



# Judicial Officers (Legal Status) Act Applicable from 01-01-2020 to the present

## Chapter 1. General

### Section 1

1. The following definitions apply in this Act and the provisions founded on the Act:
  - a. Our Minister: Our Minister of Security and Justice;
  - b. judicial officers: the judicial officers referred to in Section 1(b) of the Dutch Judiciary (Organisation) Act [Wet op de rechterlijke organisatie];
  - c. salary: the amount to which the judicial officer is entitled for performing the duties of an office, with due observance of the provisions laid down by or pursuant to Sections 7, 9(1) and (3), and 13 to 16 of this Act;
  - d. remuneration: the salary of the judicial officer, plus a periodic compensation or financial allowance as referred to in Section 46 of this Act, plus the allowances, which are designated in the regulations founded on this Act as allowances associated with this remuneration, to which he is entitled;
  - e. office: the office held by the judicial officer;
  - f. central government civil servants: those appointed by the central government to work in civilian public service.
  
2. In this Act and the provisions founded on the Act, 'superior' means:
  - a. with respect to the judicial officers who work in a district court: the management board of that district court;
  - b. with respect to the judicial officers who work in a court of appeal: the management board of that court of appeal;
  - c. with respect to the vice-presidents of, the justices at, the justices extraordinary at, the registrar and deputy registrar of, and the court legal assistants at the Supreme Court: the president of the Supreme Court;
  - d. with respect to the deputy procurator general, the advocates general and the advocates general extraordinary, and the deputy advocates general at the Supreme Court: the procurator general of the Supreme Court;
  - e. with respect to the judicial officers who work in a district court public prosecutor's office: the head of that district court public prosecutor's office;
  - f. with respect to the judicial officers who work at the National Public Prosecutors' Office: the head of the National Public Prosecutors' Office;
  - g. with respect to the judicial officers who work at the National Office for Serious Fraud, Environmental Crime and Asset Confiscation: the head of



- the National Office for Serious Fraud, Environmental Crime and Asset Confiscation;
- h. with respect to the judicial officers who work at the Central Processing Office of the Netherlands Public Prosecution Service: the head of the Central Processing Office of the Netherlands Public Prosecution Service;
  - i. with respect to the judicial officers who work at the public prosecution service's office at the court of appeal: the head of the public prosecution service's office at the court of appeal;
  - j. with respect to the heads of the offices of the Public Prosecution Service referred to in points e to i, and the judicial officers who work at the National Head Office: the Board of Procurators General;
  - k. with respect to the members of the Board of Procurators General: Our Minister.

### **Section 1a**

The provisions of this Act concerning the members of the Board of Procurators General do not apply to the procurator general referred to in Section 130(4) of the Judiciary (Organisation) Act.

### **Section 1aa**

- a. The superior makes no distinction between judicial officers as referred to in Section 1(b)(5) to (10) of the Judiciary (Organisation) Act on the basis of a difference in working hours in the conditions under which an appointment is made, extended or terminated, unless such a distinction is objectively justified.
- b. The superior makes no distinction between judicial officers as referred to in Section 1(b)(5) to (10) of the Judiciary (Organisation) Act on the basis of whether or not the appointment is temporary, unless such a distinction is objectively justified.
- c. The superior will not terminate the employment of an officer referred to in subsections 1 and 2 due to the fact that the person concerned has invoked subsection 1 or 2, either in or out of court, or has provided assistance in this matter.
- d. The superior will not prejudice an officer referred to in subsections 1 and 2 due to the fact that the person concerned has invoked the provisions of subsection 1 or 2, either in or out of court, or has provided assistance in this matter.
- e. The superior will promptly and clearly inform the judicial officer as referred to in Section 1(b)(5) to (10) of the Judiciary (Organisation) Act appointed in temporary service of a vacancy for employment for an indefinite period.
- f. The Board, as referred to in Section 1 of the Netherlands institute for Human Rights Act [Wet College voor de rechten van de mens], may investigate whether a distinction as referred to in subsection 1 or 2 has been or is being made. Sections 10, 11, 12, 13, 22 and of the Netherlands institute for Human Rights Act apply mutatis mutandis.



## **Chapter 1A. Appointment, swearing-in, inauguration and official dress**

### **§ 1A.1. Appointment**

#### **Section 1b**

[Repealed on 01-07-2010]

#### **Section 1c**

[Repealed on 01-07-2010]

#### **Section 1d**

[Repealed on 01-07-2010]

#### **Section 1e**

[Repealed on 01-07-2010]

#### **Section 1f**

[Repealed on 01-07-2010]

### **§ 1A.2. Swearing-in and inauguration**

#### **Section 1g**

[Repealed on 01-07-2010]

### **§ 1A.3. Official dress**

#### **Section 1h**

[Repealed on 01-07-2010]

## **Chapter 2. Appointment, placement and swearing-in**

### **Section 2**

- a. Appointments to the office of the president, vice-president, justice or justice extraordinary at the Supreme Court, senior justice, justice or deputy justice at a court of appeal, senior judge A, senior judge, judge or deputy judge at a district court, or procurator general, deputy procurator general, advocate general or advocate general extraordinary at the Supreme Court, are made for life by royal decree on the nomination of Our Minister.
- b. Appointments to the office of procurator general, as a member of the Board of Procurators General, national chief advocate general at the public prosecution service's office at the court of appeal, chief advocate general, senior advocate general or advocate general at the public prosecution service's office at the court of appeal or the National Head Office, or chief public prosecutor, deputy chief public prosecutor, senior public prosecutor A, senior public prosecutor, public prosecutor or junior deputy public prosecutor at a district court public prosecutor's office, the National Public Prosecutors' Office, the National Office for Serious Fraud, Environmental



- Crime and Asset Confiscation, the Central Processing Office of the Netherlands Public Prosecution Service or the National Head Office are made by royal decree on the nomination of Our Minister.
- c. Appointments to the office of deputy advocate general at the public prosecution service's office at the court of appeal or the National Head Office, deputy public prosecutor, public prosecutor in single-judge cases or deputy public prosecutor in single-judge cases are made by order of Our Minister.
  - d. In derogation from the provisions of subsection 3, the Board of Procurators General may appoint the national chief advocate general or a chief advocate general, senior advocate general, advocate general or deputy advocate general at the public prosecution service's office at the court of appeal or the National Head Office to the office of deputy public prosecutor at a district court public prosecutor's office, the National Public Prosecutors' Office, the National Office for Serious Fraud, Environmental Crime and Asset Confiscation, the Central Processing Office of the Netherlands Public Prosecution Service or the National Head Office.
  - e. In derogation from the provisions of subsection 3, the Board of Procurators General may appoint a chief public prosecutor, deputy chief public prosecutor, senior public prosecutor A, senior public prosecutor, public prosecutor, junior deputy public prosecutor or deputy public prosecutor at a district court public prosecutor's office, the National Public Prosecutors' Office, the National Office for Serious Fraud, Environmental Crime and Asset Confiscation, the Central Processing Office of the Netherlands Public Prosecution Service or the National Head Office to the office of deputy advocate general at the public prosecution service's office at the court of appeal or the National Head Office.
  - f. Appointments to the office of senior court legal assistant or court legal assistant are made by order of Our Minister if it concerns temporary employment, or by royal decree on the nomination of Our Minister if it concerns permanent employment. Our Minister does not appoint or put forward a nomination for an appointment except on the proposal of the superior concerned.
  - g. Appointments to the office of registrar or deputy registrar of the Supreme Court are made by royal decree on the nomination of Our Minister.
  - h. Appointments to the office of trainee judge and trainee public prosecutor are made by order of Our Minister.

