

SCHEDULES

SCHEDULE 10

Section 165.

TRANSITORY MODIFICATIONS

Section 8

- 1 (1) This paragraph applies if paragraph 11 of Schedule 13 to the Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date section 8(4) and (10) of this Act shall each have effect as if for the words “justices' chief executive for” there were substituted “clerk of”.
- 2 (1) This paragraph applies if paragraph 5 of Schedule 4 to the Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the appointed day section 8 of this Act shall have effect as if the words from “the case” in subsection (6) to “but” in subsection (8) were omitted.
- (3) In this paragraph “the appointed day” means—
 - (a) if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 5 of Schedule 4 to the Youth Justice and Criminal Evidence Act 1999, the day so appointed;
 - (b) otherwise, such day as the Secretary of State may by order appoint.

Section 13

- 3 (1) This paragraph applies if paragraph 84 of Schedule 13 to the Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date section 13(5) of this Act shall have effect as if for the words “justices' chief executive” there were substituted “clerk of the court”.

Sections 63 and 66 and Schedule 7

- 4 (1) This paragraph applies if paragraph 63 of Schedule 13 to the Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date—
 - (a) sections 63(8) and 66(5) and (10) of this Act, and
 - (b) paragraph 10 of Schedule 7 to this Act,shall each have effect as if for the words “justices' chief executive” (wherever occurring) there were substituted “clerk to the justices”.

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Section 67

- 5 (1) This paragraph applies if the repeal made by Part V(2) of Schedule 15 to the Access to Justice Act 1999 of the definition of “petty sessions area” in section 70(1) of the Children and Young Persons Act 1969 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date section 67(1) of this Act shall have effect as if after the definition of “local authority” there were inserted the following definition—

““petty sessions area”, in relation to a youth court constituted for the metropolitan area within the meaning of Part II of Schedule 2 to the Children and Young Persons Act 1963, means such a division of that area as is mentioned in paragraph 14 of that Schedule;”.

Section 69

- 6 (1) This paragraph applies if paragraph 30 of Schedule 4 to the Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the appointed day section 69(5) of this Act shall have effect as if for the words “, a supervision order or a referral order” there were substituted “or a supervision order”.
- (3) In this paragraph “the appointed day” means—
- (a) if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 30 of Schedule 4 to the Youth Justice and Criminal Evidence Act 1999, the day so appointed;
 - (b) otherwise, such day as the Secretary of State may by order appoint.

Section 73

- 7 (1) This paragraph applies if paragraph 29 of Schedule 4 to the Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the appointed day section 73(4) of this Act shall have effect as if for the words “, an action plan order or a referral order” there were substituted “or an action plan order”.
- (3) In this paragraph “the appointed day” means—
- (a) if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 29 of Schedule 4 to the Youth Justice and Criminal Evidence Act 1999, the day so appointed;
 - (b) otherwise, such day as the Secretary of State may by order appoint.

Section 83

- 8 (1) This paragraph applies if—
- (a) paragraphs 9 and 25 of Schedule 4 to the Access to Justice Act 1999, and

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- (b) the repeals made by Part I of Schedule 15 to that Act in section 21 of the Powers of Criminal Courts Act 1973 and section 3 of the Criminal Justice Act 1982,
have not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date section 83 of this Act shall have effect as if—
- (a) for paragraph (a) of subsection (3) there were substituted the following paragraph—
- “(a) he applied for legal aid and had his application refused on the ground that it did not appear his resources were such that he required assistance; or”; and
- (b) in paragraph (b) of that subsection, for the words “such representation” there were substituted “legal aid”.
- (3) If this paragraph applies, then until the relevant commencement date section 83 of this Act shall also have effect as if after subsection (4) there were inserted the following subsection—
- “(4A) In this section “legal aid” means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to sentence; but in the case of a person committed to the Crown Court for sentence or trial or sent to that court for trial under section 51 of the Crime and Disorder Act 1998 it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed or set him.”

Sections 122 and 124

- 9 (1) This paragraph applies if paragraph 85 of Schedule 13 to the Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date sections 122(6) and 124(4) of this Act shall each have effect as if for the words “justices' chief executive” there were substituted “clerk to the justices”.

Section 150

- 10 (1) This paragraph applies if paragraph 20 of Schedule 4 to the Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the appointed day section 150(1) of this Act shall have effect as if the words from “but this subsection” onwards were omitted.
- (3) In this paragraph “the appointed day” means—
- (a) if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 20 of Schedule 4 to the Youth Justice and Criminal Evidence Act 1999, the day so appointed;
- (b) otherwise, such day as the Secretary of State may by order appoint.

