



# Access to Justice Act 1999

## 1999 CHAPTER 22

An Act to establish the Legal Services Commission, the Community Legal Service and the Criminal Defence Service; to amend the law of legal aid in Scotland; to make further provision about legal services; to make provision about appeals, courts, judges and court proceedings; to amend the law about magistrates and magistrates' courts; and to make provision about immunity from action and costs and indemnities for certain officials exercising judicial functions. [27th July 1999]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### LEGAL SERVICES COMMISSION

##### *Commission*

#### **1 Legal Services Commission**

- (1) There shall be a body known as the Legal Services Commission (in this Part referred to as “the Commission”).
- (2) The Commission shall have the functions relating to—
  - (a) the Community Legal Service, and
  - (b) the Criminal Defence Service,which are conferred or imposed on it by the provisions of this Act or any other enactment.
- (3) The Commission shall consist of—
  - (a) not fewer than seven members, and

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- (b) not more than twelve members;  
but the Lord Chancellor may by order substitute for either or both of the numbers for the time being specified in paragraphs (a) and (b) such other number or numbers as he thinks appropriate.
- (4) The members of the Commission shall be appointed by the Lord Chancellor; and the Lord Chancellor shall appoint one of the members to chair the Commission.
- (5) In appointing persons to be members of the Commission the Lord Chancellor shall have regard to the desirability of securing that the Commission includes members who (between them) have experience in or knowledge of—
  - (a) the provision of services which the Commission can fund as part of the Community Legal Service or Criminal Defence Service,
  - (b) the work of the courts,
  - (c) consumer affairs,
  - (d) social conditions, and
  - (e) management.
- (6) Schedule 1 (which makes further provision about the Commission) has effect.

## **2 Power to replace Commission with two bodies**

- (1) The Lord Chancellor may by order establish in place of the Commission two bodies—
  - (a) one to have functions relating to the Community Legal Service, and
  - (b) the other to have functions relating to the Criminal Defence Service.
- (2) The order may make any consequential, incidental, supplementary or transitional provisions, and any savings, which appear to the Lord Chancellor to be appropriate.
- (3) The order shall include amendments of—
  - (a) any provisions of, or amended by, this Part which refer to the Commission, and
  - (b) any other enactments which so refer,to replace references to the Commission with references to either or both of the bodies established by the order.

## **3 Powers of Commission**

- (1) Subject to the provisions of this Part, the Commission may do anything which it considers—
  - (a) is necessary or appropriate for, or for facilitating, the discharge of its functions, or
  - (b) is incidental or conducive to the discharge of its functions.
- (2) In particular, the Commission shall have power—
  - (a) to enter into any contract,
  - (b) to make grants (with or without conditions),
  - (c) to make loans,
  - (d) to invest money,
  - (e) to promote or assist in the promotion of publicity relating to its functions,
  - (f) to undertake any inquiry or investigation which it may consider appropriate in relation to the discharge of any of its functions, and

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- (g) to give the Lord Chancellor any advice which it may consider appropriate in relation to matters concerning any of its functions.
- (3) Subsections (1) and (2) do not confer on the Commission power to borrow money.
- (4) The Commission may make such arrangements as it considers appropriate for the discharge of its functions, including the delegation of any of its functions.
- (5) The Lord Chancellor may by order require the Commission—
  - (a) to delegate any function specified in the order or to delegate any function so specified to a person (or person of a description) so specified,
  - (b) not to delegate any function so specified or not to delegate any function so specified to a person (or person of a description) so specified, or
  - (c) to make arrangements such as are specified in the order in relation to the delegation of any function so specified.

### *Community Legal Service*

## **4 Community Legal Service**

- (1) The Commission shall establish, maintain and develop a service known as the Community Legal Service for the purpose of promoting the availability to individuals of services of the descriptions specified in subsection (2) and, in particular, for securing (within the resources made available, and priorities set, in accordance with this Part) that individuals have access to services that effectively meet their needs.
- (2) The descriptions of services referred to in subsection (1) are—
  - (a) the provision of general information about the law and legal system and the availability of legal services,
  - (b) the provision of help by the giving of advice as to how the law applies in particular circumstances,
  - (c) the provision of help in preventing, or settling or otherwise resolving, disputes about legal rights and duties,
  - (d) the provision of help in enforcing decisions by which such disputes are resolved, and
  - (e) the provision of help in relation to legal proceedings not relating to disputes.
- (3) Services which the Commission is required to fund as part of the Criminal Defence Service do not fall within subsection (2).
- (4) Every person who exercises any function relating to the Community Legal Service shall have regard to the desirability of exercising it, so far as is reasonably practicable, so as to—
  - (a) promote improvements in the range and quality of services provided as part of the Community Legal Service and in the ways in which they are made accessible to those who need them,
  - (b) secure that the services provided in relation to any matter are appropriate having regard to its nature and importance, and
  - (c) achieve the swift and fair resolution of disputes without unnecessary or unduly protracted proceedings in court.

