

COURTS ACT, 25.8.2016/673

PART I. GENERAL PROVISIONS

Chapter 1 – General provisions on courts and judges

Section 1 – *Scope of application of the Act*

(1) This Act contains provisions on courts and on judges, other members of a court and other personnel. This Act also contains provisions on the Judicial Appointments Board, on the Judicial Training Board and on their duties and personnel.

(2) This Act applies to the Supreme Court and to the Supreme Administrative Court as well as to their justices, unless provided otherwise in the Supreme Court Act (665/2005) or in the Supreme Administrative Court Act (1265/2006).

(1) Separate provisions apply to the High Court of Impeachment.

(2)

Section 2 - *Courts*

(1) The general courts are the district courts, the courts of appeal and, as the highest judicial instance, the Supreme Court.

(2) The general administrative courts are the administrative courts and, as the highest judicial instance, the Supreme Administrative Court.

(3) The special courts are the Market Court, the Labour Court and the Insurance Court.

Section 3 – *Exercise of jurisdiction and independence of the courts*²

(1) The courts exercise the jurisdiction accorded to them under the Constitution Act.

(2) Courts are independent in their exercise of jurisdiction.

Section 4 – *Organisation of the work of the courts*

(1) The courts are responsible for the organization of their work, taking into consideration what is provided in this Act and elsewhere in law.

(2) More detailed provisions on the work of the courts, on consideration of matters related to the administration of law and to administrative matters, and on other organization of work are provided in the standing orders approved by the court.

Section 5 - *Judges*

(1) Judges are:

(1) in the Supreme Court, the President, and justices¹ as the other judges;

(2) in the Supreme Administrative Court, the President, and justices² as the other judges;

(3) in a court of appeal, the president as the chief judge, and court of appeal justices³ as the other judges;

(4) in a district court, the senior judge as the chief judge, and district court judges as the other judges, and in district courts serving as land courts, also land court engineers;

(5) in an administrative court, the senior judge as the chief judge, and administrative court judges as the other judges, and in the Åland administrative court, the administrative court judge;

¹ Before the Act entered into force, a simple distinction existed in Finnish between the titles of “justice of the Supreme Court” (“oikeusneuvos”) and “justice of the Supreme Administrative Court” (“hallintoneuvos”). With the entry of this Act into force, the first term was extended to refer also to justices of the Supreme Administrative Court. In English, this linguistic nuance could be indicated by the use of the title “high court justice”, which would distinguish the term from the title of “court of appeal justice”. However, in the present translation justices of the Supreme Court and the Supreme Administrative Court are collectively referred to as “justices”, and those serving in courts of appeal are referred to with the longer title “court of appeal justices”.

² See the footnote immediately above.

³ See the footnote immediately above.

(6) in the Market Court, the senior judge as the chief judge, and Market Court judges and Market Court engineers as the other judges;

(7) in the Labour Court, the president as the chief judge, and a Labour Court judge as the other judge;

(8) in the Insurance Court, the senior judge as the chief judge, and Insurance Court judges as the other judges;

(9) in courts of appeal, administrative courts, the Market Court, the Labour Court and the Insurance Court, the assessors referred to in Chapter 18.

(2) A court may also have other members as provided in this Act or elsewhere in law.

Section 6 – Position and independence of a judge

(1) A judge is independent in the administration of justice.

(2) Provisions on the right of a judge to remain in office as a guarantee of independence are provided in section 103 of the Constitution Act and, in more detail, in Chapter 16 of the present Act.

Section 7 – The judge’s solemn affirmation of office

(1) Before undertaking their duties, judges and other members of a court shall give the following judge’s solemn affirmation: “I [insert name] do promise and affirm on my honour and my conscience that I shall act in my office in accordance with the Constitution and the law, I shall administer justice in a lawful and impartial manner to the best of my understanding, and I shall respect the equality of all persons before the law.”

(2) The solemn affirmation is given in the respective court. It may also be given in a district court.

(3) More detailed provisions on the judge’s solemn affirmation of office shall be issued by a government decree.

PART II. THE COURTS

Chapter 2 – District courts

Section 1 – Duties of the district court

(1) District courts administer justice in civil, criminal and non-contentious civil cases as the first instance, unless provided otherwise in law.

(2) District courts consider also other matters assigned to it by law.

Section 2 – Deciding a case

(1) District courts consider and decide cases in court sessions and in chambers.

(2) The senior judge, a district court judge or a court notary serves as the chairperson of a district court.

Section 3 – The district courts

(1) The district courts are the district courts of Ahvenanmaa, Espoo, Etelä-Karjala, Etelä-Pohjanmaa, Etelä-Savo, Helsinki, Hyvinkää, Itä-Uusimaa, Kainuu, Kanta-Häme, Kemi-Tornio, Keski-Pohjanmaa, Keski-Suomi, Kymenlaakso, Lappi, Länsi-Uusimaa, Oulu, Pirkanmaa, Pohjanmaa, Pohjois-Karjala, Pohjois-Savo, Päijät-Häme, Satakunta, Tuusula, Vantaa, Varsinais-Suomi and Ylivieska-Raahe.

(2) Separate provisions apply to district courts as land courts, as maritime courts and as courts martial.

Section 4 – District court locations

(1) District courts have a registry. A district court may have, as necessary, several registries and places where sessions are held.

(2) For special reasons, a session may be held in at a location in the jurisdiction of the district court other than the place for sessions referred to subsection 1, or in a

location outside of the jurisdiction of the district court.

(3) The location of the district court registries and of where district court sessions are held shall be provided by a decree of the Ministry of Justice.

Section 5 – *The jurisdiction of district courts*

(1) The jurisdiction of a district court consists of one or more municipalities, unless provided otherwise elsewhere in law on the competence of district courts.

(2) Provisions on the jurisdiction of district courts shall be issued by a government decree.

Section 6 - *District court members*

(1) The members of a district court are the senior district court judge and the district court judges. A district court has in addition as other members lay judges who participate in the consideration of and decision on cases as provided in the Code of Judicial Procedure or elsewhere in law. Provisions on lay judges are contained in the Act on District Court Lay Judges (675/2016).

(2) A district court may also have military members who participate in the consideration of and decision on courts martial. The Court Martial Act (326/1983) contains provisions on courts martial.

(3) When required by the consolidation of the jurisdiction of district courts, a district court that has been established through such consolidation may temporarily have more than one position as senior judge. One chief judge shall be appointed from among the chief judges, through the application of Chapter 11, section 2, subsection 1. What is provided regarding a senior judge applies to a senior judge serving as the chief judge.

(4) The administrative court judge of the Åland administrative court also serves as the district court judge of the Åland district court.

Section 7 – *Members of the land court*

(1) The members of a district court that serves as a land court are the district court judge who considers land right cases (*designated land rights cases judge*) and a land court engineer. The designated land rights cases judge participates also in the consideration of other cases before the district court.

(2) The senior judge of a district court shall in addition appoint at least one district court judge to consider land rights cases for a term of at most five years at a time.

Chapter 3 – **Courts of appeal**

Section 1 – *Duties of courts of appeal in the administration of justice*

(1) A court of appeal considers appeals and complaints against decisions of a district court as well as extraordinary appeals which by law the court of appeal shall decide, and other administration of justice cases which by law it shall decide.

(2) A court of appeal considers as the first instance cases concerning an offence in office involving judges, other court personnel and prosecutors, which by law are incumbent on it.

Section 2 – *Supervisory duties of courts of appeal*

(1) A court of appeal supervises the operation of the district courts in its jurisdiction and shall undertake as necessary measures to rectify any defects that it detects. To perform this duty, the court of appeal has the right to receive the information that it requires from the appropriate authorities.

(2) A court of appeal shall prepare a report on the matters it has observed in the supervision of district courts, which shall be submitted to the Chancellor of Justice of the Government and to the Ombudsman of Parliament for their information. In

addition, the court of appeal shall inform the Chancellor of Justice of the Government of matters that have come to its attention that may lead to the bringing of charges in a court of appeal for an offence in office.

(3) The standing orders shall provide how the supervision shall be conducted.

Section 3 – Other functions of courts of appeal

The court of appeal considers judicial administration cases and other matters assigned to it by law for decision.

Section 4 – Decision on a case

(1) A court of appeal considers and decides administration of justice cases in a session on the submission of a referendary or in a main hearing.

(2) The president or a court of appeal justice serves as the chairperson of the court of appeal.

Section 5 – The courts of appeal

The courts of appeal are the Helsinki, Eastern Finland, Rovaniemi, Turku and Vaasa courts of appeal.

Section 6 – Place of sessions of courts of appeal

(1) Provisions on the place of sessions of courts of appeal shall be provided by a government decree. A court of appeal may also have a permanent place for sessions, the location of which is provided by a decree of the Ministry of Justice.

(2) Sessions of a court of appeal are held in the place where it is located. A main hearing may nonetheless be held as necessary in a place within the jurisdiction of the court of appeal other than where it is located. For special reasons, a main hearing may be held also in a place outside of the jurisdiction of the court of appeal.

Section 7 – The jurisdiction of courts of appeal

(1) The jurisdiction of a court of appeal consists of one or more district court jurisdiction, unless provided otherwise elsewhere in law on the competence of courts of appeal.

(2) Provisions on the jurisdictions of courts of appeal shall be provided by a government decree.

Section 8 – Members of courts of appeal

(1) The members of a court of appeal are the president and the court of appeal justices. A court of appeal may also have assessors.

