

Outline Terms and Conditions of Service of a Senior Circuit Judge 2008

1. General

The following is a summary of the basic terms and conditions of service. Fuller details, including the conditions of appointment, will be supplied to candidates who are offered appointment. A successful serving Circuit Judge will retain his/her existing terms and conditions of appointment, with the exception of the level of salary.

2. Prohibition on practice

A Senior Circuit Judge shall not practise as a barrister or solicitor or be indirectly concerned in any such practice (s75, Courts and Legal Services Act 1990). The Lord Chancellor also regards a judicial office as a lifetime appointment. Any offer of appointment is therefore made on the understanding that the appointee will not return to practice.

3. Salary, income tax and national insurance

The salary of a Senior Circuit Judge is £133,100 per annum. Income tax, which is payable under Schedule E, is deducted at source in accordance with PAYE arrangements. A salaried judicial office holder is classed as an "employed earner" for National Insurance purposes and is liable for Class 1 contributions, which are deducted from salary together with income tax. Since the judicial pension scheme has been contracted out of the State Earnings-Related Pension Scheme, contributions are payable at the lower, contracted-out, rate. Liability for National Insurance contributions ceases at state retirement age even if service continues thereafter.

4. Pension Terms

The post is pensionable. Provision of pension benefits is determined under the provisions of the Judicial Pensions and Retirement Act 1993. Although membership of the judicial pension scheme is automatic on appointment, it is not compulsory and a holder of judicial office may opt out. Under the Judicial Pensions and Retirement Act 1993, an immediate pension is payable at age 65, provided a office holder has completed at least 5 years' service. The annual rate of the pension will be 1/40th of an office holder's pensionable pay multiplied by the aggregate length of service in qualifying judicial office (expressed in years and fractions of a year) subject to a maximum pension equal to one-half of pensionable pay after 20 or more years' service. An actuarially reduced pension is payable immediately where an office holder retires, having completed at least 5 years' service, after attaining the age of 60 but not before age 65. Where an office holder is obliged to retire on health grounds before attaining age 65, his or her service will be enhanced by a period equal to one-half of the service he or she would otherwise have served from the day following retirement to his or her 65th birthday.

5. In addition to the pension, a lump sum equal to 2.25 times the annual rate of that pension is payable. There is a spouse's pension at the rate of one-half of the personal pension accruing or in payment at the time of death and provision for a children's pension. In the event of death in office, there is provision for death benefit equal to twice the amount of an office holder's pensionable pay. Contributions towards spouses' and children's pensions are compulsory for all salaried office holders and take the form of monthly payments of 1.8% of pension-capped salary. Pensions already in payment

are subject to increases under the Pensions (Increase) Act 1971. Surviving civil partnership benefits are payable on the death of a judicial office holder who has formed a civil partnership in accordance with the Civil Partnership Act 2004.

6. The judicial pension scheme is a “non-registered” scheme for the purpose of the Finance Act 2004. This means that benefits under the scheme will not count towards the lifetime allowance for pension benefits under that Act, but that benefits and contributions under it do not attract income tax relief; lump sum benefits are accordingly subject to income tax at the office-holder’s marginal rate. This liability will be offset, in whole or in part, by the payment of a separate service award on the office-holder’s retirement. Fuller details are available on request.

7. **Sitting days and holidays**

The Lord Chancellor and the Lord Chief Justice consider it essential, in particular because of the burden of work on the courts and tribunals, for Senior Circuit Judges to devote at least 210 days in each year, and perhaps more, to the business of the courts. In order to ensure that this can be achieved, notwithstanding any hearings which might be cancelled, they thus expect that the initial yearly plan for any year’s work will provide for judges to devote between 215 and 220 days to judicial business.

8. **Sick leave**

No adjustment in the Senior Circuit Judge’s salary is made during any absence on sick leave. Although nothing is specifically laid down, no limit is placed on the length of any absence, provided there is a reasonable prospect of an eventual return to duty.