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- (5) The Commission shall fund services of the descriptions specified in subsection (2) as part of the Community Legal Service in accordance with the following sections.
- (6) The Commission shall also inform itself about the need for, and the provision of, services of the descriptions specified in subsection (2) and about the quality of the services provided and, in co-operation with such authorities and other bodies and persons as it considers appropriate—
  - (a) plan what can be done towards meeting that need by the performance by the Commission of its functions, and
  - (b) facilitate the planning by other authorities, bodies and persons of what can be done by them to meet that need by the use of any resources available to them;and the Commission shall notify the Lord Chancellor of what it has done under this subsection.
- (7) The Commission may set and monitor standards in relation to services of the descriptions specified in subsection (2).
- (8) In particular, the Commission may accredit, or authorise others to accredit, persons or bodies providing services of the descriptions specified in subsection (2); and any system of accreditation shall include provision for the monitoring of the services provided by accredited persons and bodies and for the withdrawal of accreditation from any providing services of unsatisfactory quality.
- (9) The Commission may charge—
  - (a) for accreditation,
  - (b) for monitoring the services provided by accredited persons and bodies, and
  - (c) for authorising accreditation by others;and persons or bodies authorised to accredit may charge for accreditation, and for such monitoring, in accordance with the terms of their authorisation.
- (10) The Lord Chancellor may by order require the Commission to discharge the functions in subsections (6) to (9) in accordance with the order.

## **5 Funding of services**

- (1) The Commission shall establish and maintain a fund known as the Community Legal Service Fund from which it shall fund services as part of the Community Legal Service.
- (2) The Lord Chancellor—
  - (a) shall pay to the Commission the sums which he determines are appropriate for the funding of services by the Commission as part of the Community Legal Service, and
  - (b) may determine the manner in which and times at which the sums are to be paid to the Commission and may impose conditions on the payment of the sums.
- (3) In making any determination under subsection (2) the Lord Chancellor shall take into account (in addition to such other factors as he considers relevant) the need for services of the descriptions specified in subsection (2) of section 4 as notified to him by the Commission under subsection (6) of that section.
- (4) The Lord Chancellor shall lay before each House of Parliament a copy of every determination under subsection (2)(a).

- (5) The Commission shall pay into the Community Legal Service Fund—
  - (a) sums received from the Lord Chancellor under subsection (2), and
  - (b) sums received by the Commission by virtue of regulations under section 10 or 11.
- (6) The Lord Chancellor may by direction impose requirements on the Commission as to the descriptions of services to be funded from any specified amount paid into the Community Legal Service Fund.
- (7) In funding services as part of the Community Legal Service the Commission shall aim to obtain the best possible value for money.

## **6 Services which may be funded**

- (1) The Commission shall set priorities in its funding of services as part of the Community Legal Service and the priorities shall be set—
  - (a) in accordance with any directions given by the Lord Chancellor, and
  - (b) after taking into account the need for services of the descriptions specified in section 4(2).
- (2) Subject to that (and to subsection (6)), the services which the Commission may fund as part of the Community Legal Service are those which the Commission considers appropriate.
- (3) The Commission may fund services as part of the Community Legal Service by—
  - (a) entering into contracts with persons or bodies for the provision of services by them,
  - (b) making payments to persons or bodies in respect of the provision of services by them,
  - (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, services,
  - (d) establishing and maintaining bodies to provide, or facilitate the provision of, services,
  - (e) making grants or loans to individuals to enable them to obtain services,
  - (f) itself providing services, or
  - (g) doing anything else which it considers appropriate for funding services.
- (4) The Lord Chancellor may by order require the Commission to discharge the function in subsection (3) in accordance with the order.
- (5) The Commission may fund as part of the Community Legal Service different descriptions of services or services provided by different means—
  - (a) in relation to different areas or communities in England and Wales, and
  - (b) in relation to different descriptions of cases.
- (6) The Commission may not fund as part of the Community Legal Service any of the services specified in Schedule 2.
- (7) Regulations may amend that Schedule by adding new services or omitting or varying any services.
- (8) The Lord Chancellor—

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- (a) may by direction require the Commission to fund the provision of any of the services specified in Schedule 2 in circumstances specified in the direction, and
  - (b) may authorise the Commission to fund the provision of any of those services in specified circumstances or, if the Commission request him to do so, in an individual case.
- (9) The Lord Chancellor shall either—
- (a) publish, or
  - (b) require the Commission to publish,
- any authorisation under subsection (8)(b) unless it relates to an individual case (in which case he or the Commission may publish it if appropriate).

## **7 Individuals for whom services may be funded**

- (1) The Commission may only fund services for an individual as part of the Community Legal Service if his financial resources are such that, under regulations, he is an individual for whom they may be so funded.
- (2) Regulations may provide that, in prescribed circumstances and subject to any prescribed conditions, services of a prescribed description may be so funded for individuals without reference to their financial resources.
- (3) Regulations under this section may include provision requiring the furnishing of information.

## **8 Code about provision of funded services**

- (1) The Commission shall prepare a code setting out the criteria according to which it is to decide whether to fund (or continue to fund) services as part of the Community Legal Service for an individual for whom they may be so funded and, if so, what services are to be funded for him.
- (2) In settling the criteria to be set out in the code the Commission shall consider the extent to which they ought to reflect the following factors—
  - (a) the likely cost of funding the services and the benefit which may be obtained by their being provided,
  - (b) the availability of sums in the Community Legal Service Fund for funding the services and (having regard to present and likely future demands on that Fund) the appropriateness of applying them to fund the services,
  - (c) the importance of the matters in relation to which the services would be provided for the individual,
  - (d) the availability to the individual of services not funded by the Commission and the likelihood of his being able to avail himself of them,
  - (e) if the services are sought by the individual in relation to a dispute, the prospects of his success in the dispute,
  - (f) the conduct of the individual in connection with services funded as part of the Community Legal Service (or an application for funding) or in, or in connection with, any proceedings,
  - (g) the public interest, and
  - (h) such other factors as the Lord Chancellor may by order require the Commission to consider.