(2) The Helsinki court of appeal has in addition military members who participate in the consideration of and decision on courts martial, as provided in the Court Martials Act.

Chapter 4 – Administrative courts

Section 1 – Duties of administrative courts in the administration of justice

An administrative court considers and decides the administrative law appeals, administrative litigation and other cases assigned to its jurisdiction by the Administrative Judicial Procedure Act (586/1996) or elsewhere in law.

Section 2 – Decision on a case

(1) An administrative court considers and decides cases in a session on the submission of a referendary.

(2) The senior judge of an administrative court or a legally trained administrative court judge serves as the chairperson of the administrative court.

Section 3 – The administrative courts

(1) The administrative courts are the Helsinki, Hämeenlinna, Eastern Finland, Northern Finland, Turku and Vaasa administrative courts.

(2) Provisions on the Åland administrative court are contained in a separate Act.

Section 4 – *The jurisdiction of administrative courts*

(1) The jurisdiction of an administrative court consists of one or more province, unless provided otherwise elsewhere in law on the competence of administrative courts.

(2) Provisions on the jurisdiction and the locations of administrative courts shall be provided by a government decree.

Section 5 – *Members of administrative courts*

(1) The members of an administrative court are the chief judge and the administrative court judges. An administrative court may also have assessors.

(2) An administrative court has expert members knowledgeable in child welfare, adoption, mental health cases, welfare for abusers of intoxicants, infectious diseases, and special care for the mentally disabled, who participate in the consideration of and decision on cases in accordance with what is provided in the Administrative Court Act (430/1999) or elsewhere in law.

Chapter 5 – **The Market Court**

Section 1 – *Duties of the Market Court*

(1) The Market Court is the special court for competition and oversight cases, procurement cases, industrial property rights cases and copyright cases, and market law cases.

(2) The Market Court Proceedings Act (100/2013) contains provisions on the presence of a quorum in the Market Court, on the consideration of cases in the Market Court which by law belong to its jurisdiction, and on appeal of a decision of the Market Court.

Section 2 – *Members of the Market Court*

(1) The members of the Market Court are the chief Market Court judge, Market Court judges and Market Court engineers. The Market Court may also have assessors.

(2) The Market Court has expert members knowledgeable in competition and oversight matters, procurement matters, industrial property and copyright matters and market law matters, who participate in the consideration of and decision on cases in accordance with what is provided on the Act on Proceedings in the Market Court.

Chapter 6 – **The Labour Court**

Section 1 – *Duties of the Labour Court*

(1) The Labour Court serves as the special court for civil cases concerning collective bargains in the private sector and in the public sector, and considers the appeals in which under law it is competent.

(2) The Act on Proceedings in the Labour Court (646/1976) contains provisions on cases in the competence of the Labour Court, on the presence of a quorum in the Labour Court in such cases and on their consideration in the Labour Court.

Section 2 – *Members of the Labour Court*

(1) The members of the Labour Court are the president and the Labour Court judge. The Labour Court may also have assessors.

(2) The Labour Court has fourteen expert members who participate in the consideration of and decision on cases in accordance with what is provided in the Act on Proceedings in the Labour Court. Two of the expert members shall have a

legal training and shall not represent the interests of employers or employees. Eight of the other expert members shall be knowledgeable in employment contracts in the private sector and four of the other expert members shall be knowledgeable in employment contracts in the public sector.

Chapter 7 – The Insurance Court

Section 1 – Duties of the Insurance Court

(1) The Insurance Court serves as the special court for the subsistence security cases in which under law it is competent.

(2) The Act on Proceedings in the Insurance Court (677/2016) contains provisions on the presence of a quorum in the Insurance Court and on the consideration of cases in the Insurance Court.

Section 2 – Members of the Insurance Court

(1) The members of the Insurance Court are the senior judge and the Insurance Court judges. The Insurance Court may also have assessors.

(2) The Insurance Court has a chief physician who serves as the full-time medical member. In addition to serving as the medical member, the chief physician plans and develops the Insurance Court's process for medical assessment and attends to the general planning and organization of the work of the medical members as well as the effectiveness of the work. The chief physician shall also supervise the uniformity on the part of the medical members of the application of legal principles and the interpretation of law.

(3) The Insurance Court has in addition other medical members, expert members knowledgeable in labour conditions or the operation of businesses as well as expert members knowledgeable in military injury cases, who participate in the consideration of and decision on cases in accordance with what is provided in the Act on Proceedings in the Insurance Court.

Chapter 8 – Organization, management and administration of the work of a Court

Section 1 - Management

(1) The chief judge manages the work of the court and is responsible for its productiveness.

(2) A court may have a management board to support the chief judge in the management and development of the operation of the court. The management board consists of the chief judge as the chairperson, the department heads referred to in section 4, the chief secretary or administrative director referred to in Chapter 19, section 5 and as necessary other personnel.

(3) The management board shall consider at least proposals for the standing orders of the court, and also other significant matters that concern the management, administration, finances, operation and personnel of the court as well or the development of these matters.

(4) The standing orders contain more detailed provisions on the composition of the management board and the matters to be considered by the management board.

Section 2 – Duties of the chief judge

(1) The chief judge is responsible for the performance of the court and for its development. The chief judge establishes the performance goals for the court and is responsible for achieving them. The chief judge shall supervise the uniformity of the application of legal principles and the interpretation of law in the decisions of the court.

(2) The chief judge participates in the administration of justice to the extent allowed

by his or her other duties.

Section 3 – *Decision on administrative matters*

(1) The chief judge decides on administrative and financial matters that have not been assigned to other officials for decision.

(2) The chief judge may order that a matter that pertains to the provision of an official opinion on a legislative matter or the submission of a legislative motion shall be considered and decided in plenary, and in a district court in another extended composition.

(3) The standing orders contain provisions on the right of the chief judge to transfer a matter to another official for a decision. The chief judge may personally take responsibility for deciding a matter that he or she has transferred or that otherwise is the responsibility of another official to decide.

Section 4 - *Departments*

(1) A court may divide itself into departments for its work. The standing orders contain provisions on the division into departments.

(2) A department is headed by a legally trained judge whom the chief judge has appointed as department head (*department head*), unless the chief judge personally heads the department.

Section 5 – *Appointment of a department head*

(1) The chief judge may appoint a legally trained judge to serve as department head for a term of at most three years at a time. The vacancy of the position shall be announced for application by those permanent judges at the court who had been appointed to their position before the termination of the period of application. The person to be appointed to the position shall have the personal characteristics and leadership skills required by the position.

(2) The appointment may be withdrawn for a weighty reason.

Section 6 – *Duties of the department head*

The department head directs the work of the department. He or she is responsible in particular for the general planning and organization of work in the department and for the productiveness of the work. He or she shall supervise the uniformity of the application of legal principles and of the interpretation of law in the decisions of the department.

Section 7 – *Allocation of cases*

Cases shall be allocated for preparation and decision in accordance with the principles established in the standing orders. These principles shall be clear and they shall ensure the right of the parties to have their case decided independently, objectively and expeditiously.

Section 8 – *Reallocation of a case*

(1) A case that has been allocated for the consideration of and a decision by a judge may be reallocated without his or her consent only if there is a weighty reason for this due to the illness of the judge, a delay in the case, the judge's amount of work or another corresponding factor.

(2) The chief judge decides on the reallocation of a case in cases referred to in subsection 1. The President decides on reallocation in the Supreme Court and the Supreme Administrative Court. Reasons shall be given for the decision.

Section 9 - *Standing orders*

(1) The standing orders of a court are approved by the chief judge after having heard the management board or, if the court does not have a management board, after having heard the permanent judges.

(2) The standing orders of a court are public and shall be made accessible to all.

Section 10 – *Activities report*

(1) Courts shall submit an annual report on their activities. Courts may also submit a joint activities report.

(2) The activities report is public and shall be made accessible to all.

PART III. JUDGES

Chapter 9 – The judge in the administration of justice and as an official

Section 1 – Duties of a judge

(1) A judge is independent in the administration of justice and in this activity is subject only to the law.

(2) A judge has the responsibility to decide a case that has been allocated to him or her. In the exercise of his or her office, a judge shall be conscientious and careful. He or she shall consider and decide the case expeditiously.

(3) Provisions on the general duties of officials which apply to a judge are contained also in Chapter 4 of the Public Officials Act (750/1994) and elsewhere in law.

Section 2 – The responsibility of judges for their official acts

Provisions on the responsibility of judges for their official acts are contained in section 118 of the Constitution Act and elsewhere in law.

Section 3 – A judge as referendary

If a case is decided in court on the basis of the submission of a referendary, a judge may serve as the referendary.

Section 4 - Training

(1) Judges are responsible for maintaining and developing their knowledge of law, legal skills and professional ability.

(2) Judges shall be offered sufficient training and they shall have the opportunity to participate in this.

Section 5 – Outside work and outside work permission

(1) Judges may not accept or continue outside work as referred to in section 18, subsection 4 of the Public Officials Act unless the court, on application, grants permission to do so (*outside work permission*). Outside work permission may not be granted to serve as an arbitrator appointed by one party in a case before a court of arbitration.

(2) In other respects, section 18 of the Public Officials Act contains provisions on outside work.

(3) The Act on Private Interests and Outside Work of Judges (565/2015) contains provisions on the registration of information on outside work of judges.

Section 6 – Application for outside work permission

(1) Outside work permission is granted on application by the court at which the judge serves. Permission for the senior judge of the district court, however, is granted by the court of appeal, permission for the president of a court of appeal and the Labour Court is granted by the Supreme Court, and permission for the senior judge of an administrative court, the Market Court and the Insurance Court is granted by the Supreme Administrative Court.