9. **Tenure**

Under the provisions of the Judicial Pensions and Retirement Act 1993, a Senior Circuit Judge will normally be required to vacate his or her office on his or her 70th birthday (s26 of the 1993 Act). A salaried judicial office holder may be removed from office by the Lord Chancellor on grounds of incapacity or misbehaviour (s17(4), Courts Act 1971). No such removal may be carried out without the prior agreement of the Lord Chief Justice.

10. **Residence**

A Senior Circuit Judge must live within reasonable travelling distance of the courts at which he or she will sit. No application for a transfer may be made until a judge has served 5 years in the circuit to which they were appointed. Extenuating circumstances may provide an exception to this general policy.

11. **Travelling etc allowances**

As elsewhere in the Crown Service, travelling allowances may not be paid for journeys between a judge’s home and principal court or courts. However, travelling expenses and, in certain circumstances, night subsistence allowances may be payable in connection with sittings, attendance at training courses, etc. Details of the current mileage and night subsistence rates will be supplied by the staff of the courts. The rules governing the payment of these allowances will be supplied by the staff of the courts. The rules governing and rates of these allowances may change from time to time, and any such changes will be notified. HM Revenue & Customs tax rules

governing the tax treatment, and rates, of these allowances may also change and any such changes will be notified to office-holders.

12. **Cost of taking up appointment**

No assistance is available from public funds towards any costs incurred (e.g. through a move of house) on appointment as a Senior Circuit Judge. Exceptionally, however, a serving judicial office holder is entitled to relocation expenses if, as a result of that appointment, removal of home becomes necessary.

13. **Relocation allowances**

When an established judge is asked by the Lord Chief Justice or Lord Chancellor to change his or her sitting arrangements and, because of that change, the judge is obliged to remove his or her family home, he or she may claim a range of relocation allowances. Assistance is not available, however, if the move is arranged at the judge's request and there is, in the Lord Chief Justice's or Lord Chancellor's opinion, no significant need for the transfer in relation to the administration of justice.

14. **Outside activities and interests**

A Senior Circuit Judge should not in any capacity engage in any activity which might undermine, or be reasonably thought to undermine, his or her judicial independence or impartiality. He or she must expect to forgo any kind of political activity and be on their guard against circumstances arising in which their involvement in any outside activity might be seen to cast doubt on their judicial impartiality or conflict with their judicial office. A person holding a commercial directorship is expected to relinquish this on appointment to salaried judicial office. A salaried office holder is also expected to submit his or her resignation to the Lord Chancellor in the event of a nomination or adoption as a prospective candidate for election to Parliament, or to the Scottish Parliament, the Welsh Assembly, the Northern Ireland Assembly or the European Parliament.

15. **Freemasonry**

Following the Government's response to the Report of the House of Commons Select Committee on Freemasonry in the Police and the Judiciary, anyone being appointed for the first time to a judicial office is asked as a condition of appointment whether they belong to the Freemasons and, if not, that they notify the Lord Chancellor in the event that they subsequently join them. Judicial post holders must expect that this information may be included in a public register.

16. **Maternity, Paternity and Adoption leave**

Judicial office holders are entitled to maternity, paternity and adoption leave. Details of the operation of these entitlements will be provided to office holders as appropriate.

17. **Advice**

Judicial office holders are welcome to consult the Ministry of Justice or the Judicial Office for England & Wales (as appropriate) on any matters relating to judicial office. Judicial media enquiries should be directed to the Lord Chief Justice's Judicial Communications Office on 020 7947 6438.