- (3) The criteria set out in the code shall reflect the principle that in many family disputes mediation will be more appropriate than court proceedings.
- (4) The code shall seek to secure that, where more than one description of service is available, the service funded is that which (in all the circumstances) is the most appropriate having regard to the criteria set out in the code.
- (5) The code shall also specify procedures for the making of decisions about the funding of services by the Commission as part of the Community Legal Service, including—
  - (a) provision about the form and content of applications for funding,
  - (b) provision imposing conditions which must be satisfied by an individual applying for funding,
  - (c) provision requiring applicants to be informed of the reasons for any decision to refuse an application,
  - (d) provision for the giving of information to individuals whose applications are refused about alternative ways of obtaining or funding services, and
  - (e) provision establishing procedures for appeals against decisions about funding and for the giving of information about those procedures.
- (6) The code may make different provision for different purposes.
- (7) The Commission may from time to time prepare a revised version of the code.
- (8) Before preparing the code the Commission shall undertake such consultation as appears to it to be appropriate; and before revising the code the Commission shall undertake such consultation as appears to it to be appropriate unless it considers that it is desirable for the revised version to come into force without delay.
- (9) The Lord Chancellor may by order require the Commission to discharge its functions relating to the code in accordance with the order.

## **9 Procedure relating to funding code**

- (1) After preparing the code or a revised version of the code the Commission shall send a copy to the Lord Chancellor.
- (2) If he approves it he shall lay it before each House of Parliament.
- (3) The Commission shall publish—
  - (a) the code as first approved by the Lord Chancellor, and
  - (b) where he approves a revised version, either the revisions or the revised code as appropriate.
- (4) The code as first approved by the Lord Chancellor shall not come into force until it has been approved by a resolution of each House of Parliament.
- (5) A revised version of the code which does not contain changes in the criteria set out in the code shall not come into force until it has been laid before each House of Parliament.
- (6) Subject as follows, a revised version of the code which does contain such changes shall not come into force until it has been approved by a resolution of each House of Parliament.

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- (7) Where the Lord Chancellor considers that it is desirable for a revised version of the code containing such changes to come into force without delay, he may (when laying the revised version before Parliament) also lay before each House a statement of his reasons for so considering.
- (8) In that event the revised version of the code—
- (a) shall not come into force until it has been laid before each House of Parliament, and
  - (b) shall cease to have effect at the end of the period of 120 days beginning with the day on which it comes into force unless a resolution approving it has been made by each House (but without that affecting anything previously done in accordance with it).

## **10 Terms of provision of funded services**

- (1) An individual for whom services are funded by the Commission as part of the Community Legal Service shall not be required to make any payment in respect of the services except where regulations otherwise provide.
- (2) Regulations may provide that, in prescribed circumstances, an individual for whom services are so funded shall—
- (a) pay a fee of such amount as is fixed by or determined under the regulations,
  - (b) if his financial resources are, or relevant conduct is, such as to make him liable to do so under the regulations, pay the cost of the services or make a contribution in respect of the cost of the services of such amount as is so fixed or determined, or
  - (c) if the services relate to a dispute and he has agreed to make a payment (which may exceed the cost of the services) only in specified circumstances, make in those circumstances a payment of the amount agreed, or determined in the manner agreed, by him;
- and in paragraph (b) “relevant conduct” means conduct in connection with the services (or any application for their funding) or in, or in connection with, any proceedings in relation to which they are provided.
- (3) The regulations may include provision for any amount payable in accordance with the regulations to be payable by periodical payments or one or more capital sums, or both.
- (4) The regulations may also include provision for the payment by an individual of interest (on such terms as may be prescribed) in respect of—
- (a) any loan made to him by the Commission as part of the Community Legal Service,
  - (b) any payment in respect of the cost of services required by the regulations to be made by him later than the time when the services are provided, or
  - (c) so much of any payment required by the regulations to be made by him which remains unpaid after the time when it is required to be paid.
- (5) The regulations shall include provision for the repayment to an individual of any payment made by him in excess of his liability under the regulations.
- (6) The regulations may—
- (a) include provision requiring the furnishing of information, and



- (b) make provision for the determination of the cost of services for the purposes of the regulations.
- (7) Except so far as regulations otherwise provide, where services have been funded by the Commission for an individual as part of the Community Legal Service—
- (a) sums expended by the Commission in funding the services (except to the extent that they are recovered under section 11), and
  - (b) other sums payable by the individual by virtue of regulations under this section,
- shall constitute a first charge on any property recovered or preserved by him (whether for himself or any other person) in any proceedings or in any compromise or settlement of any dispute in connection with which the services were provided.
- (8) Regulations may make provision about the charge, including—
- (a) provision as to whether it is in favour of the Commission or the body or person by whom the services were provided, and
  - (b) provision about its enforcement.