(2) Notwithstanding what is provided in section 18, subsection 5 of the Public Officials Act, the applicant shall provide, in the application, information to the chief judge considering the application on the parties in a case before a court of arbitration.

Section 7 – Provision of information on income from outside work and on termination of outside work

(1) A judge shall provide information annually to the court on what he or she has been paid for outside work, if the total income from outside work exceeds 10 000 euros. This information shall specify the outside work for which the income was

received. In addition, in respect of outside work other than work on arbitration, the information shall specify from whom the income was received. Notwithstanding what is provided in section 24, subsection 1, paragraph 23 of the Act on the Openness of Government Activities (621/1999), information on income received by a judge from outside work is public. A judge shall also provide without delay information in the termination of outside work.

(2) Notice regarding the payment of fees shall be provided at the latest by the end of May of the calendar year following the receipt of the income. The notice shall be provided to the court referred to in section 6, subsection 1.

Chapter 10 – Qualifications for judicial positions

Section 1 – General qualifications for judicial positions and grounds for appointment

(1) To be appointed as a judge, the candidate must be a Finnish citizen with integrity who has a Master's degree in law other than a Master's degree in international and comparative law, and who by his or her earlier service in court or in another position has demonstrated that he or she has the knowledge of the field in question and the necessary personal characteristics required for successful performance of the duties of the position to be filled. Separate provisions may be issued on the qualifications required for judicial positions where expertise in a special field is necessary.

(2) Section 9 contains provisions on the proficiency in the Finnish and Swedish languages required of judges.

Section 2 – Qualifications for judicial positions at the Supreme Court and the Supreme Administrative Court

To be appointed as the President or justice of the Supreme Court or as the President or justice of the Supreme Administrative Court, the candidate must be an eminent legal expert and fulfil the qualifications provided in section 1. In addition, the Presidents of the Supreme Court and the Supreme Administrative Court shall have leadership skills.

Section 3 – Qualifications for chief judges

To be appointed as a chief judge, the candidate shall fulfil the qualifications provided in section 1 and have leadership skills.

Section 4 – Qualifications for a designated land rights cases judge

A designated land rights cases judge serving as in a district court that functions as a land court shall be knowledgeable in real estate legislation and the consideration of real estate cases.

Section 5 – Qualifications for land court engineers

A land court engineer serving in a district court that functions as a land court shall have a Master of Science (Technology) degree that is appropriate for the function and that is completed in the field of land surveying, good knowledge in land surveys and be well acquainted with the valuation of real estate.

Section 6 – Qualifications for administrative court judges with responsibility for water and environmental protection cases

A member of an administrative court, other than a legally trained member, who participates in the consideration of cases on the basis of the Water Act (587/2011) and the Environmental Protection Act (527/2014), shall have an appropriate Master's degree in technology or in the natural sciences. In addition, he or she shall be familiar with the duties falling within the scope of the applicable legislation.

Section 7 – Qualifications for the chief judge and for judges of the Market Court

The chief judge of the Market Court and the Market Court judges shall in addition be familiar with competition or supervision, procurement, industrial property rights

matters or copyright matters, or market law matters.

Section 8 – *Qualifications for Market Court engineers*

A person who has an appropriate Master's degree in the field of technology, is a Finnish citizen with integrity, is familiar with patent matters and has the necessary personal characteristics may be appointed as a Market Court engineer.

Section 9 – *Required proficiency of judges in the Finnish and Swedish languages*

(1) To be appointed as a judge, the candidate shall have an excellent ability to speak and write in the language of the majority of the population in the judicial district in question and:

(1) in a monolingual court, a satisfactory ability to understand and speak the other language;

(2) in a bilingual court, a satisfactory ability to speak and write in the other language.

(2) Provisions on the language proficiency required of judges at the Åland district court and the Åland administrative court shall be provided by a government decree issued on the basis of the Act on the Autonomy of Åland (1144/1991).

Section 10 – *Positions of district court judge requiring special language proficiency*

(1) To safeguard linguistic rights, bilingual district courts shall have a sufficient number of positions of district court judge requiring an excellent ability to speak and write in the language of the minority of the population in the district, and a satisfactory ability to speak and write in the language of the majority. A bilingual court shall, however, have at least one such position.

(2) Provisions on the number of positions referred to in subsection 1 in each bilingual district court shall be provided by a government decree.

Section 11 – *Other judicial positions requiring special language proficiency*

(1) To safeguard linguistic rights, a bilingual court of appeal and administrative court, the Market Court and the Insurance Court may have a sufficient number of legally trained judges who have the language proficiency referred to in section 10, subsection 1.

(2) Provisions on the number of positions referred to in subsection 1 in each bilingual court shall be provided by a government decree. Before submitting a proposal for such a decree to the Government, the Ministry of Justice shall request a statement from the appropriate supreme court instance on the need for the judicial positions referred to in subsection 1.

Section 12 - *Exemptions*

No exemptions may be granted from the qualifications for a judicial position.

Chapter 11 – **Appointment of a chief judge and a permanent judge**

Section 1 – *Appointment and fixed-term appointment of a judge*

(1) Appointment of a judge to a judicial office is permanent unless, on the grounds laid down in chapter 12, section 1, he or she is appointed for a fixed term.

(2) Assessors are appointed for a fixed term in accordance with Chapter 18, section 1.

(3) The chief judge of a court is appointed for a fixed term in accordance with the provisions of section 2. The President of the Supreme Court and the President of the Supreme Administrative Court is appointed to office on a permanent basis.

Section 2 – *Appointment of a chief judge for a fixed term*

(1) Chief judges are appointed for a fixed term of seven years at a time. However, the term of a chief judge may not extend beyond the mandatory age of retirement for judges provided in law. The provisions on the appointment of permanent judges

apply to the appointment of a chief judge.

(2) In cases referred to in Chapter 12, section 1, a chief judge may be appointed also for a term that is shorter than seven years.

(3) If the person to be appointed as a chief judge holds a permanent position as a judge, he or she shall be granted leave of absence from this position for the duration of his or her term as chief judge. Nonetheless, the provisions of Chapter 24 apply to an appointment as chief judge that has been made before the entry into force of this Act.

(4) If a person holding the position of chief judge referred to in this section has been appointed to another position as chief judge, he or she shall be deemed to have resigned from this former position as of the time that he or she has been appointed to said new position.

Section 3 – *Appointing authority*

In the cases referred to in section 2, subsection 1, permanent judges and chief judges are appointed by the President of the Republic on the basis of a proposal by the Government.

Section 4 – *Announcement of a vacancy*

Before a permanent position as judge or as a fixed-term position as chief judge is filled, an announcement shall be made that applications may be made to the court to fill the vacancy.

Section 5 – *Court announcing a judicial position as vacant*

(1) Announcement of the vacancy of the position of President of the Supreme Court, president of a court of appeal and president of the Labour Court is made by the Supreme Court.

(2) Announcement of the vacancy of the position of President of the Supreme Administrative Court and of senior judge of an administrative court, the Market Court and the Insurance Court is made by the Supreme Administrative Court.

(3) Announcement of the vacancy of the position of senior judge at a district court is made by the court of appeal in question.

(4) In respect of all positions as a judge other than those referred to in subsections 1–3, the court in which the position is located announces the vacancy.

Section 6 – *Re-announcement of a vacancy, extension of an application period and cancellation of the announcement of a vacancy*

(1) The position of judge may, for justifiable reasons, be re-announced as vacant or the application period may be extended. In so doing, earlier applicants shall be taken into consideration without having to submit a new application. The announcement of the vacancy of a position may also, for a justifiable reason, be cancelled.

(2) The decision to re-announce a position, extend the application period and cancel a vacancy is made by the court that announced the vacancy.

Section 7 – *Proposals for judicial appointments*

(1) The President of the Republic appoints the Presidents of the Supreme Court and the Supreme Administrative Court without the proposal referred to in subsection 3.

(2) The Supreme Court prepares a reasoned proposal for appointment of a justice of the Supreme Court, which is submitted to the Government for presentation to the President of the Republic. The Supreme Administrative Court prepares, in a corresponding manner, a reasoned proposal for the appointment of a justice of the Supreme Administrative Court.

(3) A reasoned proposal for all judicial appointments other than those referred to in subsections 1 and 2 is made by the Judicial Appointments Board referred to in Chapter 20.

Section 8 – *Statement of the Judicial Appointments Board*

The Judicial Appointments Board may issue a statement regarding the appointment of a justice of the Supreme Court or the Supreme Administrative Court, on the request of the court in question. Section 9 applies to the issuing of such a statement.

Section 9 – *Consideration of matters by the Judicial Appointments Board*

(1) Before submitting a proposal for an appointment, the Judicial Appointments Board shall request a statement on the applicants from the court that had announced the vacancy. However, a statement regarding the applicants for the position of district court judge shall be requested from the court of appeal in question and in addition from the district court where the position is vacant. In respect of applicants for the position of Land Court engineer, a statement shall be requested also from the National Land Survey. Before the appointment of the senior judge of the Åland district court, a statement shall correspondingly be obtained from the Government of Åland.

(2) Before submitting a proposal on the appointment of the President or a judge of the Labour Court, the Judicial Appointments Board may request statements on the applicants from the labour market confederations and labour market institutions referred to in Chapter 17, section 13 as well as from the Ministry of Finance and the Bank of Finland. The Board may request also other statements and reports and hear applicants and experts.

