to act by virtue of subsection (5) as single judge in Court of Appeal for certain purposes) for “or Recorder” substitute “, Recorder or person within subsection (1ZB)”.

#### *Deputy judges of the High Court*

- 2 (1) Section 9 of the Senior Courts Act 1981 (which includes provision about the appointment of deputy judges of the High Court) is amended as follows.
- (2) In subsection (4) (power of Lord Chief Justice to appoint deputy judges to facilitate disposal of business in the High Court or Crown Court) after “Crown Court” insert “or any other court or tribunal to which persons appointed under this subsection may be deployed”.
- (3) After subsection (8) (remuneration) insert—
  - “(8A) A person may be removed from office as a deputy judge of the High Court—
    - (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.
  - (8B) Subject to the preceding provisions of this section, a person appointed under subsection (4) is to hold and vacate office as a deputy judge of the High Court in accordance with the terms of the person’s appointment, which are to be such as the Lord Chancellor may determine.”
- (4) In subsection (9) (Lord Chief Justice’s power to delegate functions under subsection (4))—
  - (a) for “judicial office holder (as defined in section 109(4))” substitute “senior judge (as defined in section 109(5))”, and

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(b) for “his functions under subsection (4)” substitute “functions of the Lord Chief Justice under this section”.

(5) In the title omit the words after “business”.

3 (1) In Table 2 of Part 2 of Schedule 14 to the Constitutional Reform Act 2005 (Judicial Appointments Commission: offices to which appointment made by Lord Chief Justice) before the first entry insert—

“Deputy judge of the High Court | Section 9(4) of the Senior Courts Act 1981”

(2) If the provisions in Schedule 13 to this Act that split the table in Part 2 of Schedule 14 to the 2005 Act into two tables do not come into force before or at the time when sub-paragraph (1) comes into force—

(a) sub-paragraph (1) has effect with the omission of “Table 2 of”, and

(b) paragraph 41 of Schedule 13 has effect—

(i) as if a reference to the office of deputy judge of the High Court were inserted at the beginning of the list in sub-paragraph (4) of that paragraph, and

(ii) as if “second” were substituted for “first” in sub-paragraph (5) of that paragraph.

(3) After section 94A of the 2005 Act (appointments not subject to section 85: courts) insert—

**“94AA Appointments not subject to section 85: High Court deputy judge**

(1) Where this section applies to an appointment, section 85 does not apply.

(2) This section applies to the appointment of a person as a deputy judge of the High Court if it appears to the Lord Chief Justice, after consulting the Lord Chancellor, that—

(a) there is an urgent need to take steps in order to facilitate the disposal of particular business in the High Court or Crown Court,

(b) it is expedient as a temporary measure to make the appointment in order to facilitate the disposal of the business, and

(c) there are no other reasonable steps that it is practicable to take within the time available in order to facilitate the disposal of the business.

(3) An appointment to which this section applies is to be made—

(a) so as not to extend beyond the day on which the particular business concerned is concluded, or

(b) so as not to extend beyond the later of—

(i) the day on which the business is concluded, or

(ii) the day expected when the appointment is made to be the day on which the business is concluded.”

(4) In section 85(2A)(d) and (4) of the 2005 Act after “94A” insert “, 94AA”.