## **11 Costs in funded cases**

- (1) Except in prescribed circumstances, costs ordered against an individual in relation to any proceedings or part of proceedings funded for him shall not exceed the amount (if any) which is a reasonable one for him to pay having regard to all the circumstances including—
- (a) the financial resources of all the parties to the proceedings, and
  - (b) their conduct in connection with the dispute to which the proceedings relate;
- and for this purpose proceedings, or a part of proceedings, are funded for an individual if services relating to the proceedings or part are funded for him by the Commission as part of the Community Legal Service.
- (2) In assessing for the purposes of subsection (1) the financial resources of an individual for whom services are funded by the Commission as part of the Community Legal Service, his clothes and household furniture and the tools and implements of his trade shall not be taken into account, except so far as may be prescribed.
- (3) Subject to subsections (1) and (2), regulations may make provision about costs in relation to proceedings in which services are funded by the Commission for any of the parties as part of the Community Legal Service.
- (4) The regulations may, in particular, make provision—
- (a) specifying the principles to be applied in determining the amount of any costs which may be awarded against a party for whom services are funded by the Commission as part of the Community Legal Service,
  - (b) limiting the circumstances in which, or extent to which, an order for costs may be enforced against such a party,
  - (c) as to the cases in which, and extent to which, such a party may be required to give security for costs and the manner in which it is to be given,
  - (d) requiring the payment by the Commission of the whole or part of any costs incurred by a party for whom services are not funded by the Commission as part of the Community Legal Service,
  - (e) specifying the principles to be applied in determining the amount of any costs which may be awarded to a party for whom services are so funded,

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- (f) requiring the payment to the Commission, or the person or body by which the services were provided, of the whole or part of any sum awarded by way of costs to such a party, and
- (g) as to the court, tribunal or other person or body by whom the amount of any costs is to be determined and the extent to which any determination of that amount is to be final.

### *Criminal Defence Service*

## **12 Criminal Defence Service**

- (1) The Commission shall establish, maintain and develop a service known as the Criminal Defence Service for the purpose of securing that individuals involved in criminal investigations or criminal proceedings have access to such advice, assistance and representation as the interests of justice require.
- (2) In this Part “criminal proceedings” means—
  - (a) proceedings before any court for dealing with an individual accused of an offence,
  - (b) proceedings before any court for dealing with an individual convicted of an offence (including proceedings in respect of a sentence or order),
  - (c) proceedings for dealing with an individual under section 9 of, or paragraph 6 of Schedule 1 to, the Extradition Act 1989,
  - (d) proceedings for binding an individual over to keep the peace or to be of good behaviour under section 115 of the Magistrates' Courts Act 1980 and for dealing with an individual who fails to comply with an order under that section,
  - (e) proceedings on an appeal brought by an individual under section 44A of the Criminal Appeal Act 1968,
  - (f) proceedings for contempt committed, or alleged to have been committed, by an individual in the face of a court, and
  - (g) such other proceedings concerning an individual, before any such court or other body, as may be prescribed.
- (3) The Commission shall fund services as part of the Criminal Defence Service in accordance with sections 13 to 15.
- (4) The Commission may accredit, or authorise others to accredit, persons or bodies providing services which may be funded by the Commission as part of the Criminal Defence Service; and any system of accreditation shall include provision for the monitoring of the services provided by accredited persons and bodies and for the withdrawal of accreditation from any providing services of unsatisfactory quality.
- (5) The Commission may charge—
  - (a) for accreditation,
  - (b) for monitoring the services provided by accredited persons and bodies, and
  - (c) for authorising accreditation by others;and persons or bodies authorised to accredit may charge for accreditation, and for such monitoring, in accordance with the terms of their authorisation.
- (6) The Lord Chancellor may by order require the Commission to discharge the functions in subsections (4) and (5) in accordance with the order.

### **13 Advice and assistance**

- (1) The Commission shall fund such advice and assistance as it considers appropriate—
  - (a) for individuals who are arrested and held in custody at a police station or other premises, and
  - (b) for individuals involved in criminal investigations in such other circumstances as may be prescribed;and for this purpose “criminal investigations” means investigations relating to offences or to individuals convicted of an offence.
- (2) The Commission may comply with the duty imposed by subsection (1) by—
  - (a) entering into contracts with persons or bodies for the provision of advice or assistance by them,
  - (b) making payments to persons or bodies in respect of the provision of advice or assistance by them,
  - (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, advice or assistance,
  - (d) establishing and maintaining bodies to provide, or facilitate the provision of, advice or assistance,
  - (e) making grants to individuals to enable them to obtain advice or assistance,
  - (f) employing persons to provide advice or assistance, or
  - (g) doing anything else which it considers appropriate for funding advice and assistance.
- (3) The Lord Chancellor may by order require the Commission to discharge the function in subsection (2) in accordance with the order.
- (4) The Commission may fund advice and assistance by different means—
  - (a) in different areas in England and Wales, and
  - (b) in relation to different descriptions of cases.

### **14 Representation**

- (1) Schedule 3 (which makes provision about the grant of a right to representation in criminal proceedings) has effect; and the Commission shall fund representation to which an individual has been granted a right in accordance with that Schedule.
- (2) Subject to the following provisions, the Commission may comply with the duty imposed by subsection (1) by—
  - (a) entering into contracts with persons or bodies for the provision of representation by them,
  - (b) making payments to persons or bodies in respect of the provision of representation by them,
  - (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, representation,
  - (d) establishing and maintaining bodies to provide, or facilitate the provision of, representation,
  - (e) making grants to individuals to enable them to obtain representation,
  - (f) employing persons to provide representation, or
  - (g) doing anything else which it considers appropriate for funding representation.