(3) Before a proposal for an appointment is made, the applicants for the position shall be reserved an opportunity to comment on the statements and reports that have been obtained in the preparation of the appointment.

Section 10 – *Issuing of a statement by a court*

(1) The statement of a court in a matter concerning the appointment of a judge is issued:

(1) in a court of appeal, an administrative court, the Market Court and the Insurance Court, in a composition consisting of the chief judge and the department heads or, if the court is not divided into departments, by the chief judge after having heard the permanent judges;

(2) in a district court, by the senior judge after having heard the management board or, if there is no management board in the district court, after having heard the permanent district court judges;

(3) in the Labour Court, by the president.

(2) The composition referred to above in subsection 1, paragraph 1 has a quorum when the chief judge as chairperson and at least one half of the other members or their substitutes are present.

Section 11 – *Contents of a statement by a court*

(1) The statement issued by a court shall contain a reasoned opinion on which of the applicants shall be appointed to the position.

(2) The statement of the court shall indicate the reasoned opinion of the court on the merits and qualifications of the applicants and their order of preference with regard to the position to be filled. The Judicial Appointments Board may as necessary issue more detailed instructions on the contents of the statement.

(3) The statement of the court that had announced the vacant position of judge shall include a summary of the official merits and other merits to be taken into consideration, drawn up in accordance with the instructions of the Board. However, in respect of applicants for the position of district court judge, the summary is drawn up by the court of appeal.

Section 12 – *Declaration of private interests*

(1) Before appointment of an applicant to a permanent position as judge, the applicant shall submit the declaration of his or her private interests referred to in section 8(a), subsection 1 of the Public Officials Act. The declaration shall be given to the appointing authority or, if the appointing authority is the President of the Republic, to the Ministry of Justice. A person appointed as judge shall, in addition, submit the declaration for the information of the court to which he or she is appointed.

(2) Throughout the duration of their appointment, judges shall report without delay any changes in their private interests. Such reports shall be given to the court where the judge is serving. However, a senior judge at a district court gives the report to the court of appeal, a president of a court of appeal and of the Labour Court to the Supreme Court, and a senior judge of an administrative court, the Market Court and the Insurance Court gives the report to the Supreme Administrative Court. Also otherwise judges shall submit a corresponding declaration to the court or the Ministry of Justice on request.

(3) Section 8(a) of the Public Officials Act contains further provisions on private interests. The Act on Private Interests and Outside Work of Judges contains provisions on the registration of information on private interests.

Section 13 – Right of a chief judge to be appointed to a permanent judicial position

(1) A chief judge who has not been appointed to another permanent position as judge has the right, on the termination of the term referred to in section 2, subsection 1, to be appointed to a permanent position as a legally trained judge in the court where he or she has served as chief judge. If necessary, he or she has the right to be appointed to the position of judge in another court for which he or she is qualified and which can be considered appropriate for him or her. The appointment shall be made in accordance with the procedure provided for appointment of a judge. However, the position shall not be announced as open for applications.

(2) The seniority of a judge referred to above in subsection 1 is determined on the basis of the date on which he or she had been appointed as chief judge.

Chapter 12 – Fixed-term judicial appointment

Section 1 – Appointment of a judge to judicial office for a fixed term

(1) If the permanent position of judge or a fixed-term position of chief judge is vacant or a judge is unable to attend to his or her duties or is on annual holiday, a judge may be appointed to fill the position for a fixed term. A court may appoint a judge for a fixed term also if this is necessary due to the number or nature of the cases to be considered or if this is necessary for another special reason.

(2) A judge may not be appointed for a fixed term in order to consider an individual case unless there is a compelling need to do so in order to safeguard the trial.

(3) What is provided in respect of the qualifications of corresponding permanent judges, their right to remain in office, and their salary applies also to the qualifications of a judge appointed for a fixed term, his or her right to remain in office for the duration of the term and the grounds for his or her salary.

Section 2 – Announcement of a fixed-term judicial position as vacant

(1) An announcement of a vacant fixed-term position as judge shall be made if the appointment is to be made for at least six months.

(2) An announcement of a vacant fixed-term position of justice of the Supreme Court and of the Supreme Administrative Court shall be made regardless of the length of the appointment.

Section 3 – Appointing certain senior judges for a fixed-term position

(1) The President of the Republic appoints a justice of the Supreme Court for a fixed term on the proposal of the Supreme Court, and a justice of the Supreme

Administrative Court on the proposal of the Supreme Administrative Court.

(2) In the case of the vacancy of the position as chief judge, the Supreme Court appoints the president of a court of appeal and the president of the Labour Court as well as the chief judge of a district court for a fixed term. The chief judge of a district court is appointed on the proposal of the respective court of appeal.

(3) In the case of a vacancy of a position as chief judge, the Supreme Administrative Court appoints the senior judge of an administrative court, the Market Court and the Insurance Court for a fixed term.

Section 4 – Appointing other judges for a fixed-term position

(1) Fixed-term appointments for more than one year of judges in a court of appeal, the Labour Court and a district court are made by the Supreme Court on the proposal of the chief judge of the respective court. Appointments in an administrative court, the Market Court and the Insurance Court are made in a corresponding manner by the Supreme Administrative Court.

(2) Fixed-term appointments for at most one year are made by the chief judge of the respective court.

(3) Before a judge is appointed in the cases referred to in subsection 2, the chief judge shall hear the management board or, if there is no management board, the permanent judges at the court, unless this is unnecessary due to the short term of the appointment or for another reason.

Section 5 – Declaration of private interests of a judge appointed for a fixed term

A judge appointed for a fixed term for more than one year shall, before the appointment and throughout the duration of the appointment, give the declaration of his or her private interests referred to in Chapter 11, section 12. The same applies to a justice appointed for a fixed term in the Supreme Court and the Supreme Administrative Court regardless of the duration of the appointment.

Chapter 13 – Leave of absence and substitutes

Section 1 – Leave of absence for a judge and performance of official duties

The decision to grant a judge the leave of absence referred to in section 23 of the Public Officials Act is made by the respective court, unless provided otherwise in section 2 of this Chapter.

Section 2 – Leave of absence for a chief judge

The chief judge of a court may take the leave of absence referred to in section 23 of the Public Officials Act for at most one month during a year. The Supreme Court shall decide on a longer leave of absence for the president of a court of appeal and of the Labour Court. The Supreme Administrative Court decides correspondingly on leave of absence longer than one month for the chief judge of an administrative court, the Market Court and the Insurance Court. The respective court of appeal decides on leave of absence longer than one month for the senior judge of a district court.

Section 3 – Service as substitute for a chief judge

When a chief judge is unable to attend to his or her duties, the department head or other legally trained judge designated in the standing orders shall serve as his or her substitute. If the standing orders do not contain such a provision, the department head who has served in office the longest or, if the court is not divided into departments, the legally trained judge who has served in office the longest shall serve as the substitute for the chief judge.

Section 4 – Service as substitute for a department head

When a department head is unable to attend to his or her duties, the judge

designated in the standing orders shall serve as his or her substitute. If the standing orders do not contain such a provision, the legally trained judge in the respective department who has served in office the longest shall serve as substitute for the department head.

Chapter 14 – **Service in another court and transfers**

Section 1 – *Appointment of an impartial judge*

(1) The Supreme Court may as necessary appoint in place of a disqualified judge in a court of appeal or the Labour Court another judge who fulfils the qualifications. The Supreme Administrative Court may make a corresponding appointment of a judge to an administrative court, the Market Court and the Insurance Court.

(2) A court of appeal may as necessary appoint in place of a disqualified judge in a district court a legally trained court from the court of appeal or from another district court in the jurisdiction of said court of appeal.

Section 2 – *Service of a judge in another court*

(1) A judge may be appointed with his or her consent to serve for at most one year at a time as a judge in a court other than the one to which he or she had been appointed, if this is justified due to the nature, extent or number of cases to be considered in the receiving court.

(2) The court of appeal makes the appointment referred to in subsection 1 to serve in a district court in its jurisdiction. The Supreme Court makes the appointment to serve in a court of appeal and in the Labour Court, and the Supreme Administrative Court makes the appointment to serve in an administrative court, the Market Court and the Insurance Court.

(3) Before the appointment is made, the consent of the court to which the judge is transferred shall be requested.

Section 3 – *Obligation of a land court engineer to serve in another land court*

(1) A land court engineer may be appointed as necessary to consider land rights cases also in a district court considering land rights cases other than the one to which he or she has been appointed, and that is located in the same land court engineer cooperation area.

(2) The appointment referred to above in subsection 1 is made by the district court to which the land rights engineer has been appointed.

(3) Provisions on land court engineer cooperation areas are issued by a decree of the Ministry of Justice.

Section 4 – *Transfer of a judge in connection with a reorganization of the court system*

(1) The provisions in section 5(a), section 5(b), subsection 2 and section 5(c), subsection 1 of the Public Officials Act, on reorganization of functions in state administration, apply to the transfer of judges in connection with a reorganization of the court system.

(2) If the position that is to be transferred on the basis of subsection 1 would, after the reorganization, be located outside of the travel-to-work area of the judge, and the judge does not consent to the transfer, efforts shall be made to transfer the judge to another judicial position within his or her travel-to-work area. If there is no such position, the judge may with his or her consent be transferred to a judicial position or also to another position outside of his or her travel-to-work area. If in the reorganization a judicial position is replaced with a new and non-judicial position, the holder of the judicial position has the priority right to be appointed to a judicial position.