### **Section 3**

[Repealed on 01-01-2011]

### **Section 4**

Only Dutch nationals may be appointed as judicial officers.

#### **Section 4a**

1. Only a person who is in possession of a certificate of conduct, not more than three months old and that has been issued in accordance with the Dutch Judicial Data



and Criminal Records Act [Wet justitiële en strafvorderlijke gegevens], can be appointed as a judicial officer or trainee judicial officer.

2. Subsection 1 does not apply to those who are already a judicial officer or trainee judicial officer at the time of their appointment.

#### Section 5

1. The following persons may be appointed as judicial officers:
  - a. those who has been awarded the degree of Bachelor of Laws and also a Master in Laws after passing a final examination for a university study programme in the field of law at a university or the Open University as referred to in the Dutch Higher Education and Research Act [Wet op het hoger onderwijs en wetenschappelijk onderzoek];
  - b. those who have been granted the right to bear the title of 'meester' after passing a final examination for a study programme in the field of law at a university or the Open University as referred to in the Higher Education and Research Act;
2. By order in council, degrees awarded by a university, the Open University or a university of applied sciences as referred to in the Higher Education and Research Act, or equivalent degrees, may be designated for the applicability of subsection 1(a), and may be considered the equivalent of the degree of Bachelor of Laws referred to in that subsection.
3. Further rules concerning the professional requirements for judicial officers, as referred to in Section 1(b)(1) to (7), (9) and (10) of the Judiciary (Organisation) Act, may also be laid down by order in council.

#### Section 5a

1. Appointments to the office of president of, vice-president of or justice at the Supreme Court or procurator general, deputy procurator general or advocate general at the Supreme Court may be changed to the appointment to the office of justice extraordinary respectively advocate general extraordinary at the Supreme Court at the request of the individual in question, once this person has reached the age of sixty-one years.
2. When determining entitlements and obligations concerning pensions and benefits due to voluntary early retirement, a change in the appointment as referred to in subsection 1 is considered equivalent to discharge. Section 46n does not apply to justices extraordinary and advocates general extraordinary at the Supreme Court.

#### Section 5b

1. If it concerns an appointment of a judicial officer to an office held at a court of appeal or district court as referred to in Section 2(1), (6) and (8), the court of appeal or district court where the office is to be held will be determined by an order of the Council for the Judiciary, in accordance with the recommendation of the court management in question.
2. If it concerns an appointment of a judicial officer to an office to be held at the public prosecutor's office of the Public Prosecution Service as referred to in Section 2(2), (3) and (8), the public prosecutor's office where the office is to be held will be determined by order of Our Minister. The first sentence does not apply



if it concerns an appointment to the position of procurator general or national chief advocate general.

3. If it concerns an appointment of a judicial officer to an office to be held at the public prosecutor's office of the Public Prosecution Service by the Board of Procurators General as referred to in Section 2(4) and (5), the public prosecutor's office where the office is to be held will be determined by order of the Board of Procurators General.
4. Changes to the designation of the court of appeal or district court or the public prosecutor's office concerning the office where the office is held, as referred to in subsections 1, 2 or 3 respectively, made at the request of the judicial officer concerned, are also made by order of the Council for the Judiciary, Our Minister or the Board of Procurators General respectively.

#### **Section 5c**

1. If an office of senior justice, justice, deputy justice, senior judge A, senior judge, judge or deputy judge becomes vacant at a court of appeal or district court, the management board of that court of appeal or district court will draw up a list of recommendations citing three candidates, if possible.
2. The court meeting can advise the management board regarding the list of recommendations referred to in subsection 1, insofar as it concerns candidates who are not yet working as judicial officers entrusted with the administration of justice in that court.
3. The management board of the court of appeal or district court will send the list of recommendations referred to in subsection 1, accompanied by the advice as referred to in subsection 2 if applicable, to the Council for the Judiciary.
4. If the list of recommendations only mentions candidates who already hold the office in question at another court, the Council for the Judiciary makes a decision as referred to in Section 5b(4). If the list of recommendations also mentions candidates who have not yet held the office in question, the Council for the Judiciary forwards the list, together with an opinion on the list, to Our Minister.
5. After receipt of the list of recommendations and the opinion of the Council for the Judiciary, as referred to in subsection 4, second sentence, Our Minister decides whether he will nominate a candidate for appointment as referred to in Section 2(1) or will request that the Council for the Judiciary makes a decision as referred to in Section 5b(4).
6. If an office of justice becomes vacant at the Supreme Court, the Supreme Court notifies the House of Representatives of the States General, and sends a list drawn up by the Supreme Court, after consultation with the procurator general at the Supreme Court, of recommendations for six candidates, for the recommendation of three persons to be decided by the House of Representatives of the States General.

#### **Section 5d**

1. Rules concerning the appointment to permanent or temporary employment in an office as referred to in Section 2(2) to (7) are laid down by or pursuant to an order in council.



2. Further rules concerning the appointment to an office as referred to in Section 2(8), in any event including those concerning the appointment to permanent or temporary employment, and rules concerning the designation of the court or public prosecutor's office where an office as referred to in Section 2(8) is held, are laid down by or pursuant to an order in council.

#### **Section 5e**

Rules may be laid down by or pursuant to an order in council with respect to:

- a. determining suitability for appointment to an office;
- b. the procedure for appointment to an office at the Procurator General's Office at the Supreme Court, an office at the Public Prosecution Service, the office of senior court legal assistant or court legal assistant or the office of registrar or deputy registrar at the Supreme Court;
- c. the procedure for designating the court or public prosecutor's office in which an office is held in the event of appointment to an office as referred to in Section 5b(2), or to the office of senior court legal assistant or court legal assistant at a court of appeal or district court; and
- d. the information to be stated in an appointment decision or a decision designating the court or public prosecutor's office in which an office is held.

#### **Section 5f**

1. Judicial officers hold the office to which they are appointed based on an appointment for an average number of hours per week.
2. In derogation from the provisions of subsection 1, justices extraordinary, deputy justices, deputy judges, advocates general extraordinary, deputy advocates general, deputy public prosecutors and deputy officers for single-judge cases are not appointed, but the superior may call them in to perform work.
3. With the exception of justices extraordinary and advocates general extraordinary at the Supreme Court, the judicial officers referred to in subsection 2 may also perform their duties based on an appointment for an average number of hours per week.
4. Further rules related to the appointment and designation of judicial officers are laid down by an order in council.

#### **Section 5g**

1. When they are appointed to office and before the date of entering employment, judicial officers take an oath or make a solemn affirmation in accordance with the form set out in the appendix to the Act.
2. In derogation from the provisions of subsection 1, judicial officers are not sworn in again if they are subsequently appointed to an office held at the same court or public prosecutor's office, unless:
  - a. it concerns the appointment to president or procurator general at the Supreme Court; or
  - b. it concerns the appointment to court legal assistant other than deputy justice or deputy judge, or the registrar of the Supreme Court.
3. Further rules related to the swearing-in of judicial officers are laid down by an order in council.



4. In derogation from subsection 1, ex officio deputies and deputies appointed by the Board of Procurators General are not sworn in as such.

### **Chapter 3. Salary and other financial conditions of employment**

#### **Section 6**

Unless otherwise provided, the powers concerning judicial officers referred to in this chapter are exercised by Our Minister or, if it concerns judicial officers working at a court of appeal or district court, by the court management.