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

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## PART 2

### DEPLOYMENT OF JUDGES TO THE MAGISTRATES' COURTS

- 4 (1) Section 66 of the Courts Act 2003 (judges who have powers of justice of the peace who is a District Judge (Magistrates' Courts)) is amended as follows.
- (2) In subsection (2) after paragraph (a) insert—
- “(aa) Master of the Rolls;
  - (ab) ordinary judge of the Court of Appeal;
  - (ac) Senior President of Tribunals;”.
- (3) In subsection (2) after paragraph (e) insert—
- “(f) Chamber President, or Deputy Chamber President, of a chamber of the Upper Tribunal or of a chamber of the First-tier Tribunal;
  - (g) judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007;
  - (h) transferred-in judge of the Upper Tribunal (see section 31(2) of that Act);
  - (i) deputy judge of the Upper Tribunal (whether under paragraph 7 of Schedule 3 to, or section 31(2) of, that Act);
  - (j) office listed—
    - (i) in the first column of the table in section 89(3C) of the Senior Courts Act 1981 (senior High Court Masters etc), or
    - (ii) in column 1 of Part 2 of Schedule 2 to that Act (High Court Masters etc);
  - (k) district judge (which, by virtue of section 8(1C) of the County Courts Act 1984, here includes deputy district judge appointed under section 8 of that Act);
  - (l) deputy district judge appointed under section 102 of the Senior Courts Act 1981;
  - (m) judge of the First-tier Tribunal by virtue of appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007;
  - (n) transferred-in judge of the First-tier Tribunal (see section 31(2) of that Act);
  - (o) member of a panel of Employment Judges established for England and Wales or for Scotland.”
- (4) After subsection (6) insert—
- “(7) This section does not give a person any powers that a District Judge (Magistrates' Courts) may have to act in a court or tribunal that is not a magistrates' court.”

## PART 3

### DEPLOYMENT OF JUDGES TO THE COURT OF PROTECTION

- 5 (1) Section 46 of the Mental Capacity Act 2005 (judges of the Court of Protection) is amended as follows.

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- (2) In subsection (2) (persons who may be nominated as court’s judges) omit the “or” at the end of paragraph (d) and, after paragraph (e), insert “,
- (f) a District Judge (Magistrates’ Courts),
  - (g) a judge of the First-tier Tribunal, or of the Upper Tribunal, by virtue of appointment under paragraph 1(1) of Schedule 2 or 3 to the Tribunals, Courts and Enforcement Act 2007,
  - (h) a transferred-in judge of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of that Act),
  - (i) a deputy judge of the Upper Tribunal (whether under paragraph 7 of Schedule 3 to, or section 31(2) of, that Act),
  - (j) the Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal,
  - (k) the Judge Advocate General,
  - (l) a Recorder,
  - (m) the holder of an office listed in the first column of the table in section 89(3C) of the Senior Courts Act 1981 (senior High Court Masters etc),
  - (n) a holder of an office listed in column 1 of Part 2 of Schedule 2 to that Act (High Court Masters etc),
  - (o) a deputy district judge appointed under section 102 of that Act or under section 8 of the County Courts Act 1984,
  - (p) a member of a panel of Employment Judges established for England and Wales or for Scotland,
  - (q) a person appointed under section 30(1)(a) or (b) of the Courts-Martial (Appeals) Act 1951 (assistants to the Judge Advocate General),
  - (r) a deputy judge of the High Court,
  - (s) the Senior President of Tribunals,
  - (t) an ordinary judge of the Court of Appeal (including the vice-president, if any, of either division of that court),
  - (u) the President of the Queen’s Bench Division,
  - (v) the Master of the Rolls, or
  - (w) the Lord Chief Justice.”
- (3) In subsection (2)(b) for “Vice-Chancellor” substitute “Chancellor of the High Court”.
- (4) In subsection (4) (a judge nominated under subsection (2)(d) or (e) must be appointed senior judge of the court) for “or (e)” substitute “to (q)”.
- (5) In section 4(5)(f) of the Human Rights Act 1998 (things done by certain judges in Court of Protection) for “Vice-Chancellor” substitute “Chancellor of the High Court”.

#### PART 4

##### DEPLOYMENT OF JUDGES TO THE FIRST-TIER TRIBUNAL AND THE UPPER TRIBUNAL

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

7 In section 4(1) (judges of the First-tier Tribunal) after paragraph (c) insert—

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“(ca) is within section 6A.”.

8 (1) Section 6(1) (certain judges who are also judges of the First-tier Tribunal and the Upper Tribunal) is amended as follows.