(3) Judges may be transferred only to positions for which they are qualified and that

can be deemed suitable for them. The procedure provided for the appointment of a judge shall be followed in connection with the transfer of a judicial position.

However, the position shall not be announced as open for applications. The court statement referred to in Chapter 11, section 10 on a judicial appointment shall be given by the Supreme Court or the Supreme Administrative Court, depending on which court is affected by the reorganization.

(4) If a judge, without justifiable reason, refuses to accept the position referred to in subsection 2, the judge may be relieved of his or her office. The matter is considered by the Supreme Administrative Court on the application of the Ministry of Justice. The matter shall be dealt with as an urgent matter of administration of justice.

Chapter 15 – *Written admonition and suspension from office*

Section 1 – *Written admonition*

A written admonition referred to in section 24 of the Public Officials Act may be given to a judge by the chief judge of the court in which the judge is serving.

However, a written admonition to the senior judge of a district court is given by the president of the court of appeal, to the president of a court of appeal and to the president of the Labour Court by the President of the Supreme Court, and to the chief judge of an administrative court, the Market Court and the Insurance Court by the President of the Supreme Administrative Court.

Section 2 – *Suspension from office*

(1) A decision to suspend a judge from office on the grounds referred to in section 40, subsection 2, paragraphs 1-3 of the Public Officials Act is made by the court in which the judge is serving. However, the decision to suspend the senior judge of a district court from office is made by the court of appeal, the decision to suspend the president of a court of appeal or of the Labour Court is made by the Supreme Court, and the decision to suspend the chief judge of an administrative court, the Market Court or the Insurance Court is made by the Supreme Administrative Court.

(2) Further provisions on suspension from office are contained in the Public Officials Act.

Chapter 16 – *Termination of a judicial appointment*

Section 1 – *Age of retirement and relieving a judge of office*

(1) Section 35 of the Public Officials Act contains provisions applicable to judges, on the general age of retirement of public officials and on the termination of public service.

(2) The resignation of a judge is accepted by the court in which the judge is serving.

Section 2 – *Relieving a judge of his or her office on the basis of work disability*

(1) Judges are required to resign from a judicial position if they have lost their ability to work due to illness, infirmity or injury.

(2) If a judge who is no longer able to work does not himself or herself resign from office, the court decides on relieving him or her of his or her office. The matter shall be considered by the competent court as an urgent matter of administration of justice. The decision on removal from office is made by:

(1) the court of appeal that is competent to deal with an offence in office, if the matter concerns a judge in a district court or the Labour Court;

(2) the Supreme Administrative Court, if the matter concerns a justice in the Supreme Administrative Court, or a judge in an administrative court, the Market Court or the Insurance Court;

(3) the Supreme Court, if the matter concerns a justice in the Supreme Court or a court of appeal.

(3) The court that is competent to decide on relieving a judge of his or her office accepts the letter of resignation of a judge.

Section 3 – Competence of judges after they are no longer in office

(1) A judge continues to be competent in a matter of administration of justice even after he or she is no longer in judicial office or serving as a fixed-term judge in the court in question, if he or she has decided the case or participated in deciding it as part of a panel of judges while in office or if a proposal for a decision in the case had been made while he or she was in office.

(2) What is provided in subsection 1 does not apply to a judge who has been relieved of his or her office on the basis of section 2.

PART IV. EXPERT MEMBERS AND OTHER PERSONNEL

Chapter 17 – Position as an expert member

Section 1 – Position as an expert member

(1) In the exercise of judicial power, an expert member is independent in the same manner as a judge.

(2) The provisions in Chapter 9, sections 1 and 2 on the obligations and responsibility of a judge apply also to an expert member.

(3) The provisions in Chapter 16, section 3 on the competence of a judge apply also to an expert member after his or her term has ended.

Section 2 – Right of expert members to retain their position

The provisions on the right of the holder of a judicial office to remain in office applies, with the exceptions provided in sections 18-21, to the right of an expert member to retain his or her position for the duration of the original appointment.

Section 3 – Appointment of expert members

The Government appoints the expert members to an administrative court, the Market Court and the Insurance Court. The President of the Republic appoints the expert members to the Supreme Administrative Court and to the Labour Court.

Section 4 – Number of expert members and their alternates

(1) A sufficient number of expert members shall be appointed. Chapter 6, section 2 contains provisions on the number of expert members in the Labour Court.

(2) A sufficient number of alternates may be appointed for expert members. The provisions on expert members apply also to their alternates.

Section 5 – Terms for expert members

(1) Expert members are appointed for a term of five years at a time. If the position as expert member becomes vacant during the term, a new expert member may be appointed to fill the vacancy.

(2) However, members may be appointed only up to the age of retirement provided for judges.

Section 6 – Announcement of vacancies

(1) The court in question announces that vacant positions as expert members are open for application.

(2) What is provided in subsection 1 does not apply to the expert members in the Labour Court and the Insurance Court who are appointed on the basis of the proposals referred to in sections 13 and 15.

(3) The court may request statements or other reports regarding the applicants.

Section 7 – Proposal for appointment of an expert member

(1) The courts shall submit to the Ministry of Justice, for presentation to the Government or the President of the Republic, a reasoned proposal regarding which

of the applicants shall be appointed to the positions.

(2) A proposal on the appointment of members to the Labour Court who are knowledgeable in employment contracts in the private and the public sectors shall be made on the basis of the proposals referred to in section 13. A proposal on the appointment to the Insurance Court of members who are knowledgeable in labour conditions or the operation of businesses as well as members who are knowledgeable in military injury cases shall be made on the basis of the proposals referred to in section 15. In addition, the Insurance Court shall hear the Ministry of Social Welfare and Health before submitting a proposal to the Ministry of Justice on the appointment of medical members to the Insurance Court.

Section 8 – *Qualifications of expert members of administrative courts*

Expert members in administrative courts:

(1) in cases referred to in section 7, subsection 1, paragraphs 1 and 1(a) of the Administrative Court Act, shall be persons who have a Master's degree that is appropriate for the position and who are knowledgeable in child welfare;

(2) in cases referred to in section 7, subsection 1, paragraph 2 of the Administrative Court Act, shall be persons who have a Master's degree that is appropriate for the position and are knowledgeable in special care for the mentally disabled;

(3) in cases referred to in section 7, subsection 1, paragraph 3 of the Administrative Court Act, shall be licenced physicians who are persons who knowledgeable in psychiatry;

(4) in cases referred to in section 7, subsection 1, paragraph 4 of the Administrative Court Act, shall be persons who have a Master's degree that is appropriate for the position and are knowledgeable in welfare for abusers of intoxicants;

(5) in cases referred to in section 7, subsection 1, paragraph 5 of the Administrative Court Act, shall be specialist physicians knowledgeable in infectious diseases.

Section 9 – *Qualifications of expert members of the Supreme Administrative Court*

(1) The qualification for the environmental expert justice at the Supreme Administrative Court is an appropriate Master's degree in technology or in the natural sciences. In addition, he or she shall be familiar with the duties falling within the scope of the applicable legislation.

(2) The qualification for a senior engineer justice is an appropriate Master's degree in technology. In addition, he or she shall be knowledgeable in patent matters.

Section 10 – *Qualifications of expert members of the Market Court*

(1) The qualifications for an expert member at the Market Court who participates in the consideration of competition and oversight cases as well as procurement cases is an appropriate Master's degree and that he or she is knowledgeable in competition law, procurement, energy markets, economics, marketing, the securities market, business life or economic questions.

(2) The qualifications for an expert member at the Market Court who participates in industrial and copyright law cases is an appropriate Master's degree and that he or she is knowledgeable in issues connected with the area of technology in question or in patent questions or in marketing, economics, business life, economic questions or art.

(3) The qualifications for an expert member at the Market Court who participates in the consideration of market law cases is an appropriate Master's degree and that he or she is knowledgeable in consumer protection, marketing, business life or economic questions.

Section 11 – Competence of expert members of the Market Court in matters being considered in the same proceedings

When the Market Court is considering, in the same proceedings, matters falling into different groups, an expert member who is qualified to participate in the consideration of a case involving one of the matters to be considered in said proceedings, is qualified to participate in the consideration also of the other matters to be considered in the same proceedings.

Section 12 – Qualifications in respect of the expert members of the Labour Court

(1) The qualifications for an expert member of the Labour Court who does not represent the interests of either employers or employees are a Master's degree in law other than a Master's degree in international and comparative law, and that he or she is knowledgeable in working conditions.

(2) The other expert members of the Labour Court shall be knowledgeable in employment contracts in the private or the public sector.

Section 13 - Proposal for the appointment on the Labour Court of expert members on employment contracts in the private and public sectors

(1) The expert members of the Labour Court knowledgeable in employment contracts in the private and the public sector are appointed on the basis of proposals of entities representing the interests of employers and employees:

(1) of the members knowledgeable in employment contracts in the private sector:

(a) four on the proposal of the most representative central organizations of employers; and

(b) four on the proposal of the most representative central organizations of employees and functionaries; and

(2) of the members knowledgeable in employment contracts in the public sector:

(a) two on the proposal of the Ministry of Finance, the municipal labour market institution, the labour market institution of the Evangelical Lutheran Church, and the Bank of Finland; and

(b) two on the proposal of the most representative central labour market organizations of State and Bank of Finland officials and municipal and ecclesiastic officials.

(2) The proposed expert members shall include candidates who are knowledgeable in labour contracts in industry, agriculture and the services industry.