#### **Section 7**

1. Judicial officers who hold office based on an appointment are salaried.
2. For the setting of their salaries, the judicial officers referred to in subsection 1 are divided into the following categories:
  - Category 1: president of and procurator general at the Supreme Court;
  - Category 2: vice-president of and deputy procurator general at the Supreme Court;
  - Categories 3: justice and advocate general at the Supreme Court; procurator general, member of the Board of Procurators General; chief public prosecutor at the district court public prosecutor's offices in Amsterdam, The Hague and Rotterdam and at the district court public prosecutor's office in the districts of Gelderland and Overijssel jointly; chief public prosecutor at the National Public Prosecutors' Office; chief public prosecutor at the National Office for Serious Fraud, Environmental Crime and Asset Confiscation;
  - Categories 4: national chief advocate general; chief public prosecutor at the other offices of the Public Prosecution Service;
  - Categories 5: deputy chief public prosecutor at the district court public prosecutor's offices in Amsterdam, The Hague and Rotterdam and at the district court public prosecutor's office in the districts of Gelderland and Overijssel jointly; deputy chief public prosecutor at the National Public Prosecutors' Office; deputy chief public prosecutor at the National Office for Serious Fraud, Environmental Crime and Asset Confiscation;
  - Categories 6: chief advocate general; deputy chief public prosecutor at the other offices of the Public Prosecution Service;
  - Category 7: senior justice at a court of appeal; senior judge A at a district court; senior advocate general; senior public prosecutor A;
  - Category 8: justice at a court of appeal; senior judge at a district court, advocate general at the public prosecution service's office at the court of appeal or the National Head Office; senior public prosecutor;
  - Category 9: judge at a district court; public prosecutor;
  - Category 9a: trainee judge; trainee officer;
  - Categories 10: registrar of the Supreme Court; court legal assistant, also deputy justice at the court of appeal at which he is appointed; court legal assistant, also deputy judge at the district court at which he is appointed; junior deputy public prosecutor; officer at single-judge cases; senior court legal assistant;
  - Category 11: court legal assistant; deputy registrar of the Supreme Court.





3. The salary scales of judicial officers referred to in subsection 1 are determined by or pursuant to an order in council in accordance with the classification set out in subsection 2.

**Section 8**

[Repealed on 01-07-2010]

**Section 9**

1. The judicial officers referred to in Section 5f(2) and (3) who hold office on the basis of an appointment and who do not already receive salary as a judicial officer on other grounds, receive a salary for the duration of their appointment with due observance of the provisions laid down by or pursuant to Section 7.
2. The judicial officers referred to in Section 5f(2) who perform duties after being called in by the superior for that purpose and who do not already receive salary as a judicial officer on other grounds, receive remuneration in accordance with rules to be laid down by an order in council.
3. For the applicability of subsection 1:
  - a. deputy justices are considered equivalent to a justice at the same court of appeal;
  - b. deputy judges are considered equivalent to a judge at the same district court;
  - c. deputy advocate generals are considered equivalent to an advocate general at the same time public prosecutor's office;
  - d. deputy public prosecutors are considered equivalent to a junior deputy public prosecutor or a public prosecutor at the same public prosecutor's office;
  - e. deputy public prosecutors for single-judge sessions are considered equivalent to public prosecutors in single-judge cases at the same public prosecutor's office.

**Section 10**

[Repealed on 01-07-2010]

**Section 11**

[Repealed on 01-01-2002]

**Section 12**

[Repealed on 01-07-2010]

**Section 13**

1. If a scale has been set for the salary of a judicial officer pursuant to Section 7(3), he will be paid the first salary in the scale on commencement of employment and then, after successive periods of one year thereafter, the next salary in the scale.
2. For judicial officers whose first appointment concerns an office at a court of appeal or district court, the court management in question may deviate from subsection 1. If the court management intends to take a decision to this effect, it will give the



Council for the Judiciary the opportunity to give an opinion on the matter. If the Council for the Judiciary gives an opinion, the court management will send a copy of the decision taken subsequently to the Council for the Judiciary.

3. For judicial officers other than as referred to in subsection 2, Our Minister may deviate from subsection 1, but not unless it is based on a proposal from or after obtaining an opinion from the superior.

#### **Section 14**

1. If a judicial officer is subsequently appointed to an office which has a higher maximum salary and for which a scale has been set pursuant to Section 7(3), the judicial officer will be placed in the next level higher in that scale with effect from the date of commencement of employment. The annual salary increase to reach the next salary in the scale will come into effect on the same day of the year as the one stated in Section 13.
2. For judicial officers whose subsequent appointment concerns an office at a court of appeal or district court, the court management in question may deviate from the first sentence in subsection 1 to the benefit of the judicial officer. If the court management intends to take a decision to this effect, it will give the Council for the Judiciary the opportunity to give an opinion on the matter. If the Council gives an opinion, the court management will send a copy of the decision taken subsequently to the Council.
3. For judicial officers other than as referred to in subsection 2, Our Minister may deviate from subsection 1, but not unless it is based on a proposal from or after obtaining an opinion from the superior.

#### **Section 15**

1. If a judicial officer is subsequently appointed to an office which has the same maximum salary and for which a scale has been set pursuant to Section 7(3), judicial officers who do not yet receive the maximum salary related to that office will be placed in the next level higher in that scale with effect from the date of commencement of employment. The annual salary increase to reach the next salary in the scale will come into effect on the same day of the year as the one stated in Section 13.
2. If there is an amendment, as referred to in Section 5b(4), to the designation of the court or public prosecutor's office in which an office is held, the provisions of the first subsection will apply mutatis mutandis.

#### **Section 16**

1. If, in the opinion of the authority referred to in Section 6, a judicial officer who has not been appointed for life, and who is not yet receiving the maximum salary on the salary scale applicable to him, performs the duties of his office exceptionally well, his salary may be increased to a higher amount stated in that salary scale.
2. If, in the opinion of the authority referred to in Section 6, a judicial officer who has not been appointed for life, and who receives the maximum salary on the salary scale applicable to him, performs the duties of his office exceptionally well, his salary may be increased to an amount stated in the salary scale related to the



office for which the maximum salary is the next higher amount than that of the office to which he was appointed.

3. The opinion about the manner in which the duties of an office are performed, as referred to in the first and second subsections, is based on the report of a performance review held with the judicial officer or on an established appraisal of the judicial officer's performance.
4. Increases in the salary as referred to in the first and second subsections will take place on a day to be determined by the authority referred to in Section 6. If there is an increase in salary as referred to in the first subsection, the annual increase to reach the next salary in the scale will come into effect on the same day of the year as the one stated in Section 13.
5. Salary increases as referred to in the second subsection may be revoked if the authority referred to in Section 6 is of the opinion that the judicial officer is no longer performing his duties exceptionally well. The third subsection applies *mutatis mutandis*.

#### **Section 17**

1. Receipt of a salary commences on the day on which the judicial officer starts employment.
2. When transferring to another position within central government, if this position is accepted with effect from a date before the date of the end of the appointment in judicial office, the salary in this office will not be paid beyond the date on which receipt of the salary in the new position commences.
3. Salaries are paid on a monthly basis.
4. If entitlement to an increase in salary comes into effect on a day other than the first day of a calendar month, the new salary will be received from the first day of that calendar month.
5. If the salary has to be calculated over part of the calendar month, the daily salary is determined by dividing the monthly salary by the number of days of the calendar month in question.
6. Judicial officers or trainee judicial officers do not receive any salary for the period in which they deliberately fail to perform their duties, in violation of their obligations.
7. The second, third, fifth and sixth subsections apply *mutatis mutandis* to the allowances associated with the judicial officer's remuneration by or pursuant to the provisions of this Act.

#### **Section 18**

1. The judicial officer's remuneration is not paid beyond the day on which the officer dies.
2. An amount equal to the remuneration for a period of three months will be paid as soon as possible after the death to the widow or widower from whom the deceased judicial officer was not permanently separated. The criterion used is the remuneration that the judicial officer received on the day of his death. A widow or widower from whom the judicial officer was not permanently separated includes the surviving registered partner as well as the surviving life partner with whom an unmarried judicial officer cohabited and with whom the officer ran a joint



household, with the aim of cohabiting permanently, on the basis of a cohabitation contract, executed before a civil-law notary, which sets out the reciprocal rights and obligations with respect to that cohabitation and joint household. Furthermore, only one person may be designated as the life partner.

