

Title 6: The Judicature

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197. (1) Notwithstanding the provisions of articles 124 and 125, the office of a Justice of Appeal or a Puisne Judge shall not be abolished while there is a substantive holder thereof.

(2) With effect from the commencement of this paragraph, a person holding the office of Judge on the said commencement shall vacate that office on attaining -

- (a) in the case of a Puisne Judge, the age of sixty-two years;
- (b) in the case of any other Judge, other than the Chancellor, the age of sixty-five years; and
- (c) in the case of the Chancellor, the age of sixty-eight years.

(2A) A person appointed to the office of Judge after the commencement of this paragraph s

hall vacate that office attaining-

- (a) in the case of a Puisne Judge, the age of sixty-five years;

and

- (b) in the case of any other Judge, the age of sixty-eight years.

(3) A Judge may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour or for persistently not writing decisions or for continuously failing to give decisions and reasons therefor within such time as may be specified by Parliament and shall not be so removed except in accordance with the provisions of this article.

(4) A Judge shall be removed from office by the President if the question of removal of that Judge has, in pursuance of the next following paragraph, been referred by the President to a tribunal, and the tribunal has advised the President that the Judge ought to be removed from office for inability as aforesaid or for misbehaviour.

(5) If the Prime Minister, in the case of the Chancellor or the Chief Justice, or the Judicial Service Commission, in the case of any other Judge, represents to the President that the question of removing such Judge from office under this article ought to be investigated, then-

- (a) the President shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the President, acting in his discretion in the case of the Chancellor or the Chief Justice or in accordance with the advice of the Prime Minister after consultation with the Judicial Service Commission in the case of any other Judge, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court or who are qualified to be appointed as any such judge; and
- (b) the tribunal shall enquire into the matter and advise the President whether or not the Judge ought to be removed

from office.

(6) The provisions of the Commissions of Inquiry Act as in force immediately before the commencement of this Constitution shall, subject to the provisions of this article, apply as nearly as may be in relation to tribunals appointed under the preceding paragraph or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Act, and in such application shall have effect as if they formed part of this Constitution.

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(7) If the question of removing a Judge from office has been referred to a tribunal under paragraph (5), the President may suspend such Judge from performing the functions of his office, and any such suspension may at any time be revoked by the President, and shall in any case cease to have effect if the tribunal advises the President that the Judge ought not to be removed from office. In effecting any such suspension or any revocation of any such suspension, the President shall act in accordance with his own deliberate judgment in the case of the Chancellor or the Chief Justice and in accordance with the advice of the Chancellor in the case of any other Judge. (8)

The provisions of this article shall be without prejudice to the provisions of article 128(3).

(9) (a) For the purposes of paragraph (6) of this article and of article 225(5), the following provisions of the Commissions of Inquiry Act shall not apply, that is to say -

- (i) section 2 - the whole section;
- (ii) section 3 - so much of the section as follows the words "in his place";
- (iii) section 5 - the whole section;
- (iv) section 7 - the words "after taking such oath or affirmation";
- (v) section 16 - the whole section.

(b) For the words "Such sums so directed to be paid shall be paid out of moneys provided by Parliament" in section 15 of the Act there shall be substituted the words "Such sums so directed to be paid shall be charged on and paid out of the Consolidated Fund".

(c) All powers and duties conferred or imposed on the President under the Act shall be exercised or performed by him acting in each case in the manner prescribed by this Constitution.

(10) It is in the interest of the State to provide such terms and conditions of service, including superannuation benefits, for Judges that on retirement there would be no need for them to practise at the Bar.