(3) To be considered, the proposals of the entities referred to in subsection 1 shall contain at least twice the number of candidates as the number of members to be appointed. An account that the candidates have agreed to being appointed as expert members shall be attached to the proposals.

(4) Before making its proposal, the Labour Court shall request that the entities referred to in subsection 1 submit proposals for the appointment of expert members. The experts shall be appointed even if the proposal is not submitted within the period established by the Labour Court or the proposal has been submitted in an incomplete manner, if notwithstanding a request no proposal has been made or it has not been supplemented. The Labour Court may request a new proposal if the candidates do not fulfil the general qualifications for office.

(5) The provisions on criminal liability as a public official apply to persons in the service of the organizations referred to in subsection 1 who prepare the submission of candidates referred to in this section.

Section 14 – Qualifications in respect of the expert members of the Insurance Court

(1) The medical member of the Insurance Court shall be a licenced physician.

(2) Other expert members of the Insurance Court shall include persons

knowledgeable in labour conditions or the operation of businesses as well as persons knowledgeable in military injury cases.

Section 15 – Proposal for the appointment on the Insurance Court of expert members in labour conditions or the operation of businesses and in military injury cases

(1) The expert members of the Insurance Court knowledgeable in labour conditions or in the operation of business as well as expert members knowledgeable in military injury cases are appointed as follows:

(1) the members knowledgeable in working life, labour markets or the operation of businesses are appointed on the basis of proposals of:

(a) representative central organizations of employers and employees;

(b) the main collective bargaining organizations representing the municipal labour market and municipal functionaries and employees;

(c) the State labour market institution and the most representative central labour market organizations of State officials and employees;

(d) the most representative organizations of entrepreneurs;

(e) the most representative organizations of agricultural entrepreneurs;
and

(f) the Ministry of Defence and the most representative labour market organizations; and

(2) the members knowledgeable in military injury cases and in the circumstances of those receiving compensation are appointed on the proposal of the most representative central organizations representing persons receiving compensation, and the military members are appointed on the proposal of the Ministry of Defence.

(2) To be considered, the proposals of the entities referred to in subsection 1 shall contain at least twice the number of candidates as the number of members to be appointed. An account that the candidates have agreed to being appointed as expert members shall be attached to the proposals.

(3) Before making its proposal, the Insurance Court shall request that the entities referred to in subsection 1 submit proposals for the appointment of expert members. The experts shall be appointed even if the proposal is not submitted within the period established by the Insurance Court or the proposal has been submitted in an incomplete manner, if notwithstanding a request no proposal has been made or it has not been supplemented. The Insurance Court may request a new proposal if the candidates do not fulfil the general qualifications for office.

(4) The provisions on criminal liability as a public official apply to persons in the service of the organizations referred to in subsection 1 above who prepares the submission of candidates referred to in this section.

Section 16 – Qualifications in respect of the linguistic abilities of expert members

(1) To be appointed as an expert member of an administrative court, the candidate shall have a good ability to speak and write in the language of the majority of the population in the jurisdiction of the administrative court in question and:

(1) in a monolingual administrative court, a satisfactory ability to understand and speak the other national language; or

(2) in a bilingual administrative court, a satisfactory ability to speak and write in the other national language.

(2) Provisions on the language proficiency required of expert members and deputy members at the Åland administrative court shall be provided by a government decree.

(3) To be appointed as an expert member of the Supreme Administrative Court and of the Market Court, and as an expert member of the Labour Court who does not

represent the interests of either employers or employees, as well as the medical member of the Insurance Court, the candidate shall have a good ability to speak and write in the Finnish language and a satisfactory ability to speak and write in the Swedish language.

(4) The expert members knowledgeable in employment contracts in the private and the public sector, to be appointed to the Labour Court, and the expert members knowledgeable in labour conditions or the operation of businesses as well as in military injury cases, to be appointed to the Insurance Court, shall include a sufficient number of persons fluent in the Finnish and the Swedish languages.

Section 17 – Reporting of private interests

A candidate expert member shall, before the appointment and throughout the duration of the appointment, give to the court the declaration of his or her private interests referred to in Chapter 11, section 12.

Section 18 – Position of expert members in a reorganization of the court system

If, in a reorganization of the court system, the duties of an expert member are transferred to another court, the expert member has the right to continue in his or her duties in said other court.

Section 19 – Written admonition and suspension from office of expert members

An expert member may be given a written admonition and may be suspended from his or her duties as an expert member through application as appropriate of what is provided in Chapter 15 on written admonitions and suspension from office for a judge.

Section 20 – Investigation of the state of health of expert members and relieving an expert member of office on the basis of work disability

(1) The health of an expert member may be examined as necessary through application of what is provided in section 19 of the Public Officials Act.

(2) What is provided in Chapter 16, section 2 of the present Act on relieving a judge of his or her office on the basis of work disability applies also to an expert member.

Section 21 – Relieving expert members of their duties

If a qualification for an expert member is that he or she is a licenced physician or a specialist physician, and on the basis of the Act on Health Care Professionals (559/1994) he or she no longer has the right to act as such a licenced physician or said right has been restricted, the court in question shall relieve him or her of his or her duties or order that the expert may not attend to his or her duties for a specified period. The expert member shall be reserved an opportunity to be heard before being relieved of his or her duties.

Section 22 – Fees for expert members

A reasonable fee and compensation shall be paid to expert members from State funds. The grounds and amount of these fees and this compensation shall be confirmed by the Ministry of Justice.

Chapter 18 – Assessors

Section 1 – Positions as assessor

(1) A court of appeal, an administrative court, the Market Court, the Labour Court and the Insurance Court may, for training purposes, have fixed-term positions of assessors who are appointed for three-year terms. The term may, special reasons, be extended by a maximum of two years.

(2) A person who has held a position as assessor for two years may, for the remainder of his or her term, serve also in another position as a judge or as a referendary at the Supreme Court or the Supreme Administrative Court.

(3) The provisions of Chapter 12 on the appointment of a judge for a fixed term apply to the appointment of an assessor.

Section 2 – Qualifications for assessors and grounds for appointment

To be appointed as assessor, the person shall fulfil the qualifications provided in Chapter 10, section 1, and have at least three years' experience in the duties of a judge, court referendary or draftsperson, prosecutor, advocate or legal counsel or in other corresponding legal duties that can be deemed to prepare the person for the duties of a judge. A further qualification is that the person has successfully passed an examination that demonstrates knowledge of the key legislation and general principles concerning the duties of a judge. The provisions of Chapter 10, section 9 apply to the proficiency of an assessor in the Finnish and Swedish languages.

Section 3 – Competence of an assessor

(1) When deciding cases in court, a panel of judges may include only one assessor.

(2) An assessor may not be on a panel of judges deciding a case that concerns an offence in office committed by a judge.

(3) An assessor may serve as chairperson in court.

Section 4 – Training programme for assessors

(1) The purpose of training for assessors is to increase their legal knowledge and judicial competence, and to provide them with a good ability to make independent judicial decisions also in extensive and complicated cases.

(2) In the course of their term of office, assessors shall participate at their training site in the training programme developed by the Judicial Training Board in accordance with personal training plans prepared for them.

Section 5 - Interruption

The chief judge may, for a justified reason, allow an assessor to interrupt his or her training programme. The interrupted programme may be completed once the interruption has ended.

Section 6 – End of a training programme

(1) An assessor, having served in his or her duties for the three-year minimum period referred to in section 1, subsection 1, shall submit a final paper or pass a final examination demonstrating the skills and knowledge required in judicial duties. The Judicial Training Board shall organize the examination.

(2) An assessor who has successfully completed the training programme, and whose final paper has been accepted or who has passed the final examination, may be granted the right to use the title “judicially trained”. The right is granted by the Judicial Training Board on application.

(3) Chapter 21 contains provisions on the Judicial Training Board.

Chapter 19 – Other personnel

Section 1 – Referendaries and draftpersons

(1) Courts may have referendaries and draftpersons as follows:

(1) courts of appeal may have court of appeal referendaries;

(2) administrative courts may have administrative court referendaries;

(3) the Market Court may have Market Court draftpersons;

(4) the Labour Court may have Labour Court referendaries;

(5) the Insurance Court may have Insurance Court referendaries.

(2) Administrative courts may in addition have notaries as referendaries.

(3) The standing orders may provide that also an official other than one referred to in subsections 1 and 2 and who fulfils the qualifications may be appointed to serve as referendary.

(4) A referendary may serve as a draftsperson in a case where in accordance with Chapter 9, section 3 the judge serves as the referendary.

Section 2 – *Appointment of referendaries and draftpersons*

Referendaries and draftpersons are appointed by the respective court.

Section 3 – *Qualifications of referendaries and draftpersons*

(1) A qualification for the position referred to in section 1, subsection 1 is a Master's degree in law other than a Master's degree in international and comparative law. A court of appeal referendary shall in addition have experience in the duties of a judge. An Insurance Court referendary shall in addition be knowledgeable in matters related to employment contracts.

(2) A qualification for the position of notary referred to in section 1, subsection 2 is an appropriate academic degree.

(3) The provisions in Chapter 10, section 9 on the proficiency in languages of judges applies also to the linguistic qualifications of referendaries and draftpersons.

Section 4 – *Court notaries*

(1) District courts, courts of appeal and administrative courts have court notaries who are performing their judicial apprenticeship, and who participate in the consideration of and decisions in the administration of justice, in accordance with the Judicial Apprenticeship Act (674/2016).

(2) Section 3 of the Judicial Apprenticeship Act contains provisions on the qualifications for and appointment of court notaries.