3. An amount equal to three times the monthly holiday allowance is added to the benefit. The criterion used is the remuneration that the judicial officer would have received in the month of his death.
4. If the judicial officer does not have a widow or widower from whom he was not permanently separated, the benefit will be paid to the minor children. The term 'children' also means natural children who the judicial officer cared for as a foster parent. The term 'cared for as a foster parent' means the care for the maintenance and upbringing of the child as if it were his own child, regardless of any obligation to do so and regardless of whether or not he received compensation for this.
5. If there are no minor children, and if the judicial officer was the breadwinner for parents, adult children, brothers or sisters, the benefit will be paid to these surviving relatives.
6. If the judicial officer does not have any surviving relatives as referred to in the second to fifth subsections, the amount referred to in the second subsection may be spent entirely or in part for settling the costs related to the funeral and the illness preceding death, if the judicial officer's estate is insufficient to cover those costs.
7. Benefits under Section 35 of the Dutch Sickness Benefits Act [Ziektewet], under Section 74 of the Dutch Work and Income (Capacity for Work) Act [Wet werk en inkomen naar arbeidsvermogen] and under Section 53 of the Dutch Invalidity Insurance Act [Wet op de arbeidsongeschiktheidsverzekering] or benefits corresponding in nature and scope to these benefits are deducted from the amount referred to in the second and third subsections, if these benefits are paid. If a benefit as referred to in the first sentence arises both from an appointment to a judicial office and from one or more other positions, for the purposes of the first sentence, 'benefit' means the part of the benefit that can be attributed to the appointment to a judicial office.

#### **Section 18a**

1. Section 18 applies mutatis mutandis if the judicial officer is missing, on the understanding that:
  - a. the judicial officer is deemed to have died on a day to be determined by the authority referred to in Section 6; and
  - b. Section 18(2) to (7) do not apply mutatis mutandis if there are well-founded suspicions that the judicial officer is missing as a consequence of unauthorised absence.
2. If it becomes apparent that the judicial officer regarded as missing is alive and there are no well-founded suspicions that it was due to unauthorised absence, the remuneration may then be paid to the judicial officer or to other persons.
3. An amount equal to the total pension and benefits granted due to the judicial officer being missing, for the period for which the officer was still entitled to



remuneration, will be deducted from the remuneration referred to in the second subsection.

#### **Section 19**

The provisions that apply to central government civil servants, concerning the simultaneous receipt of civil and military remuneration, apply *mutatis mutandis* to judicial officers who perform the duties of their office on the basis of an appointment or designation, on the understanding that the remuneration paid to judicial officers appointed for life will never be less than the amount by which this remuneration exceeds their military remuneration.

#### **Section 19a**

Rules governing the continued payment of remuneration to judicial officers if they are unable to work due to illness are laid down by an order in council.

#### **Section 19b**

In addition to the provisions of this chapter, additional employment conditions may be laid down for judicial officers by or pursuant to an order in council.

### **Chapter 3A. Attachment, recovery, offsetting and deductions**

#### **Section 19c**

1. For the application of this chapter, the following terms mean or include the following:
  - judicial officer: the surviving relatives of a judicial officer who are entitled to a pension as a result of his death;
  - remuneration: the amounts – referred to as pension, redundancy pay, benefit or howsoever described – to which the judicial officer or former judicial officer is entitled as such in connection with his employment or previous employment, or to which his surviving relatives are entitled following his death.
2. In this chapter, 'attachment' also includes claims as referred to in Section 19 of the Dutch Collection of State Taxes Act 1990 [Invorderingswet 1990].
3. Unless otherwise provided, the powers concerning judicial officers referred to in this chapter are exercised by Our Minister or, if it concerns judicial officers working at a court of appeal or district court, the court management.

#### **Section 19d**

1. Unless otherwise provided in this chapter, remuneration is subject to attachment in accordance with the provisions of general law.
2. Expenses allowances related to the performance of duties are not subject to attachment.

#### **Section 19e**

Our Minister or the court management may recover unduly paid remuneration from judicial officers.



**Section 19f**

1. Our Minister or the court management may offset against any remuneration owed by them, any amount that the judicial officer himself owes to them as such.
2. Offsetting is possible despite attachment made or deductions applied as referred to in Section 19g(1).
3. Offsetting is only valid insofar as an attachment of that remuneration would be valid, on the understanding that sums owed for housing or food can also be offset against that part of the remuneration that falls under the protected earnings level [beslagvrije voet] referred to in Section 475d of the Dutch Code of Civil Procedure.

**Section 19g**

1. Our Minister or the court management may apply deductions to the remuneration for the benefit of a creditor of the judicial officer, provided that the judicial officer acknowledges the creditor's claim or the existence of the claim is evident from a final and unappealable judgment or from an authentic deed.
2. The deduction is only valid to the extent that an attachment of that remuneration would be valid.
3. Attachment, bankruptcy, suspension of payments and application of the debt restructuring scheme for natural persons to the judicial officer preclude the application of deductions.

**Section 19h**

Without prejudice to Section 19f(2) and Section 19g(3), offsetting and the application of deductions are considered equivalent to attachment as far as the application of Sections 475b(2) and (3), and 475d(3) of the Dutch Code of Civil Procedure is concerned.

**Section 19i**

If several creditors are entitled to a part of the remuneration due to attachment or deductions, the distribution will be proportional to the debts insofar as one creditor outranks the others.

**Section 19j**

1. Assignment, pledging or any other act through which the judicial officer grants any rights to his remuneration to a third party is only valid for that part of the remuneration on which attachment would be valid.
2. Authorisation to pay or collect the remuneration is only valid if it has been granted in writing and can always be revoked.

**Section 19k**

Payment or surrender to an authorised representative, after the authorisation for payment or collection of remuneration has ended, discharges the competent authority if an order given for payment or surrender could no longer be revoked in good time when the competent authority became aware that the authorisation had ended.



## **Chapter 4. Working hours, working times and division of tasks**

### **Section 20**

[Repealed on 01-07-2010]

### **Section 21**

[Repealed on 01-07-2010]

### **Section 22**

[Repealed on 01-07-2010]

## **Chapter 5. Holidays and leave**

### **Part 5.1 Holidays**

#### **Section 23.**

[Repealed on 01-07-2010]

#### **Section 24**

[Repealed on 01-07-2010]

#### **Section 25**

[Repealed on 01-07-2010]

#### **Section 26**

[Repealed on 01-07-2010]

#### **Section 27**

[Repealed on 01-07-2010]

#### **Section 27a**

[Repealed on 01-07-2010]

#### **Section 28**

[Repealed on 01-07-2010]

#### **Section 29**

[Repealed on 01-07-2010]

#### **Section 30**

[Repealed on 01-07-2010]

#### **Section 31**

[Repealed on 01-07-2010]

#### **Section 32**

[Repealed on 01-07-2010]



## Part 5.2. Leave

### Section 33

[Repealed on 01-07-2010]

### Section 34

[Repealed on 01-07-2010]

### Section 35

[Repealed on 01-07-2010]

### Section 36

[Repealed on 01-07-2010]

### Section 37

[Repealed on 01-07-2010]

### Section 38

[Repealed on 01-07-2010]

### Section 39

[Repealed on 01-07-2010]

## Chapter 6. Other rights and obligations

### Section 40

1. No work is assigned to judicial officers on Sundays and days designated as generally recognised public holidays by or pursuant to the Dutch General Extension of Time Limits Act [Algemene termijnenwet], unless the superior is of the opinion that it is unavoidable in the interests of the service.
2. In derogation from the first subsection, judicial officers as referred to in Section 1(b)(7) of the Judiciary (Organisation) Act, insofar as they work for a district court public prosecutor's office or the Central Processing Office of the Netherlands Public Prosecution Service, are given work to perform on Sundays and on days designated as public holidays by or pursuant to the General Extension of Time Limits Act if it is unavoidable due to the nature and/or organisation of the work.
3. Judicial officers as referred to in Section 1(b)(5) to (10) of the Judiciary (Organisation) Act are not obliged to perform duties on public holidays and days of rest that apply to them on the basis of their religion or philosophical beliefs, unless it is unavoidable in the interests of the service.

