



Courts and Tribunals (Judiciary and Functions of Staff) Act 2018

2018 CHAPTER 33

An Act to make provision about the judiciary and the functions of the staff of courts and tribunals. [20th December 2018]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Judiciary

1 Deployment of judges

- (1) In section 94AA of the Constitutional Reform Act 2005 (appointments not subject to section 85: High Court deputy judge), in subsection (2)(a), after “Crown Court” insert “ or any other court or tribunal to which a deputy judge of the High Court may be deployed ”.
- (2) In section 6 of the Tribunals, Courts and Enforcement Act 2007 (certain judges who are also judges of the First-tier Tribunal and Upper Tribunal), in subsection (1)—
 - (a) after paragraph (e) insert—

“(ea) is a Recorder,”;
 - (b) omit the “or” at the end of paragraph (h);
 - (c) after paragraph (i) insert—
 - (j) is the President of Employment Tribunals (England and Wales),
 - (k) is the President of Employment Tribunals (Scotland),
 - (l) is the Vice President of Employment Tribunals (Scotland), or
 - (m) is a Regional Employment Judge.”

Changes to legislation: There are currently no known outstanding effects for the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018. (See end of Document for details)

- (3) Accordingly, in section 6A of that Act (certain judges who are also judges of the First-tier Tribunal), omit paragraph (b).
- (4) In section 7 of the Tribunals, Courts and Enforcement Act 2007 (chambers of the First-tier Tribunal and Upper Tribunal: jurisdiction and Presidents)—
 - (a) for subsection (3) substitute—
 - “(3) A person may at a particular time—
 - (a) preside over more than one chamber of the First-tier Tribunal;
 - (b) preside over more than one chamber of the Upper Tribunal;
 - (c) preside over—
 - (i) one or more chambers of the First-tier Tribunal, and
 - (ii) one or more chambers of the Upper Tribunal.”;
 - (b) in subsections (6) and (7), for “subsections (2) and (3)” substitute “subsection (2)”.
- (5) In section 22(2A) of the Employment Tribunals Act 1996 (membership of Employment Appeal Tribunal)—
 - (a) omit the “or” at the end of paragraph (i);
 - (b) after paragraph (j) insert—
 - “(k) is the President of Employment Tribunals (England and Wales), or
 - (l) is the President of Employment Tribunals (Scotland).”
- (6) In section 93 of the Arbitration Act 1996 (appointment of judges as arbitrators)—
 - (a) in subsections (1) and (2), for “A judge of the Commercial Court” substitute “An eligible High Court judge”;
 - (b) in subsection (4), for “a judge of the Commercial Court” substitute “an eligible High Court judge”;
 - (c) after subsection (4) insert—
 - “(4A) 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 this section.”;
 - (d) in subsection (5)—
 - (i) omit the “and” at the end of the definition of “arbitration agreement”;
 - (ii) after that definition insert—
 - ““eligible High Court judge” means—
 - (a) a puisne judge of the High Court, or
 - (b) a person acting as a judge of the High Court under or by virtue of section 9(1) of the Senior Courts Act 1981.”.
- (7) In Schedule 2 to the Arbitration Act 1996 (modifications of Part 1 in relation to judge-arbitrators), in paragraph 1, for “a judge of the Commercial Court” substitute “an eligible High Court judge”.

2 Alteration of judicial titles

- (1) In section 89 of the Senior Courts Act 1981 (masters and registrars), in subsection (3C), in the first column of the table, for “Chief Bankruptcy Registrar” substitute “Chief Insolvency and Companies Court Judge”.

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- (2) In Schedule 14 to the Constitutional Reform Act 2005 (the Judicial Appointments Commission: relevant offices and enactments), in Part 1 (appointments by Her Majesty), in the first column of table 2, for “Chief Bankruptcy Registrar” substitute “Chief Insolvency and Companies Court Judge”.
- (3) In section 64 of the Courts Act 2003 (power to alter judicial titles)—
- (a) in subsection (2), at the appropriate places insert the following entries— “Chief Chancery Master”; “Chief Insolvency and Companies Court Judge”; “Chief Taxing Master”; “Senior District Judge of the Family Division”; “Senior Master of the Queen’s Bench Division”;
 - (b) in subsection (3), for “91(1)(a)” substitute “91(1)”.

Functions of staff

3 Authorised court and tribunal staff: legal advice and judicial functions

- (1) The Schedule provides for authorised court and tribunal staff—
- (a) to provide legal advice to judges of the family court and justices of the peace, and
 - (b) to exercise judicial functions where procedure rules so provide.
- (2) The Secretary of State or Lord Chancellor may, by regulations made by statutory instrument, make consequential, transitional, transitory or saving provision in relation to the Schedule.
- (3) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Regulations under this section may make different provision for different purposes.

Commencement Information

- I1** [S. 3](#) in force at 10.1.2020 for specified purposes by [S.I. 2020/24, reg. 2\(a\)](#)
- I2** [S. 3](#) in force at 6.4.2020 in so far as not already in force by [S.I. 2020/24, reg. 3\(a\)](#)

Final provisions

4 Short title, commencement and extent

- (1) This Act may be cited as the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018.
- (2) Sections 1 and 2 come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) Section 3 and the Schedule come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (4) Regulations under subsection (3) may—
- (a) appoint different days for different purposes;
 - (b) appoint different days for different areas;

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- (c) make transitional, transitory or saving provision.
- (5) This section comes into force on the day on which this Act is passed.
- (6) Any amendment, repeal or revocation made by this Act has the same extent as the enactment amended, repealed or revoked.
- (7) The rest of this Act extends to England and Wales, Scotland and Northern Ireland.

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SCHEDULE

Section 3

AUTHORISED COURT AND TRIBUNAL STAFF: LEGAL ADVICE AND JUDICIAL FUNCTIONS

PART 1

COURTS

Criminal Justice Act 1972

- 1 In section 51 of the Criminal Justice Act 1972 (execution of process between England and Wales and Scotland), omit subsection (4).

Commencement Information

I3 Sch. para. 1 in force at 6.4.2020 by S.I. 2020/24, reg. 3(b)

Solicitors Act 1974

- 2 In section 3(1) of the Solicitors Act 1974 (admission as solicitor), omit the words from the beginning to “clerk”.

Commencement Information

I4 Sch. para. 2 in force at 6.4.2020 by S.I. 2020/24, reg. 3(b)

Bail Act 1976

- 3 In section 8(4)(a) of the Bail Act 1976 (recognizance of surety), omit “, a justices' clerk”.

Commencement Information

I5 Sch. para. 3 in force at 6.4.2020 by S.I. 2020/24, reg. 3(b)

Magistrates' Courts Act 1980

- 4 The Magistrates' Courts Act 1980 is amended as follows.

Commencement Information

I6 Sch. para. 4 in force at 6.4.2020 by S.I. 2020/24, reg. 3(b)

- 5 (1) Section 12 (non-appearance of accused: plea of guilty) is amended as follows.
(2) In subsection (7), omit “by the clerk of the court”.
(3) In subsection (7ZA), at the end insert—
“(c) specify the persons, or description of persons, who must—