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- (3) The Lord Chancellor—
  - (a) shall by order make provision about the payments which may be made by the Commission in respect of any representation provided by non-contracted private practitioners, and
  - (b) may by order make any other provision requiring the Commission to discharge the function in subsection (2) in accordance with the order.
- (4) For the purposes of subsection (3)(a) representation is provided by a non-contracted private practitioner if it is provided, otherwise than pursuant to a contract entered into by the Commission, by a person or body which is neither—
  - (a) a person or body in receipt of grants or loans made by the Commission as part of the Criminal Defence Service, nor
  - (b) the Commission itself or a body established or maintained by the Commission.
- (5) The provision which the Lord Chancellor is required to make by order under subsection (3)(a) includes provision for reviews of, or appeals against, determinations required for the purposes of the order.
- (6) The Commission may fund representation by different means—
  - (a) in different areas in England and Wales, and
  - (b) in relation to different descriptions of cases.

## **15 Selection of representative**

- (1) An individual who has been granted a right to representation in accordance with Schedule 3 may select any representative or representatives willing to act for him; and, where he does so, the Commission is to comply with the duty imposed by section 14(1) by funding representation by the selected representative or representatives.
- (2) Regulations may provide that in prescribed circumstances—
  - (a) the right conferred by subsection (1) is not to apply in cases of prescribed descriptions,
  - (b) an individual who has been provided with advice or assistance funded by the Commission under section 13 by a person whom he chose to provide it for him is to be taken to have selected that person as his representative pursuant to that right,
  - (c) that right is not to include a right to select a representative of a prescribed description,
  - (d) that right is to select only a representative of a prescribed description,
  - (e) that right is to select not more than a prescribed number of representatives to act at any one time, and
  - (f) that right is not to include a right to select a representative in place of a representative previously selected.
- (3) Regulations under subsection (2)(b) may prescribe circumstances in which an individual is to be taken to have chosen a person to provide advice or assistance for him.
- (4) Regulations under subsection (2) may not provide that only a person employed by the Commission, or by a body established and maintained by the Commission, may be selected.

- (5) Regulations may provide that in prescribed circumstances the Commission is not required to fund, or to continue to fund, representation for an individual by a particular representative (but such provision shall not prejudice any right of the individual to select another representative).
- (6) The circumstances which may be prescribed by regulations under subsection (2) or (5) include that a determination has been made by a prescribed body or person.

## **16 Code of conduct**

- (1) The Commission shall prepare a code of conduct to be observed by employees of the Commission, and employees of any body established and maintained by the Commission, in the provision of services as part of the Criminal Defence Service.
- (2) The code shall include—
  - (a) duties to avoid discrimination,
  - (b) duties to protect the interests of the individuals for whom services are provided,
  - (c) duties to the court,
  - (d) duties to avoid conflicts of interest, and
  - (e) duties of confidentiality,and duties on employees who are members of a professional body to comply with the rules of the body.
- (3) The Commission may from time to time prepare a revised version of the code.
- (4) Before preparing or revising the code the Commission shall consult the Law Society and the General Council of the Bar and such other bodies or persons as it considers appropriate.
- (5) After preparing the code or a revised version of the code the Commission shall send a copy to the Lord Chancellor.
- (6) If he approves it he shall lay it before each House of Parliament.
- (7) The Commission shall publish—
  - (a) the code as first approved by the Lord Chancellor, and
  - (b) where he approves a revised version, either the revisions or the revised code as appropriate.
- (8) The code, and any revised version of the code, shall not come into force until it has been approved by a resolution of each House of Parliament.

## **17 Terms of provision of funded services**

- (1) An individual for whom services are funded by the Commission as part of the Criminal Defence Service shall not be required to make any payment in respect of the services except where subsection (2) applies.
- (2) Where representation for an individual in respect of criminal proceedings in any court other than a magistrates' court is funded by the Commission as part of the Criminal Defence Service, the court may, subject to regulations under subsection (3), make an

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order requiring him to pay some or all of the cost of any representation so funded for him (in proceedings in that or any other court).

- (3) Regulations may make provision about—
- (a) the descriptions of individuals against whom an order under subsection (2) may be made,
  - (b) the circumstances in which such an order may be made and the principles to be applied in deciding whether to make such an order and the amount to be paid,
  - (c) the determination of the cost of representation for the purposes of the making of such an order,
  - (d) the furnishing of information and evidence to the court or the Commission for the purpose of enabling the court to decide whether to make such an order and (if so) the amount to be paid,
  - (e) prohibiting individuals who are required to furnish information or evidence from dealing with property until they have furnished the information or evidence or until a decision whether to make an order, or the amount to be paid, has been made,
  - (f) the person or body to which, and manner in which, payments required by such an order must be made and what that person or body is to do with them, and
  - (g) the enforcement of such an order (including provision for the imposition of charges in respect of unpaid amounts).

## **18 Funding**

- (1) The Lord Chancellor shall pay to the Commission such sums as are required to meet the costs of any advice, assistance and representation funded by the Commission as part of the Criminal Defence Service.
- (2) The Lord Chancellor may—
- (a) determine the manner in which and times at which the sums referred to in subsection (1) shall be paid to the Commission, and
  - (b) impose conditions on the payment of the sums.
- (3) In funding services as part of the Criminal Defence Service the Commission shall aim to obtain the best possible value for money.