### Section 41

1. The management of the district court or court of appeal allocates the work of the judicial officers working for that court.
2. The head of the public prosecutor's office allocates the work of the judicial officers working for that public prosecutor's office.
3. The president of the Supreme Court allocates the work of court legal assistants at the Supreme Court.





4. The allocation of work referred to in the first to third subsections can only be deviated from for a limited period of time and if the court management, the president of the Supreme Court or the head of the public prosecutor's office are of the opinion that, in the interests of the service, it is unavoidable.

#### **Section 42**

1. The State has exclusive liability to a third party for damages to a third party that are caused by a judicial officer in the performance of his duties and for which the judicial officer himself would be liable under the law.
2. Judicial officers are not liable to the State for damages referred to in the first subsection and damages inflicted on the State in the performance of their duties, unless the damages are the result of intent or wilful recklessness.
3. Judicial officers are not liable for damages arising from a court decision.
4. Our Minister may by order oblige the judicial officer concerned to pay compensation to the State for full and final discharge related to damages for which he is liable pursuant to subsection 2.
5. The amount of the compensation will be stated in the order. If it is not possible to determine the amount, the reason for this and, if possible, a provisional estimate of the amount will be stated in the order; Our Minister will subsequently set the amount as soon as possible by way of a separate order.

#### **Section 43**

1. Judicial officers who have not been appointed for life shall refrain from revealing thoughts or feelings and from exercising the rights of association, assembly and demonstration if, in the opinion of the superior, the exercising of these rights means that the proper performance of the duties of the office or proper functioning of the judiciary cannot reasonably be assured.
2. To the extent that it concerns the right of association, the first subsection does not apply to membership of:
  - a. a political grouping, the appellation of which is registered in accordance with the Dutch Elections Act [Kieswet]; or
  - b. a trade union.

#### **Section 44**

1. With the exception of deputies, trainee judges and trainee public prosecutors, judicial officers may not also practise as lawyers or civil-law notaries, or otherwise make a profession of providing legal assistance.
2. Lawyers cannot also act as a deputy judge in the district court in the court district in which they maintain an office, nor can they act as a deputy justice in the court of appeal for the region that includes the court district in which they maintain an office.
3. A person who works as a judicial officer in a public prosecutor's office cannot also act as a deputy judge in a district court or as a deputy justice in a court of appeal. The first sentence does not apply during the period in which he has been granted special leave at his request for the average number of hours per week for which he has been appointed.
4. Judicial officers must not hold any positions that involve performing work that is undesirable with a view to the proper performance of the duties of the office or



the maintenance of the officers' impartiality and independence, or that may undermine confidence therein.

5. Judicial officers must notify the superior of the positions they hold outside the scope of their office. Insofar as possible, this notification must be made as soon as the intention to perform the job arises. Even if they do not hold positions outside the scope of their office, they must notify the superior accordingly.
6. The superior will assess whether the fulfilment of the position is undesirable with respect to the grounds referred to in the fourth subsection. In respect of judicial officers entrusted with the administration of justice who are not presidents, the president of the court where the person concerned is employed exercises this authority. In respect of judicial officers who are also president of a district court in the region of a court of appeal, the president of the court of appeal exercises this authority. In respect of judicial officers who are also president of a court of appeal, the president of the Supreme Court exercises this authority.
7. The following information must be mentioned in a notification as referred to in the first sentence of subsection 5:
  - a. a brief description of the position and the type of company or institution where the position is held;
  - b. the name of the company or the institution where the position is held;
  - c. the place where the position is held;
  - d. whether the position is remunerated or unremunerated;
  - e. the time at which the position commences and ends;
  - f. the scope of the position in terms of hours per month; and
  - g. the amount of the remuneration per annum, to be specified in categories;

on the understanding that, in derogation from points f and g, the deputies do not have to report the scope and amount of the remuneration for their main position.

8. The notifications are updated annually.
9. Our Minister informs the procurator general at the Supreme Court of the positions that the members of the Board of Procurators General hold outside their office.
10. Further rules regarding the implementation of the fifth, seventh and eighth subsections may be laid down by an order in council.

#### **Section 44a**

1. For the purposes of this article and the provisions based on it, 'ancillary positions' means the positions that judicial officers perform outside their office.
2. The notifications as referred to in Section 44(5), and the information on an ancillary position as referred to in Section 44(7)(a) to (e), are recorded in a register at the relevant court or public prosecutor's office or the National Head Office. The superior is responsible for the accuracy and completeness of the information contained in the register concerning the judicial officers working at his court, the public prosecutor's office or at the National Head Office.
3. The register is updated annually.
4. The register is published in electronic form and can also be consulted at the relevant court, the relevant public prosecutor's office or the National Head Office.
5. A copy of a part of the register requested by an applicant is available at cost.



6. In derogation from the provisions of the fourth subsection, the superior may decide, regarding ancillary positions held by a judicial officer, that the information referred to in Section 44(7)(b) and (c) is not to be disclosed or not to be disclosed in full with a view to the security of the judicial officer in question.
7. Pursuant to subsection 6, if information regarding an ancillary position held by a judicial officer is not to be disclosed or not to be disclosed in full, the superior shall inform a litigant in a case that is being dealt with by that judicial officer, at its request, about whether the ancillary position in question is related to companies and institutions, which it will indicate, that are involved in its case, unless this compromises the security of the judicial officer.
8. The information concerning the ancillary position will be kept in the register for a period of three years after the end of an ancillary position.
9. It will be noted in the register that deputies who, for a period of two years, have not been called up to perform work as referred to in Section 5f(2), and who have not been temporarily appointed as referred to in Section 5f(3) during that period, were not called in or appointed as such during that period.
10. Further rules regarding the implementation of this section may be laid down by an order in council.

#### **Section 45**

1. Our Minister or, if it concerns a judicial officer who works for a court of appeal or a district court, the court management or the Council for the Judiciary respectively, will grant judicial officers appointed or elected to a position in a body governed by public law special paid leave to attend meetings and hearings at that body and for the performance of work arising from this for the benefit of that body, unless this is contrary to the interests of the service.
2. Our Minister or, if it concerns a judicial officer who works for a court of appeal or a district court, the court management or the Council for the Judiciary respectively, will grant judicial officers special paid leave for performing or participating in activities in the fields referred to in Section 48(1) and (3), for or of an association or the central body of associations as referred to in Section 50(2), unless this is contrary to the interests of the service.
3. Further rules regarding special leave as referred to in the first and second subsections, including in any event rules regarding the continued payment of remuneration during periods in which special leave as referred to in the first or second subsection is granted, are laid down by or pursuant to an order in council.