(2) Before paragraph (a) insert—

“(za) is the Lord Chief Justice of England and Wales,

(zb) is the Master of the Rolls,

(zc) is the President of the Queen’s Bench Division of the High Court in England and Wales,

(zd) is the President of the Family Division of the High Court in England and Wales,

(ze) is the Chancellor of the High Court in England and Wales.”.

(3) After paragraph (d) insert—

“(da) is a deputy judge of the High Court in England and Wales,

(db) is the Judge Advocate General.”.

9 After section 6 insert—

**“6A Certain judges who are also judges of the First-tier Tribunal**

A person is within this section (and so, by virtue of section 4(1)(ca), is a judge of the First-tier Tribunal) if the person—

(a) is a deputy Circuit judge,

(b) is a Recorder,

(c) is a person who holds an office listed—

(i) in the first column of the table in section 89(3C) of the Senior Courts Act 1981 (senior High Court Masters etc), or

(ii) in column 1 of Part 2 of Schedule 2 to that Act (High Court Masters etc),

(d) is a deputy district judge appointed under section 102 of that Act or section 8 of the County Courts Act 1984,

(e) is a Deputy District Judge (Magistrates’ Courts), or

(f) is a person appointed under section 30(1)(a) or (b) of the Courts-Martial (Appeals) Act 1951 (assistants to the Judge Advocate General).”

10 (1) In paragraph 6(3)(a) of each of Schedules 2 and 3 (requests to certain judges to act as judges of First-tier Tribunal or Upper Tribunal may be made only with the concurrence of the Lord Chief Justice) omit the “or” at the end of sub-paragraph (iv) and, after sub-paragraph (v), insert “,

(vi) the Master of the Rolls,

(vii) the President of the Queen’s Bench Division of the High Court of England and Wales,

(viii) the President of the Family Division of that court,

(ix) the Chancellor of that court,

(x) a deputy judge of that court, or

(xi) the Judge Advocate General;”.

(2) In paragraph 6 of Schedule 2 (judges by request of First-tier Tribunal) after sub-paragraph (3) insert—

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“(3A) A request made under sub-paragraph (2) to a person who is a judge of the First-tier Tribunal by virtue of section 4(1)(ca) may be made only with the concurrence of the Lord Chief Justice of England and Wales.”

## PART 5

### DEPLOYMENT OF JUDGES TO THE EMPLOYMENT APPEAL TRIBUNAL

- 11 (1) Section 22 of the Employment Tribunals Act 1996 (membership of Employment Appeal Tribunal) is amended as follows.
- (2) In subsection (1)(a) (judges drawn from the judges of the High Court, or Court of Appeal, in England and Wales) after “Court of Appeal” insert “and the judges within subsection (2A)”.
- (3) After subsection (2) insert—
- “(2A) A person is a judge within this subsection if the person—
- (a) is the Senior President of Tribunals,
  - (b) is a deputy judge of the High Court,
  - (c) is the Judge Advocate General,
  - (d) is a Circuit judge,
  - (e) is a Chamber President, or a Deputy Chamber President, of a chamber of the Upper Tribunal or of a chamber of the First-tier Tribunal,
  - (f) is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007,
  - (g) is a transferred-in judge of the Upper Tribunal (see section 31(2) of that Act),
  - (h) is a deputy judge of the Upper Tribunal (whether under paragraph 7 of Schedule 3 to, or section 31(2) of, that Act),
  - (i) is a district judge, which here does not include a deputy district judge, or
  - (j) is a District Judge (Magistrates’ Courts), which here does not include a Deputy District Judge (Magistrates’ Courts).”
- (4) In subsection (4) (judge’s consent required to nomination to Appeal Tribunal) after “Appeal Tribunal” insert “under subsection (1)(b)”.

## PART 6

### DEPLOYMENT OF JUDGES TO THE EMPLOYMENT TRIBUNALS

- 12 (1) Section 5D of the Employment Tribunals Act 1996 (judicial assistance) is amended as follows.
- (2) In subsection (2)(d)(ii) (appropriate consent required) after “(see subsection (3))” insert “except where the relevant judge is the Lord Chief Justice of England and Wales”.