Section 5 – *The chief secretary and other personnel*

(1) A court may have the position of chief secretary or administrative director or another corresponding position, the duties of which are the management of the administration of the court. A court may have also other personnel under a public or private law contract.

(2) A qualification for the position of chief secretary is a suitable Master's degree. The standing orders of a court may contain provisions on the qualifications for other positions, if this is justified in view of the performance of the duties involved in said position.

(3) The court in question appoints the chief director or administrative director as well as the other officials and hires personnel under a private law contract.

Section 6 – *Competence of office personnel*

(1) The senior judge of a district court may appoint in writing a member of the office personnel at the district court who has given an affirmation corresponding to the judge's affirmation, who has received sufficient training and who has sufficient skills to attend to the duties:

(1) in cases referred to in Chapter 5, section 3 of the Code of Judicial Procedure:

(a) to give judgments by default;

(b) to give, on the basis of Chapter 21, section 8(c) of the Code of Judicial Procedure, decisions and judgments on court costs, if the respondent has conceded the claim;

(c) to decide on the staying of an action if the plaintiff has withdrawn the action and the respondent does not call for a decision in the case;

(2) to decide on applications for divorce on the basis of section 25, subsection 1 of the Marriage Act (234/1929) if both spouses are domiciled in Finland.

(2) If the case to be decided by office personnel, as referred to in subsection 1, proves to be extensive, subject to interpretation or otherwise difficult to decide, the case shall be transferred for a decision of a notary or a legally trained judge at the district court.

(3) The chief judge of a district court may appoint in writing a member of the office personnel at the district court who has sufficient skills, to issue summons and certificates, to effect service of documents and to attend to other duties connected to the preparation, consideration or enforcement of administration of justice matters.

Section 7 – Leave of absence and performance of official duties

The respective court decides on leave of absence for the public officials referred to in the present Chapter.

Section 8 – Outside work of referendaries and draftpersons

What is provided in Chapter 9, sections 5–7 on outside work for a judge applies also to outside work by a court referendary and draftperson.

Section 9 – Training of referendaries and draftpersons

What is provided in Chapter 9, section 4 on the training of judges applies also to court referendaries and draftpersons.

PART V. MISCELLANEOUS PROVISIONS

Chapter 20 – Judicial Appointments Board

Section 1 – Duties, appointment and composition of the Judicial Appointments Board

(1) The function of the Judicial Appointments Board is to prepare judicial appointments.

(2) The Judicial Appointments Board is appointed by the Government for a term of five years at a time.

(3) The chairperson of the Judicial Appointments Board is the member appointed by the Supreme Court and the vice chairperson is the member appointed by the Supreme Administrative Court. The other members are a president of a court of appeal, a senior judge of an administrative court, a senior judge of a district court, another permanent court of appeal justice, a district court judge, two administrative court judges or one administrative court judge and one judge of a special court, one advocate, one prosecutor and one member representing legal research and education. Each member shall have a personal alternate.

Section 2 – Nomination of the members of the Judicial Appointments Board

The Judicial Appointments Board is appointed after:

(1) the Supreme Court has nominated from among its justices one member and one alternate member;

(2) the Supreme Administrative Court has nominated from among its justices one member and one alternate member;

(3) the presidents of the courts of appeal have nominated from among themselves one member and one alternate member;

(4) the senior judges of the administrative courts have nominated from among themselves one member and one alternate member;

(5) the Supreme Court has nominated one member and one alternate member from among senior judges of district courts, one member and one alternate member from among other permanent court of appeal justices and one member and one alternate member from among district court judges on the basis of applications;

(6) the Supreme Administrative Court has nominated the members and alternate members from among administrative court judges or special court judges on the basis of applications;

(7) the Finnish Bar Association has nominated from among its members one member and one alternate member representing the body of advocates;

(8) the Prosecutor General has nominated one member and one alternate member representing prosecutors;

(9) the Ministry of Justice has nominated one member and one alternate member representing legal research and education.

Section 3 – Nomination procedure

(1) In nominating the members and alternate members referred to in section 2, paragraphs 5–9, twice as many candidates shall be nominated as there are positions available. Before nominating the person referred to in section 2, paragraph 9, the Ministry of Justice shall hear entities representing legal research and education.

(2) The Supreme Court and the Supreme Administrative Court shall announce the vacancy of the positions referred to in section 2, paragraphs 5 and 6, and shall inform the Ministry of Justice of the members and alternate members that they have nominated.

(3) The Ministry of Justice shall request that the Finnish Bar Association and the Prosecutor General nominate the persons referred to in section 2, paragraphs 7 and 8.

Section 4 – Resignation of a Board member

(1) The Government accepts the resignation of a member and alternate member of the Board.

(2) When a member resigns, his or her replacement for the remainder of the term shall be nominated in accordance with the procedure provided above.

Section 5 - Quorum

The Judicial Appointments Board has a quorum when the chairperson or vice chairperson and at least eight other members or alternate members are present.

Section 6 – Personnel of the Judicial Appointments Board

(1) The Judicial Appointments Board has a secretary. The Board may also have parttime referendaries and other personnel. The duty of the secretary and part-time referendaries is to prepare and present proposals for appointment and statements for the Board. In addition, the secretary attends to the organization of the other work of the Board.

(2) The secretary and the part-time referendaries shall have a Master's degree in law other than a Master's degree in international and comparative law and a good knowledge of the work of the courts.

(3) The Judicial Appointments Board appoints the secretary and the part-time referendaries for a fixed period. The secretary hires other personnel.

Section 7 – More detailed provisions

More detailed provisions on the office and personnel of the Judicial Appointments Board, on the organization of work and on the consideration of matters at the Board may be provided in the standing orders approved by the Board.

Chapter 21 – Judicial Training Board

Section 1 – Function of the Judicial Training Board

The function of the Judicial Training Board is to:

(1) attend to the planning of the training to be arranged for court members, referendaries, draftpersons, court notaries and other personnel in cooperation with the Ministry of Justice and the courts;

(2) attend to the planning and organization of the examinations and the final papers referred to in Chapter 18, section 2 and section 6, subsection 1;

(3) attend to the organization of the application procedure for the position of assessor and for the preliminary selection of assessors;

- (4) attend to the arrangement of a centralized application process for positions as judicial apprentice in accordance with the Judicial Apprenticeship Act and to the section and appointment of court notaries;
- (5) issue guidance to courts of appeal, administrative courts, the Market Court, the Labour Court and the Insurance Court on the contents of the personal training plans for assessors referred to in Chapter 18, section 4, subsection 2;
- (6) issue guidance to district courts, courts of appeal and administrative courts on the contents of the apprenticeship plans referred to in section 12 of the Judicial Apprenticeship Act;
- (7) issue a statement on request to the Ministry of Justice on persons to be selected for management training or for other training in the court system;
- (8) grant the right referred to in Chapter 18, section 6, subsection 2 to use the title “judicially trained”;
- (9) grant the title of “Master of Laws (trained on the Bench)” referred to in section 18 of the Judicial Apprenticeship Act.

Section 2 – *Appointment and composition of the Judicial Training Board*

- (1) The Judicial Training Board is appointed by the Government for a term of five years.
- (2) The Judicial Training Board has a chairperson, a vice chairperson and eight other members. The chairperson, the vice chairperson and four other members shall be permanent judges. The other members shall be a prosecutor, an advocate, a member representing legal research and education, and one member representing the Ministry of Justice. Each member has a personal alternate.
- (3) The judicial members of the Board shall represent different courts in an equitable manner, and at least one of the members shall be a chief judge.

Section 3 – *Appointment of the members of the Judicial Training Board*

- (1) The Judicial Training Board is appointed after:
 - (1) the Judicial Appointments Board has nominated the chairperson, the vice chairperson and the other judicial members as well as their alternates on the basis of applications;
 - (2) the Prosecutor General has nominated the member representing prosecutors and his or her alternate;
 - (3) the Finnish Bar Association has nominated from among its members the member representing the body of advocates and his or her alternate;
 - (4) the Ministry of Justice has nominated the member representing legal research and education and his or her alternate;
 - (5) the Ministry of Justice has nominated its own member and his or her alternate.
- (2) What is provided in Chapter 20, section 1, subsections 1 and 3 regarding the appointment of the members of the Judicial Appointments Board and their alternates applies also to the appointment of the Judicial Training Board.

Section 4 – *Resignation of a member of the Board*

- (1) The Government accepts the resignation of a member and alternate member of the Board.
- (2) When a member resigns, his or her replacement for the remainder of the term shall be nominated in accordance with the procedure provided above.

Section 5 - *Quorum*

The Judicial Training Board has a quorum when the chairperson or vice chairperson and at least five other members or deputies are present. In addition to the chairperson or vice chairperson, at least three other judges shall be present.

Section 6 – *Personnel of the Judicial Training Board*

(1) The Judicial Training Board shall have a secretary who prepares and presents matters to be considered by the Board and attends to the organization of other activities of the Board. The secretary shall have an appropriate Master's degree and a good knowledge of the work of courts or of adult education.

(2) The Judicial Training Board appoints its secretary.

(3) The Board may also have other personnel who are hired by the secretary.

Section 7 – *More detailed provisions*

The standing orders approved by the Judicial Training Board may contain more detailed provisions on the work and personnel of the Board, on the organization of its work and on the consideration of matters by the Board.