#### **Section 46**

1. Our Minister or, if it concerns a judicial officer who works for a court of appeal or a district court, the court management or the Council for the Judiciary respectively, may grant a judicial officer equitable compensation, reimbursement of costs or otherwise financial allowances.
2. A copy of a decision taken by Our Minister or the Council for the Judiciary as referred to in the first subsection will be sent to the superior of the judicial officer concerned.
3. The court administration referred to in the first subsection will give the Council for the Judiciary the opportunity to issue an opinion on an intended decision to grant



compensation, a cost reimbursement or financial allowances, as referred to in the first subsection, that exceed €5,000 on an annual basis. If the Council for the Judiciary gives an opinion, the court management will send a copy of the decision taken subsequently to the Council for the Judiciary.

4. Our Minister, in agreement with Our Minister of the Interior and Kingdom Relations, may lay down rules regarding compensation, cost reimbursements and other financial allowances for groups of judicial officers or trainee judicial officers.
5. If Section 17(6) applies, the entitlements referred to in the first subsection will cease to apply on a pro rata basis.

#### **Section 46a**

[Repealed on 01-07-2010]

### **Chapter 6A. Disciplinary measures, suspension and discharge**

#### **§ 6A.1. General**

##### **Section 46b**

This chapter only applies to judicial officers who have been appointed for life.

#### **§ 6A.2. Disciplinary measures**

##### **Section 46c**

A disciplinary measure may be imposed on a judicial officer if he:

- a. disregards the dignity of the office, his official duties or his official obligations;
- b. violates the provisions that prohibit him from practising a profession, that designate a fixed and permanent place of residence, prohibit him from engaging in any interview or conversation with parties or their lawyers or representatives, or accepting any special information or written documents from them, or impose on him a duty of confidentiality or the obligation to inform the superior of positions which he performs outside his office; or
- c. his acts or omissions seriously harm the proper administration of justice or confidence therein.

##### **Section 46ca**

1. The disciplinary measures that may be imposed on a judicial officer are:
  - a. written reprimand;
  - b. withholding of salary amounting to no more than half a month's salary;
  - c. suspension for three months at most; or
  - d. discharge.
2. Discharge as a disciplinary measure will not be imposed solely on the grounds of Section 46c(a).
3. In its decision to suspend the judicial officer, the Supreme Court may determine that the remuneration will be withheld entirely or in part during the period of suspension.
4. When imposing suspension as a disciplinary measure, the Supreme Court may decide that it will not be enforced if, for a period of time laid down in the decision,



the judicial officer is not guilty of similar acts to those for which the disciplinary measure is imposed or does not commit any other acts or omissions as referred to in Section 46c, and he observes any special conditions imposed with the suspension.

5. The superior is charged with supervising compliance with the conditions referred to in the fourth subsection. In respect of judicial officers entrusted with the administration of justice who are not president of a court, the president of the court where the person concerned is employed exercises this authority. In respect of judicial officers who are also president of a district court, the president of the court of appeal in the area of jurisdiction in which the district court is situated exercises this authority. In respect of judicial officers who are also president of a court of appeal, the president of the Supreme Court exercises this authority.

#### **Section 46d**

1. Unless it is imposed by the Supreme Court, a written reprimand is imposed as a disciplinary measure:
  - a. concerning judicial officers who work for a district court and who are not also president of that court: by the judicial officer who is also the president of that district court;
  - b. concerning judicial officers who work for a court of appeal and who are not also president of that court of appeal, as well as judicial officers who are also president of a district court in the region of a court of appeal: by the judicial officer who is also the president of that court of appeal;
  - c. concerning the vice-presidents of, the justices at and the justices extraordinary at the Supreme Court, as well as judicial officers who are president of a court of appeal: by the president of the Supreme Court;
  - d. concerning the deputy procurator general, the advocates general and the advocates general extraordinary at the Supreme Court: by the procurator general of the Supreme Court;
2. The other disciplinary measures referred to in Section 46ca(1) are only imposed by the Supreme Court.
3. During a procedure pursuant to Section 46o, no disciplinary measures are imposed against the judicial officer concerned, for the conduct to which that procedure relates, other than by the Supreme Court.

#### **Section 46e**

1. A written reprimand is only imposed as a disciplinary measure once the judicial officer who is also the president of the court of appeal or the district court, the president of the Supreme Court or the procurator general at the Supreme Court has given the judicial officer concerned the opportunity to express his views in writing or orally.
2. A report is made of the oral presentation of the opinion; the report is signed by the judicial officer concerned and by the person in whose presence the opinion was expressed. If the judicial officer refuses to sign the report, this will be noted, mentioning the reasons for this, if possible. The judicial officer is given a copy of the report.



3. The first and second subsections do not apply if the Supreme Court imposes a written reprimand as a disciplinary measure.

### § 6A.3. Suspension as a measure for maintaining order

#### Section 46f

1. The Supreme Court will suspend a judicial officer if and as long as:
  - a. he is remanded in custody;
  - b. by way of a court decision that has not yet become final and conclusive, he has been sentenced to a custodial sentence for a serious offence [misdrijf] or by way of such a decision a measure involving deprivation of liberty has been imposed on him.
2. A judicial officer may be suspended by the Supreme Court if:
  - a. he is being prosecuted for a serious offence [misdrijf];
  - b. by way of a court decision that has not yet become final and conclusive, he has been sentenced to punishment other than a custodial sentence for a serious offence [misdrijf];
  - c. a penalty order issued by a public prosecutor, which has not yet become final and conclusive, has been imposed on him for committing a serious offence [misdrijf];
  - d. if, by way of a court decision that has not yet become final and conclusive, he has been placed under guardianship, has been declared bankrupt, the debt rescheduling scheme for natural persons has been applied to him, he has been granted suspension of payments, or has been committed to prison for debt;
  - e. there is some other strong suspicion that there are facts or circumstances that could lead to discharge, other than pursuant to Sections 46h, 46i or 46k.
3. A suspension as referred to in the second subsection ends after three months, on the understanding that the Supreme Court may extend the suspension for a maximum of three months at a time.
4. The Supreme Court will terminate the suspension as referred to in the second subsection as soon as the ground for the suspension no longer exists.

#### Section 46fa

1. In the cases referred to in Section 46f(1) and (2), a designated single-judge division of the Supreme Court may place the judicial officer on non-active status if immediate action is required.
2. The judicial officer will not be placed on non-active status until after the authority referred to in Section 46d(1) has submitted a request, as referred to in Section 46o(2), applying for suspension of the judicial officer on the basis of Section 46f. A request for placement on non-active status may accompany the request for suspension. The procurator general may also apply for placement on non-active status on his own motion.
3. Section 46o(3) and the second sentence of subsection 4 do not apply to the procedure for placement on non-active status.



4. The consequence of being placed on non-active status on the grounds of the first subsection is that the judicial officer may not perform his duties during the period of being on non-active status.
5. The placement on non-active status on the grounds of the first subsection ends after thirty days, or sooner if the Supreme Court decides on the application for suspension.

#### **Section 46g**

1. In its decision to suspend the judicial officer, the Supreme Court may determine that the remuneration will be withheld entirely or in part during the period of suspension.
2. If the suspension ends other than by discharge, the Supreme Court may decide that the unpaid remuneration should be paid entirely or in part. The income that the judicial officer received for work he performed during the suspension is deducted from the outstanding remuneration to be paid, unless the Supreme Court considers this to be unreasonable or unfair.

### **§ 6A.4. Discharge and reassignment**

#### **Section 46h**

1. Judicial officers are discharged at their own request, effected by royal decree on the recommendation of Our Minister.
2. Discharge as referred to in the first subsection is effected as of a day no earlier than one month and no later than three months after the day on which the request for discharge is received. Derogation from the provisions of the previous sentence is possible if the judicial officer so requests.
3. The judicial officer is discharged by royal decree on the recommendation of Our Minister with effect from the first day of the month following that in which the judicial officer reaches the age of seventy.