NOTES ON THE JURISDICTION OF THE CIRCUIT JUDGE

The Crown Court

1. The Crown Court has exclusive jurisdiction in trials on indictment.
2. The Crown Court also sentences persons convicted by Magistrates' Courts but who are committed to the Crown Court because the Magistrates are of the opinion that a more severe sentence may be called for than they have power to pass.
3. The Court also has an appellate jurisdiction which comprises mainly appeals from Magistrates' Courts in criminal and some civil matters and Youth Court proceedings. Many of the civil appeals relate to licensing and betting and gaming cases.
4. In the Crown Court, cases are classified into 4 classes under directions made by the Lord Chief Justice. Those in classes 1 and 2 are nominally reserved for trial by High Court Judges. In class 1, however, some cases of murder, or of incitement, attempt or conspiracy to commit murder, may be tried by authorised Circuit Judges, whilst in class 2, the great majority of offences, other than piracy, mutiny, sedition and offences under the Geneva Convention, are tried by authorised Circuit Judges. Class 2 includes most serious sexual offences, along with manslaughter and child destruction.
5. The majority of fraud cases are tried by Circuit Judges; some may be allocated to High Court Judges.
6. All other offences are either automatically listed for trial by Circuit Judges, Recorders or Assistant Recorders or are normally so listed unless a particularly difficult case is specially reserved for trial by a High Court Judge. When trying a case in the Crown Court, the Circuit Judge has the full range of powers, by way of sentence or otherwise, fixed by statute or at common law, in relation to particular offences.
7. In relation to offences tried on indictment, the right of appeal lies against conviction or sentence from the Crown Court to the Criminal Division of the Court of Appeal, subject to leave. The right of appeal in appellate matters lies by way of case stated to the Divisional Court of the Queen's Bench Division.

The County Courts

8. The jurisdiction of the county courts is entirely statutory and covers almost the whole field of civil and family law. The general jurisdiction in civil law is mostly concurrent with that of the High Court.
9. A number of statutes confer exclusive jurisdiction on the county courts. These cover important areas of work of the county courts, for example virtually all cases under the Consumer Credit Act, actions by mortgage lenders for possession and actions by landlords under the Rent Acts and the Housing Acts 1985 and 1988.
10. Since 1 July 1991 the concurrent jurisdiction has been substantially increased by orders made under the Courts and Legal Services Act 1990. In common law cases, basically tort including personal injuries, debt and other breaches of contract, there is no monetary limit on the jurisdiction of the county courts.
11. In equity proceedings the monetary limit is currently £30,000. The county courts have unlimited jurisdiction in applications under the Inheritance Act 1975 and s. 30, s. 146 and s. 147 of the Law of Property Act 1925. In Companies Act cases the jurisdiction covers cases where the total paid up share capital of the company is less than £120,000.
12. In addition to the general jurisdiction, about 80% of county courts have jurisdiction in insolvency. A few Circuit Judges in a small number of courts also exercise specialist jurisdictions under, for example, the Race Relations Act 1976.

13. In family law the jurisdiction is similarly divided either by statute or practice direction. In some matters, such as adoption, the county courts have concurrent jurisdiction with the High Court. In other matters county courts have exclusive jurisdiction, e.g. virtually all divorce proceedings.
14. The county courts share jurisdiction with the High Court and the Family Proceedings Court in applications under the Children Act 1989, the work being dealt with at the appropriate level pursuant to allocations directions. In the county courts where such applications relate to public law cases such as care and supervision orders they are heard by designated Circuit Judges sitting at Care Centres and all directions in such matters are dealt with by designated District Judges sitting at the Care Centres.

The High Court and Court of Appeal

15. In addition to the concurrent jurisdiction of the county courts and the High Court mentioned above, under Section 9 of the Supreme Court Act 1981, a Circuit Judge may be invited to sit as a judge of the High Court to provide flexibility in the disposal of High Court business. Where a Circuit Judge sits in the High Court he or she possesses all the powers of a High Court Judge. The most experienced Circuit Judges may be authorised to sit in the Court of Appeal (Criminal Division) by virtue of section 9 of the 1981 Act (as amended by section 52 of the Criminal Justice and Public Order Act 1994).