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- (3) In subsection (3)(a) (consent required for deployment of judges of courts in England and Wales)—
- (a) in sub-paragraph (i) at the beginning insert “the Master of the Rolls or”,
  - (b) after sub-paragraph (i) insert—
    - “(ia) within subsection (4)(b)(ia),”, and
  - (c) omit the “or” after sub-paragraph (iv), and after sub-paragraph (v) insert “, or (vi) within subsection (4)(b)(x) to (xvi);”.
- (4) In subsection (4)(a) (relevant tribunal judges) omit the “or” at the end of sub-paragraph (v), and after paragraph (vi) insert “, or (vii) is the Senior President of Tribunals;”.
- (5) In subsection (4)(b) (relevant judges) in sub-paragraph (i) after “is” insert “the Lord Chief Justice of England and Wales, the Master of the Rolls or”.
- (6) In subsection (4)(b) after sub-paragraph (i) insert—
- “(ia) is the President of the Queen’s Bench Division or Family Division, or the Chancellor, of the High Court in England and Wales,”.
- (7) In subsection (4)(b) omit the “or” at the end of sub-paragraph (viii), and after sub-paragraph (ix) insert—
- “(x) is a deputy judge of the High Court in England and Wales,
  - (xi) is a Recorder,
  - (xii) is a Deputy District Judge (Magistrates’ Courts),
  - (xiii) is a deputy district judge appointed under section 8 of the County Courts Act 1984 or section 102 of the Senior Courts Act 1981,
  - (xiv) holds an office listed in the first column of the table in section 89(3C) of the Senior Courts Act 1981 (senior High Court Masters etc),
  - (xv) holds an office listed in column 1 of Part 2 of Schedule 2 to that Act (High Court Masters etc), or
  - (xvi) is the Judge Advocate General or a person appointed under section 30(1)(a) or (b) of the Courts-Martial (Appeals) Act 1951 (assistants to the Judge Advocate General).”

## PART 7

### AMENDMENTS FOLLOWING RENAMING OF CHAIRMEN OF EMPLOYMENT TRIBUNALS

- 13 (1) In the following provisions for “chairmen”, or for “chairmen of employment tribunals”, substitute “Employment Judges”—
- Constitutional Reform Act 2005: section 3(7B)(d) and (e),
  - Courts Act 1971: Part 1A of Schedule 2,
  - Courts and Legal Services Act 1990: Schedule 11,
  - Employment Tribunals Act 1996: sections 3A, 5A, 5B(4), 5D(2)(e) and 7B(6),
  - Judicial Pensions Act 1981: section 12(1)(c),
  - Judicial Pensions and Retirement Act 1993: section 26(12A)(i), and

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Tribunals, Courts and Enforcement Act 2007: sections 4(1)(e) and (3)(d) and 47(5)(c)(iii), paragraph 12(1)(c) of Schedule 1 and paragraph 7(1)(a) of Schedule 2.

- (2) In the following provisions for “chairman of employment tribunals” substitute “Employment Judge”—
  - Constitutional Reform Act 2005: Part 3 of Schedule 14, in both places,
  - Tribunals, Courts and Enforcement Act 2007: paragraph 6(1)(e) and (4)(b) of Schedule 7, and
  - Judicial Pensions and Retirement Act 1993: Schedules 1 and 5.
- (3) In sections 10(4) and 30(2B)(b) of the Employment Tribunals Act 1996 for “Chairman” substitute “Employment Judge”.
- (4) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 for “or member of a panel of persons appointed to act as chairmen or other members of employment tribunals” substitute “Employment Judge, or member of a panel of members of employment tribunals that is not a panel of Employment Judges”.
- (5) In paragraph 5(2)(g) and (5)(vii) of Schedule 7 to the Judicial Pensions and Retirement Act 1993 before “chairman” insert “Employment Judge, before 3 November 2008 called”.