#### **Section 46ha**

'Appropriate work' referred to in Sections 46i, 46k and 46ka means all work that is assigned to judicial officers according to their powers and competencies, unless the judicial officer cannot be expected to accept this work for reasons of a physical, mental or social nature.

#### **Section 46i**

1. The Supreme Court may discharge a judicial officer if he is unable to perform his work due to illness and if:
  - a. the incapacity has lasted for two years without interruption;
  - b. recovery from his illness cannot reasonably be expected within a period of six months after the two-year period referred to in point a; and
  - c. in the opinion of the superior, sustainable rehabilitation in his own work, in other suitable work at a court or under the area of competence of Our Minister, or in suitable work outside that area of competence, cannot be expected within a reasonable period of time.
2. The following will not be taken into account when calculating the period of two years referred to in the first subsection 1(a):



- a. periods of incapacity to work due to pregnancy prior to pregnancy leave; and
  - b. periods of incapacity to work during pregnancy and maternity leave referred to in Section 3.1(2) and (3) of the Dutch Work and Care Act [Wet Arbeid en Zorg].
3. When calculating the period of two years referred to in subsection 1(a), periods of incapacity to perform work, other than as referred to in subsection 2, are added together:
  - a. if they succeed each other with an interruption of less than four weeks; or
  - b. if one period of incapacity immediately precedes another and the other period of incapacity immediately follows the period during which pregnancy and maternity leave as referred to in Section 3.1(2) and (3) of the Work and Care Act is taken, and the incapacity in these periods can reasonably be considered to be due to the same cause.
4. The period of two years referred to in subsection 1(a) will be extended:
  - a. by the duration of the delay if the report, as referred to in Section 38(1) of the Sickness Benefits Act, was made later than prescribed on the grounds of that section;
  - b. by the duration of the delay if the request, as referred to in Section 64(1) of the Work and Income (Capacity for Work) Act, was made later than prescribed in or on the grounds of that section;
  - c. by the duration of the extension if the waiting time, as referred to in Section 19(1) of the Invalidity Insurance Act, is extended on the grounds of the seventh subsection of that section; and
  - d. if the Employee Insurance Agency, referred to in Chapter 5 of the Dutch Work and Income (Implementation Organisation Structure) Act [Wet structuur uitvoeringsorganisatie werk en inkomen], has set a period of time on the grounds of Section 24(1) or Section 25(9) of the Work and Income (Capacity for Work) Act or on the grounds of Section 71a(9) of the Invalidity Insurance Act, by that period of time.
5. In derogation from the provisions of the first subsection, the judicial officer may be discharged by royal decree on the recommendation of Our Minister if the conditions referred to in that subsection are fulfilled and he requests this. In terms of legal consequences, this discharge is equated with a discharge by the Supreme Court in accordance with the first subsection.
6. Subsection 1(c) does not apply to justices extraordinary and advocates general extraordinary at the Supreme Court, deputy justices at courts of appeal and deputy judges at district courts.

#### **Section 46j**

When assessing whether there is a situation as referred to in Section 46i(1), the result of the assessment by the Employee Insurance Agency, referred to in Chapter 5 of the Work and Income (Implementation Organisation Structure) Act, of the application on the basis of Section 64 of the Work and Income (Capacity for Work) Act, is included in the assessment. If the assessment referred to in the first sentence has not taken place or took place more than a year previously, or if the judicial officer and the superior disagree about the discharge, the superior may request an opinion as referred to in Section 32(1)





of the Work and Income (Implementation Organisation Structure) Act from the Employee Insurance Agency, and the Supreme Court will include this opinion in the assessment.

**Section 46k**

1. On the proposal of the superior in a request as referred to in Section 46o(2), the Supreme Court may assign a judicial officer to another office or position at a court or the area of competence of Our Minister if the judicial officer is unable to perform his work due to illness, and if there is suitable work. The judicial officer is obliged to accept the office or the position assigned to him.
2. Without prejudice to the provisions of the first subsection, judicial officers who have been declared less than 35% incapacitated for work by the Employee Insurance Agency referred to in Section 46j(1) may be reassigned by the Supreme Court, on the proposal of the superior, to another office or position at a public prosecutor's office or court or otherwise within the area of competence of Our Minister, if there is suitable work, unless this is contrary to a compelling interest of the service.
3. In derogation from the provisions of the first subsection, if the conditions referred to in that subsection are met and the judicial officer so requests, the assignment may be given by royal decree on the recommendation of Our Minister. In terms of legal consequences, such an assignment is equated with the assignment given by the Supreme Court in accordance with the first subsection.
4. If a judicial officer is assigned to an office or position other than an office as referred to in Section 2(1), he will also be discharged as a judicial officer appointed for life by the Supreme Court or by royal decree.
5. If a judicial officer is assigned to an office as referred to in Section 2(1), for fewer hours than the number of hours that he worked on average per week in his original office, he will also be discharged by the Supreme Court or by royal decree for the excess number of hours.
6. The first to fifth subsections do not apply to justices extraordinary and advocates general extraordinary at the Supreme Court, deputy justices at courts of appeal and deputy judges at district courts.

**Section 46ka**

1. In derogation from Section 46i(1), the Supreme Court may discharge the judicial officer if he is unable to perform his work due to illness and if he refuses without proper grounds:
  - a. to observe reasonable instructions given by the superior or an expert designated by the superior or to cooperate with measures taken by the superior or an expert designated by the superior to enable him to perform his own or other suitable work;
  - b. to perform suitable work that he is given the opportunity to perform; or
  - c. to cooperate in drawing up, evaluating and adjusting a plan of action as referred to in Section 25(2) of the Work and Income (Capacity for Work) Act or Section 71a(2) of the Invalidity Insurance Act.
2. When assessing whether there is a situation as referred to in the first subsection, the result of the assessment by the Employee Insurance Agency, referred to in Section 46j(1), of the application on the basis of Section 64 of the Work and



Income (Capacity for Work) Act may be included in the assessment. If the assessment referred to in the previous sentence has not taken place or took place more than a year previously, or if a judicial officer and the superior disagree about the discharge, the superior may request an opinion as referred to in Section 32(1) of the Work and Income (Implementation Organisation Structure) Act from the Employee Insurance Agency, and the Supreme Court will include this opinion in the assessment.

#### **Section 46kb**

With respect to a judicial officer, the Supreme Court may, on the application of the superior as referred to in section 46o(2), change the determination, as referred to in Section 5b(1), of the court of appeal or district court where the office is held; this will be done by way of a measure for maintaining order and for reasons that are of compelling organisational interest to the court where the judicial officer is posted at that time.

#### **Section 46l**

1. The Supreme Court will discharge a judicial officer if he:
  - a. is unfit for holding his office for reasons other than illness;
  - b. accepts an office or position that, according to the law, is incompatible with the office he holds;
  - c. loses Dutch nationality.
2. In derogation from the provisions of the first subsection, the judicial officer may be discharged by royal decree on the recommendation of Our Minister if the conditions referred to in that subsection are met and he requests this. In terms of legal consequences, this discharge is equated with a discharge by the Supreme Court in accordance with subsection 1(a).
3. Advice is sought from a committee of three experts when assessing whether a judicial officer is unfit for holding his office for reasons other than illness. Further rules on this matter are laid down by or pursuant to an order in council.