### *Supplementary*

## **19 Foreign law**

- (1) The Commission may not fund as part of the Community Legal Service or Criminal Defence Service services relating to any law other than that of England and Wales, unless any such law is relevant for determining any issue relating to the law of England and Wales.
- (2) But the Lord Chancellor may, if it appears to him necessary to do so for the purpose of fulfilling any obligation imposed on the United Kingdom by any international agreement, by order specify that there may be funded as part of the Community Legal Service or Criminal Defence Service (or both) services relating to the application of such other law as may be specified in the order.

## **20 Restriction of disclosure of information**

- (1) Subject to the following provisions of this section, information which is furnished—
- (a) to the Commission or any court, tribunal or other person or body on whom functions are imposed or conferred by or under this Part, and
  - (b) in connection with the case of an individual seeking or receiving services funded by the Commission as part of the Community Legal Service or Criminal Defence Service,
- shall not be disclosed except as permitted by subsection (2).
- (2) Such information may be disclosed—
- (a) for the purpose of enabling or assisting the Commission to discharge any functions imposed or conferred on it by or under this Part,
  - (b) for the purpose of enabling or assisting the Lord Chancellor to discharge any functions imposed or conferred on him by or under this Part,
  - (c) for the purpose of enabling or assisting any court, tribunal or other person or body to discharge any functions imposed or conferred on it by or under this Part,
  - (d) except where regulations otherwise provide, for the purpose of the investigation or prosecution of any offence (or suspected offence) under the law of England and Wales or any other jurisdiction,
  - (e) in connection with any proceedings relating to the Community Legal Service or Criminal Defence Service, or
  - (f) for the purpose of facilitating the proper performance by any tribunal of disciplinary functions.
- (3) Subsection (1) does not limit the disclosure of—
- (a) information in the form of a summary or collection of information so framed as not to enable information relating to any individual to be ascertained from it, or
  - (b) information about the amount of any grant, loan or other payment made to any person or body by the Commission.
- (4) Subsection (1) does not prevent the disclosure of information for any purpose with the consent of the individual in connection with whose case it was furnished and, where he did not furnish it himself, with that of the person or body who did.
- (5) A person who discloses any information in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) Proceedings for an offence under this section shall not be brought without the consent of the Director of Public Prosecutions.
- (7) Nothing in this section applies to information furnished to a person providing services funded as part of the Community Legal Service or the Criminal Defence Service by or on behalf of an individual seeking or receiving such services.

## **21 Misrepresentation etc**

- (1) Any person who—
- (a) intentionally fails to comply with any requirement imposed by virtue of this Part as to the information to be furnished by him, or

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- (b) in furnishing any information required by virtue of this Part makes any statement or representation which he knows or believes to be false, shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to—
- (a) a fine not exceeding level 4 on the standard scale, or
  - (b) imprisonment for a term not exceeding three months, or to both.
- (3) Proceedings in respect of an offence under subsection (1) may (despite anything in the Magistrates' Courts Act 1980) be brought at any time within the period of six months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify a prosecution comes to his knowledge.
- (4) But subsection (3) does not authorise the commencement of proceedings for an offence at a time more than two years after the date on which the offence was committed.
- (5) A county court shall have jurisdiction to hear and determine any action brought by the Commission to recover loss sustained by reason of—
- (a) the failure of any person to comply with any requirement imposed by virtue of this Part as to the information to be furnished by him, or
  - (b) a false statement or false representation made by any person in furnishing any information required by virtue of this Part.

## **22 Position of service providers and other parties etc**

- (1) Except as expressly provided by regulations, the fact that services provided for an individual are or could be funded by the Commission as part of the Community Legal Service or Criminal Defence Service shall not affect—
- (a) the relationship between that individual and the person by whom they are provided or any privilege arising out of that relationship, or
  - (b) any right which that individual may have to be indemnified in respect of expenses incurred by him by any other person.
- (2) A person who provides services funded by the Commission as part of the Community Legal Service or Criminal Defence Service shall not take any payment in respect of the services apart from—
- (a) that made by way of that funding, and
  - (b) any authorised by the Commission to be taken.
- (3) The withdrawal of a right to representation previously granted to an individual shall not affect the right of any person who has provided to him services funded by the Commission as part of the Criminal Defence Service to remuneration for work done before the date of the withdrawal.
- (4) Except as expressly provided by regulations, any rights conferred by or by virtue of this Part on an individual for whom services are funded by the Commission as part of the Community Legal Service or Criminal Defence Service in relation to any proceedings shall not affect—
- (a) the rights or liabilities of other parties to the proceedings, or
  - (b) the principles on which the discretion of any court or tribunal is normally exercised.



- (5) Regulations may make provision about the procedure of any court or tribunal in relation to services funded by the Commission as part of the Community Legal Service or Criminal Defence Service.
- (6) Regulations made under subsection (5) may in particular authorise the exercise of the functions of any court or tribunal by any member or officer of that or any other court or tribunal.