Chapter 22 – **Cases involving offences in office**

Section 1 – *Offences in office*

(1) Courts consider charges for offences in office brought against members of courts and officials at courts as follows:

(1) the Supreme Court, if the case concerns a court of appeal justice;

(2) a court of appeal, if the case concerns:

(a) a member, notary, chief secretary or member of the office personnel of a district court belonging to its jurisdiction, if the case concerns an offence in office committed in a function referred to in Chapter 19, section 6, subsection 1;

(b) a member, chief secretary, referendary, notary or court notary of an administrative court belonging to its jurisdiction;

(3) the Helsinki court of appeal, if the case concerns:

(a) a member, the chief secretary or a draftsperson at the Market Court;

(b) a member, the chief secretary or a referendary at the Insurance Court;

(c) a member, the chief secretary or a referendary at the Labour Court;

(d) a chief secretary, a referendary or a court notary of a court of appeal other than the Helsinki court of appeal;

(4) the Turku court of appeal, if the case concerns an official at the Helsinki court of appeal referred to in paragraph 3, subparagraph d.

(2) What is provided in this section regarding a chief secretary shall apply also to an administrative director referred to in Chapter 19, section 5, subsection 1 and to a person appointed to a corresponding position.

(3) What is provided in this section regarding a person serving as a referendary in the same court applies also to a person serving as a referendary on the basis of Chapter 19, section 1, subsection 3.

Chapter 23 – **Appeal**

Section 1 – *Appeal against a decision on outside work permission*

(1) A court decision on the outside work permission referred to above in Chapter 9, section 5 is subject to ordinary appeal to the Supreme Administrative Court.

Nonetheless, a decision of the Supreme Court and of the Supreme Administrative Court is subject to appeal back to the same court, where the case shall be considered in plenary.

(2) The decision shall be valid notwithstanding an appeal, unless the appellate instance decides otherwise.

Section 2 – *Appeal against a decision on a written admonition*

(1) A decision to issue a written admonition referred to above in Chapter 15, section

1 is subject to ordinary appeal. The case shall be dealt with urgently at the appellate instance.

(2) An appeal against a decision on a written admonition shall be submitted as follows:

(1) a decision by a senior judge, to the court of appeal;

(2) a decision by the president of a courts of appeal and of the Labour Court, to the Supreme Court;

(3) a decision by the senior judge of an administrative court, the Market Court and the Insurance Court, to the Supreme Administrative Court;

(4) a decision by the President of the Supreme Court and of the Supreme Administrative Court back to the same Court, where it shall be considered in plenary.

(3) The appeal shall, within 30 days of service of the decision, be submitted to the court at which the judge serves. The court shall submit without delay the letter of appeal with its annexes, a copy of the decision that is the subject of the appeal and a statement of the chief judge on the basis of the appeal.

(4) The decision shall be followed notwithstanding an appeal, unless the appellate instance decides otherwise.

Section 3 – Appeal against a decision on suspension from office

(1) A decision on suspension from office referred to above in Chapter 15, section 2 is subject to ordinary appeal. The matter shall be considered at the appellate court as an urgent matter of administration of justice.

(2) Appeal is sought:

(1) against a decision by a district court to the court of appeal;

(2) against a decision by a court of appeal and the Labour Court to the Supreme Court;

(3) against a decision by an administrative court, the Market Court and the Insurance Court to the Supreme Administrative Court;

(4) against a decision by the Supreme Court and of the Supreme Administrative Court back to the same court, where the case shall be considered in plenary.

(3) An appeal shall be submitted within 30 days of service of the decision, to the court at which the judge serves. The court shall, without delay, submit to the appellate court the letter of appeal with its annexes, a copy of the decision that is under appeal, and its statement on the basis of the appeal.

(4) The decision shall be followed notwithstanding an appeal, unless the appellate court decides otherwise.

Section 4 – Appeal against a decision on relieving of office on the basis of work disability

(1) A decision of the court of appeal on relieving of office on the basis of work disability referred to above in Chapter 16, section 2, subsection 2 is subject to ordinary appeal to the Supreme Court. The appellate court shall consider the case as a matter of urgency.

(2) The decision of the court of appeal shall be followed notwithstanding an appeal, unless the appellate court decides otherwise.

Section 5 – Appeal against a decision relieving an expert member of his or her duties

(1) A decision of an administrative court or the Insurance Court relieving an expert member of his or her duties, as referred to above in Chapter 17, section 21, is subject to appeal to the Supreme Administrative Court. The appellate court shall consider the case as a matter of urgency.

(2) The decision shall be followed notwithstanding an appeal, unless the appellate court decides otherwise.

Section 6 – *Appeal against a decision of the Judicial Training Board*

(1) Grading of the examinations referred to in Chapter 18, section 2 and section 6, subsection 1 are subject to a request for rectification submitted within 14 days of service of the decision, as provided in the Administrative Procedure Act (434/2003). A decision on a request for rectification is not subject to ordinary appeal.

(2) Other decisions of the Judicial Training Board are subject to ordinary appeal to an administrative court as provided in the Administrative Judicial Procedure Act. The decision of the administrative court is not subject to ordinary appeal.

Chapter 24 – **Entry into force and transitional provisions**

Section 1 – *Entry into force*

This Act enters into force on 1 January 2017.

Section 2 – *Acts to be repealed*

This Act repeals the following Acts:

- (1) the District Court Act (581/1993);
- (2) the Court of Appeal Act (561/1994);
- (3) the Act on the Expert Members of the Supreme Administrative Court (1266/2006);
- (4) the Market Court Act (99/2013);
- (5) the Insurance Court Act (132/2003);
- (6) the Judicial Appointments Act (205/2000);
- (7) the Act on the Holding of Lower Court Sessions Other Than at the Regular Location of Sessions (141/1932).

Section 3 – *Retention of certain decrees in force*

The following decrees remain in force:

- (1) the Government Decree on the Jurisdictions of District Courts (1053/2014);
- (2) the Government Decree on the Jurisdictions of Courts of Appeal (337/2013);
- (3) the Decree of the Ministry of Justice on the Location of Registries and Places Where Court Sessions Are Held (454/2009).

Section 4 – *Transitional provisions in respect of chief judges*

(1) The provisions that were in force at the time this Act enters into force shall apply to the filling of a position as chief judge that had been opened for applications before this Act entered into force.

(2) A permanent chief judge who had been appointed before this Act enters into force shall be deemed to have resigned from his or her position at the time that he or she had been appointed as chief judge of another court for the fixed term referred to in Chapter 11, section 2, subsection 1. Such a chief judge does not have the right, at the end of the term, to return to the position of permanent chief judge. Chapter 11, section 13 applies to his or her right, at the end of the term, to be appointed to a permanent position as a judge.

(3) A permanent chief judge appointed before this Act enters into force may, on his or her application, be transferred to another judicial position that is vacant in the same court, if he or she has served without interruption for at least seven years and has reached the age of 63 years. The chief judge shall indicate his or her intention to transfer to this other judicial position, before the position is announced as vacant. The appointing authority shall decide on the transfer. In deciding matters of administration of justice, the chief judge transferring to the position as judge is second in seniority after the chief judge.

Section 5 – *Transitional provisions in respect of other judges*

(1) On the entry of this Act into force, the title of “justice of the Supreme

Administrative Court” becomes the title “justice”.⁴

(2) Also persons who, on the entry of this Act into force, have been appointed as senior judges at a court of appeal, are court of appeal justices, and persons who, on the entry of this Act into force, have been appointed as senior judges at the Insurance Court, are Insurance Court judges. The provisions concerning court of appeal justices or Insurance Court judges apply also to them.

(3) Persons who, at the time this Act enters into force, have been appointed as senior judge of a court of appeal or senior judge of the Insurance Court have the right, on the entry of this Act into force, to serve in a position that requires leadership skills. In serving in such a position they are members of the management board of the court and of the composition referred to in Chapter 11, section 10, subsection 1.

Section 6 – *Transitional provisions in respect of other personnel*

(1) On the entry of this Act into force, the titles of “senior secretary of a court of appeal” and “court of appeal assessor” are amended to become “court of appeal referendary”, “administrative court secretary” to become “administrative court referendary”, “Market Court secretary” to become “Market Court draftsman”, “Labour Court secretary” to become “Labour Court referendary”, and “Insurance

⁴ Before the Act entered into force, a simple distinction existed in Finnish between the titles of “justice of the Supreme Court” (“oikeusneuvos”) and “justice of the Supreme Administrative Court” (“hallintoneuvos”). With the entry of this Act into force, the first term was extended to refer also to justices of the Supreme Administrative Court. In English, this linguistic nuance could be indicated by using the title “high court justice”, which would distinguish the term from the title “court of appeal justice”. However, in the present translation justices of the Supreme Court and the Supreme Administrative Court are collectively referred to as “justices”, and those serving in courts of appeal are referred to with the longer title “court of appeal justices”.

Court assessor” and “Insurance Court secretary” to become “Insurance Court referendary”.

(2) If a referendary referred to in section 9 of the repealed Court of Appeal Act has been appointed in a case to a court of appeal panel before this Act enters into force, the panel is competent to decide after this Act enters into force. If, when this Act enters into force, a referendary of the Insurance Court is a judicial member of a panel in the Insurance Court considering a case, he or she may be a part of the panel when this Act enters into force.

(3) Sections 3(a), 3(b) and 4(a), section 14, subsection 3, section 17 and section 20, subsection 2 of the repealed District Court Act apply to a senior district court secretary who had been appointed before this Act enters into force.

Section 7 – *References to earlier law*

If a reference exists elsewhere in law to a provision that was in force at the time this Act enters into force, the corresponding provision in this Act shall apply instead.