#### **Section 46m**

The Supreme Court may discharge a judicial officer if:

- a. by way of a final and conclusive court decision, he has been sentenced for a serious offence [misdrijf], or by way of such a decision a measure involving deprivation of liberty has been imposed on him;
- b. a final and conclusive penalty order issued by a public prosecutor has been imposed on him for committing a serious offence [misdrijf];
- c. by way of a court decision that has become final and conclusive, he has been placed under guardianship, has been declared bankrupt, the debt rescheduling scheme for natural persons has been applied to him, he has been granted suspension of payments, or has been committed to prison for debt;
- d. if a deputy justice or deputy judge has, for a period of two years, not been called up to perform work as referred to in Section 5f(2), and has also not been appointed or temporarily appointed as referred to in Section 5f(1) or (3) during that period.



#### Section 46n

1. In the event of a discharge pursuant to Sections 46ca(1)(d), 46ka, 46l or Section 46m(a), (b) and (c), the Supreme Court may make a provision or a provision may be made by royal decree on the recommendation of Our Minister, whereby the judicial officer is granted a benefit that, in the opinion of the Supreme Court or Our Minister, is reasonable in view of the circumstances.
2. The benefit is at most equal to the total of benefits applicable to the judicial officer calculated on the basis of the Dutch Unemployment Insurance Act [Werkloosheidswet] and pursuant to the provisions of Section 54 with respect to provisions concerning unemployment, as if as a result of the discharge the situation of voluntary unemployment as referred to in Section 24 of the Unemployment Insurance Act did not arise.
3. For the rest, the Unemployment Insurance Act and the provisions of Section 54 with respect to provisions in the case of unemployment apply *mutatis mutandis*.
4. If the judicial officer is entitled to a benefit for the same discharge pursuant to the Unemployment Insurance Act or pursuant to the provisions of Section 54 concerning provisions in the case of unemployment, the benefit granted by the Supreme Court or by royal decree will lapse.

### § 6A.5. Procedure at the Supreme Court

#### Section 46o

1. The Supreme Court takes the decisions referred to in this chapter on the application of the procurator general at the Supreme Court. The Supreme Court decides on the termination of a suspension on the application of the procurator general or at the request of the judicial officer concerned.
2. The procurator general lodges the application referred to in the first subsection on his own motion or in response to a reasoned request from the superior of the judicial officer concerned. If the judicial officer concerned works at a court of appeal or a district court and is not also its president, the superior referred to first sentence means the judicial officer who is also the president of that court of appeal or that district court respectively. If the judicial officer concerned works at a court of appeal or a district court and is also its president, the superior referred to first sentence means the president of the Supreme Court or the judicial officer who is also the president of the court of appeal for the region under which that district court falls.
3. The procurator general will not lodge an application until he has given the judicial officer the opportunity to express his views in writing or orally. A report is made of the oral presentation of the opinion; the report is signed by the judicial officer concerned and the procurator general. If the judicial officer refuses to sign the report, this will be noted in the report, mentioning the reasons for this, if possible. The judicial officer is given a copy of the report.
4. The procurator general provides lodges a written application that includes the reasons for the application. The report referred to in the third subsection is in any event included with the application.

#### Section 46p

1. The Supreme Court's investigation is carried out in chambers.



2. The judicial officer concerned is invited to be present at the investigation and, if required, to express his opinion. The invitation is accompanied by a copy of the application that has been lodged and the documents accompanying it.
3. The Supreme Court may, at the request of the procurator general or the judicial officer concerned, or of its own motion, summon and hear witnesses.
4. The Supreme Court decides by way of a reasoned ruling. The ruling is handed down in public.
5. The Supreme Court immediately notifies the relevant court or the Procurator General's Office at the Supreme Court and Our Minister of a decision as referred to in the fourth subsection.

#### **Section 46q**

If the discharge, suspension or assignment of the procurator general to a different office or position due to incapacity resulting from illness is at issue, the deputy procurator general exercises the powers and performs the duties conferred on the procurator general in Sections 46o and 46p.

### **Chapter 7. Appeal**

#### **Section 47**

[Repealed on 01-01-2013]

### **Chapter 8. Consultations**

#### **Section 48**

1. Matters of general interest regarding the legal status of judicial officers, including the general rules according to which the personnel policy is implemented, are only decided once Our Minister has consulted the Sectoral Committee for the Judiciary.
2. The first subsection does not apply to the regulations referred to in Section 49, insofar as there is no provision in the consultations about these regulations for the authority to make additional or deviating provisions for the benefit of judicial officers.
3. Our Minister consults with the Sectoral Committee for the Judiciary on general matters relating to the administration of justice if Our Minister or one or more members of the Sectoral Committee for the Judiciary so requests.

#### **Section 49**

The consultations on regulations that specifically relate to government and education personnel in general, as referred to in Section 1 of the Dutch Regulations on Consultations with the Council for Public Sector Personnel Policy [Regeling overleg Raad voor het Overheidspersoneelsbeleid], also apply to judicial officers.

#### **Section 50**

1. Our Minister and the Sectoral Committee for the Judiciary participate in the consultations as referred to in Section 48(1) and (3).
2. The Sectoral Committee for the Judiciary consists of representatives of:
  - a. the Netherlands Association for the Judiciary;



- b. other civil servant associations or central bodies of associations admitted by Our Minister to consultations that, inter alia in view of the number of judicial officers they represent, can also be regarded as representatives, if their admission is not contrary to the general interest.
3. With respect to the Sectoral Committee for the Judiciary, further rules may be laid down by an order in council concerning the following matters: the composition, procedures, decision-making process, including the voting ratio, the matters concerning which the Sectoral Committee must inform Our Minister, the withdrawal and suspension of admission of associations or central bodies of associations to the Sectoral Committee, and the suspension of representatives in the Sectoral Committee.
4. Further rules may be laid down by an order in council concerning the consultations between Our Minister and the Sectoral Committee for the Judiciary.

#### **Section 51**

1. Proposals to introduce, amend or revoke regulations relating to the matters referred to in Section 48(1), and from which individual judicial officers can derive rights or which may entail obligations for them, will only be implemented if the Sectoral Committee for the Judiciary agrees to them.
2. The first subsection does not apply to proposals concerning:
  - a. introducing or amending legislation that concerns all citizens or all employees, including judicial officers;
  - b. introducing or amending legislation for judicial officers that has a similar content as a proposal for the introduction or amendment of legislation concerning employees who are employed on the basis of an employment contract as referred to in Book 7, Section 610(1) of the Dutch Civil Code;
  - c. legislation being declared applicable to judicial officers concerning employees who work on the basis of an employment contract as referred to in Book 7, Section 610(1) of the Dutch Civil Code, and amendments to those provisions that have been declared applicable to judicial officers, all of which provided that the entire range of rights and obligations of judicial officers taken as a whole is not affected adversely; or
  - d. the implementation of obligations arising from an international treaty.
3. Rules about obtaining advice from a committee on a dispute and subjecting a dispute to an arbitration decision from a committee by the participants in the consultations, as referred to in Section 50(1), including in any event rules on the procedure prior to submitting a dispute to the committee and on the composition and procedures of the committee, are laid down by an order in council.

#### **Section 52**

[Repealed on 01-07-2010]

#### **Section 53**

[Repealed on 01-07-2010]



## Chapter 9. Final provisions

### Section 54

Rules concerning judicial officers may be laid down by or pursuant to an order in council with respect to the following matters:

- a. working hours and working times;
- b. holidays and leave
- c. provisions in the event of unemployment;
- d. occupational health supervision and provisions related to illness and disability;
- e. discharge, reassignment, suspension and disciplinary measures relating to judicial officers who have not been appointed for life;
- f. rights and obligations in the event of reorganisation;
- g. official dress;
- h. inauguration;
- i. the cases in which, in derogation from the provisions of Section 2:14(1) of the Dutch General Administrative Law Act [Algemene wet bestuursrecht], notifications concerning the legal status of judicial officers need only be sent electronically and the conditions to be observed in this respect;
- j. protection at work; and
- k. other rights and obligations.