## **23 Guidance**

- (1) The Lord Chancellor may give guidance to the Commission as to the manner in which he considers it should discharge its functions.
- (2) The Commission shall take into account any such guidance when considering the manner in which it is to discharge its functions.
- (3) Guidance may not be given under this section in relation to individual cases.
- (4) The Lord Chancellor shall either—
  - (a) publish, or
  - (b) require the Commission to publish,any guidance given under this section.

## **24 Consequential amendments**

Schedule 4 (which makes amendments consequential on this Part) has effect.

## **25 Orders, regulations and directions**

- (1) Any power of the Lord Chancellor under this Part to make an order or regulations is exercisable by statutory instrument.
- (2) Before making any remuneration order relating to the payment of remuneration to barristers or solicitors the Lord Chancellor shall consult the General Council of the Bar and the Law Society.
- (3) When making any remuneration order the Lord Chancellor shall have regard to—
  - (a) the need to secure the provision of services of the description to which the order relates by a sufficient number of competent persons and bodies,
  - (b) the cost to public funds, and
  - (c) the need to secure value for money.
- (4) In subsections (2) and (3) “remuneration order” means an order under section 6(4), 13(3) or 14(3) which relates to the payment by the Commission of remuneration—
  - (a) for the provision of services by persons or bodies in individual cases, or
  - (b) by reference to the provision of services by persons or bodies in specified numbers of cases.
- (5) No directions may be given by the Lord Chancellor to the Commission under this Part in relation to individual cases.
- (6) Any directions given by the Lord Chancellor to the Commission under this Part may be varied or revoked.

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- (7) The Lord Chancellor shall either—
- (a) publish, or
  - (b) require the Commission to publish,
- any directions given by him under this Part.
- (8) Orders, regulations and directions of the Lord Chancellor under this Part may make different provision for different purposes (including different areas).
- (9) No order shall be made under section 2 or 8 or paragraph 5(3) of Schedule 3, and no regulations shall be made under section 6(7), 11(1) or (4)(b) or (d) or 15(2)(a) or (5) or paragraph 4 of Schedule 3, unless a draft of the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (10) A statutory instrument containing any other order or regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 26 Interpretation

In this Part—

- “the Commission” means the Legal Services Commission,
- “the Community Legal Service Fund” has the meaning given by section 5(1),
- “criminal proceedings” has the meaning given in section 12(2),
- “prescribed” means prescribed by regulations and “prescribe” shall be construed accordingly,
- “regulations” means regulations made by the Lord Chancellor, and
- “representation” means representation for the purposes of proceedings and includes the assistance which is usually given by a representative in the steps preliminary or incidental to any proceedings and, subject to any time limits which may be prescribed, advice and assistance as to any appeal.

## PART II

### OTHER FUNDING OF LEGAL SERVICES

#### *Conditional fee and litigation funding agreements*

## 27 Conditional fee agreements

- (1) For section 58 of the Courts and Legal Services Act 1990 substitute—

### **“58 Conditional fee agreements**

- (1) A conditional fee agreement which satisfies all of the conditions applicable to it by virtue of this section shall not be unenforceable by reason only of its being a conditional fee agreement; but (subject to subsection (5)) any other conditional fee agreement shall be unenforceable.
- (2) For the purposes of this section and section 58A—
- (a) a conditional fee agreement is an agreement with a person providing advocacy or litigation services which provides for his fees and

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- expenses, or any part of them, to be payable only in specified circumstances; and
- (b) a conditional fee agreement provides for a success fee if it provides for the amount of any fees to which it applies to be increased, in specified circumstances, above the amount which would be payable if it were not payable only in specified circumstances.
- (3) The following conditions are applicable to every conditional fee agreement—
- (a) it must be in writing;
- (b) it must not relate to proceedings which cannot be the subject of an enforceable conditional fee agreement; and
- (c) it must comply with such requirements (if any) as may be prescribed by the Lord Chancellor.
- (4) The following further conditions are applicable to a conditional fee agreement which provides for a success fee—
- (a) it must relate to proceedings of a description specified by order made by the Lord Chancellor;
- (b) it must state the percentage by which the amount of the fees which would be payable if it were not a conditional fee agreement is to be increased; and
- (c) that percentage must not exceed the percentage specified in relation to the description of proceedings to which the agreement relates by order made by the Lord Chancellor.
- (5) If a conditional fee agreement is an agreement to which section 57 of the Solicitors Act 1974 (non-contentious business agreements between solicitor and client) applies, subsection (1) shall not make it unenforceable.

#### **58A Conditional fee agreements: supplementary**

- (1) The proceedings which cannot be the subject of an enforceable conditional fee agreement are—
- (a) criminal proceedings, apart from proceedings under section 82 of the Environmental Protection Act 1990; and
- (b) family proceedings.
- (2) In subsection (1) “family proceedings” means proceedings under any one or more of the following—
- (a) the Matrimonial Causes Act 1973;
- (b) the Adoption Act 1976;
- (c) the Domestic Proceedings and Magistrates' Courts Act 1978;
- (d) Part III of the Matrimonial and Family Proceedings Act 1984;
- (e) Parts I, II and IV of the Children Act 1989;
- (f) Part IV of the Family Law Act 1996; and
- (g) the inherent jurisdiction of the High Court in relation to children.
- (3) The requirements which the Lord Chancellor may prescribe under section 58(3)(c)—