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Section 155

- 11 (1) This paragraph applies if paragraph 24 of Schedule 4 to the Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date section 155(8) of this Act shall have effect as if for the words “an order under section 17(2) of the Access to Justice Act 1999” there were substituted “a contribution order made under section 23 of the Legal Aid Act 1988”.

Schedule 3

- 12 (1) This paragraph applies if paragraph 166 of Schedule 13 to the Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date Schedule 3 to this Act shall have effect as if—
- (a) in paragraph 15(1), for the words “proper officer of” there were substituted “clerk to”;
 - (b) paragraph 15(2) were omitted;
 - (c) in each of sub-paragraphs (1) and (2) of paragraph 25, for the words “justices' chief executive for the court” there were substituted “clerk to the court”; and
 - (d) in sub-paragraph (1) of that paragraph, for the words “chief executive to the justices” (in both places where they occur) there were substituted “clerk to the justices”.

Schedule 5

- 13 (1) This paragraph applies if paragraph 123 of Schedule 13 to the Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date Schedule 5 to this Act shall have effect as if—
- (a) in paragraph 4(5), for the words “proper officer of” there were substituted “clerk to”;
 - (b) paragraph 4(7) were omitted; and
 - (c) in paragraph 5(3), for the words “justices' chief executive for” there were substituted “clerk to”.

Schedule 6

- 14 (1) This paragraph applies if subsections (1) to (3) of section 71 of the Crime and Disorder Act 1998 have not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the appointed day paragraph 3 of Schedule 6 to this Act shall have effect as if the following provisions were omitted—
- (a) in sub-paragraph (2), paragraph (d);
 - (b) in sub-paragraph (3), the word “, (d)”;
 - (c) in sub-paragraph (5), paragraph (b).
- (3) In this paragraph “the appointed day” means—

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- (a) if before the commencement of this Act an order has been made appointing a day for the coming into force of section 71(1) to (3) of the Crime and Disorder Act 1998, the day so appointed;
 - (b) otherwise, such day as the Secretary of State may by order appoint.
- 15 (1) This paragraph applies if paragraph 5 of Schedule 4 to the Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date paragraph 5(7) of Schedule 6 to this Act shall have effect as if—
- (a) for paragraph (a) there were substituted the following paragraph—
 - “(a) he has applied for legal aid for the purposes of the proceedings and the application was refused on the ground that it did not appear that his resources were such that he required assistance; or”; and
 - (b) in paragraph (b), for the words “such representation” there were substituted the words “legal aid”.

Meaning of “the relevant commencement date”, etc.

- 16 (1) Subject to sub-paragraph (2) below, in any of the preceding paragraphs “the relevant commencement date” means such day as the Lord Chancellor may by order made by statutory instrument appoint in relation to that paragraph; and different days may be appointed for different purposes.
- (2) Where—
- (a) a provision of the Access to Justice Act 1999 referred to in sub-paragraph (1) of paragraph 1, 3, 4, 5, 8, 9, 11, 12, 13 or 15 above has not come into force before the commencement of this Act, but
 - (b) before the commencement of this Act an order under the Access to Justice Act 1999 has been made appointing a day for the coming into force of that provision,
 - “the relevant commencement date”, in relation to that provision, means the day so appointed.

- 17 An order under any of paragraphs 2, 6, 7, 10 and 14 above may appoint different days for different purposes or different areas.

Power to make transitional provision

- 18 Section 160(6) of this Act does not apply to an order made by the Secretary of State under any of the preceding provisions of this Schedule, but—
- (a) an order under paragraph 14 or 16(1) above may make such transitional provisions and savings as appear to the Secretary of State or the Lord Chancellor necessary or expedient; and
 - (b) an order under any of paragraphs 2, 6, 7 and 10 above may make such provision as, by virtue of section 64(4) of the Youth Justice and Criminal Evidence Act 1999 (regulations and orders), is authorised to be made by an order under section 68(3) of that Act (commencement).

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Saving for old transitional provisions

- 19 (1) This paragraph applies to any transitional provision or saving (“the transitional provision”) made in connection with the coming into force of a provision of the Access to Justice Act 1999, the Youth Justice and Criminal Evidence Act 1999 or the Crime and Disorder Act 1998 mentioned in sub-paragraph (1) of any of paragraphs 1 to 15 above (“the old enactment”).
- (2) If the old enactment is in force before the commencement of the provision of this Act reproducing its effect (“the corresponding provision of this Act”), the transitional provision shall continue to have effect (so far as capable of doing so) in relation to the corresponding provision of this Act.
- (3) If—
- (a) sub-paragraph (2) above does not apply, but
 - (b) before the commencement of this Act an order has been made appointing a day for the coming into force of the old enactment,
- the transitional provision shall, from the day so appointed, have effect in relation to the corresponding provision of this Act.