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- (a) include requirements for the person providing advocacy or litigation services to have provided prescribed information before the agreement is made; and
  - (b) may be different for different descriptions of conditional fee agreements (and, in particular, may be different for those which provide for a success fee and those which do not).
- (4) In section 58 and this section (and in the definitions of “advocacy services” and “litigation services” as they apply for their purposes) “proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated.
- (5) Before making an order under section 58(4), the Lord Chancellor shall consult—
- (a) the designated judges;
  - (b) the General Council of the Bar;
  - (c) the Law Society; and
  - (d) such other bodies as he considers appropriate.
- (6) A costs order made in any proceedings may, subject in the case of court proceedings to rules of court, include provision requiring the payment of any fees payable under a conditional fee agreement which provides for a success fee.
- (7) Rules of court may make provision with respect to the assessment of any costs which include fees payable under a conditional fee agreement (including one which provides for a success fee).”
- (2) In section 120(4) of the Courts and Legal Services Act 1990 (orders and regulations subject to affirmative procedure), for “58,” substitute “58(4).”

## **28 Litigation funding agreements**

In the Courts and Legal Services Act 1990, after section 58A (inserted by section 27 above) insert—

### **“58B Litigation funding agreements**

- (1) A litigation funding agreement which satisfies all of the conditions applicable to it by virtue of this section shall not be unenforceable by reason only of its being a litigation funding agreement.
- (2) For the purposes of this section a litigation funding agreement is an agreement under which—
  - (a) a person (“the funder”) agrees to fund (in whole or in part) the provision of advocacy or litigation services (by someone other than the funder) to another person (“the litigant”); and
  - (b) the litigant agrees to pay a sum to the funder in specified circumstances.
- (3) The following conditions are applicable to a litigation funding agreement—
  - (a) the funder must be a person, or person of a description, prescribed by the Lord Chancellor;
  - (b) the agreement must be in writing;

- (c) the agreement must not relate to proceedings which by virtue of section 58A(1) and (2) cannot be the subject of an enforceable conditional fee agreement or to proceedings of any such description as may be prescribed by the Lord Chancellor;
  - (d) the agreement must comply with such requirements (if any) as may be so prescribed;
  - (e) the sum to be paid by the litigant must consist of any costs payable to him in respect of the proceedings to which the agreement relates together with an amount calculated by reference to the funder's anticipated expenditure in funding the provision of the services; and
  - (f) that amount must not exceed such percentage of that anticipated expenditure as may be prescribed by the Lord Chancellor in relation to proceedings of the description to which the agreement relates.
- (4) Regulations under subsection (3)(a) may require a person to be approved by the Lord Chancellor or by a prescribed person.
- (5) The requirements which the Lord Chancellor may prescribe under subsection (3)(d)—
- (a) include requirements for the funder to have provided prescribed information to the litigant before the agreement is made; and
  - (b) may be different for different descriptions of litigation funding agreements.
- (6) In this section (and in the definitions of “advocacy services” and “litigation services” as they apply for its purposes) “proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated.
- (7) Before making regulations under this section, the Lord Chancellor shall consult—
- (a) the designated judges;
  - (b) the General Council of the Bar;
  - (c) the Law Society; and
  - (d) such other bodies as he considers appropriate.
- (8) A costs order made in any proceedings may, subject in the case of court proceedings to rules of court, include provision requiring the payment of any amount payable under a litigation funding agreement.
- (9) Rules of court may make provision with respect to the assessment of any costs which include fees payable under a litigation funding agreement.”

### *Costs*

## **29 Recovery of insurance premiums by way of costs**

Where in any proceedings a costs order is made in favour of any party who has taken out an insurance policy against the risk of incurring a liability in those proceedings, the costs payable to him may, subject in the case of court proceedings to rules of court, include costs in respect of the premium of the policy.

### **30 Recovery where body undertakes to meet costs liabilities**

- (1) This section applies where a body of a prescribed description undertakes to meet (in accordance with arrangements satisfying prescribed conditions) liabilities which members of the body or other persons who are parties to proceedings may incur to pay the costs of other parties to the proceedings.
- (2) If in any of the proceedings a costs order is made in favour of any of the members or other persons, the costs payable to him may, subject to subsection (3) and (in the case of court proceedings) to rules of court, include an additional amount in respect of any provision made by or on behalf of the body in connection with the proceedings against the risk of having to meet such liabilities.
- (3) But the additional amount shall not exceed a sum determined in a prescribed manner; and there may, in particular, be prescribed as a manner of determination one which takes into account the likely cost to the member or other person of the premium of an insurance policy against the risk of incurring a liability to pay the costs of other parties to the proceedings.
- (4) In this section “prescribed” means prescribed by regulations made by the Lord Chancellor by statutory instrument; and a statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations under subsection (1) may, in particular, prescribe as a description of body one which is for the time being approved by the Lord Chancellor or by a prescribed person.

### **31 Rules as to costs**

In section 51 of the Supreme Court Act 1981 (costs), in subsection (2) (rules regulating matters relating to costs), insert at the end “or for securing that the amount awarded to a party in respect of the costs to be paid by him to such representatives is not limited to what would have been payable by him to them if he had not been awarded costs.”

#### *Legal aid in Scotland*

### **32 Regulations about financial limits in certain proceedings**

In section 9(2) of the Legal Aid (Scotland) Act 1986 (application by regulations of Part II to assistance by way of representation), after paragraph (d) insert—

- “(dd) provide that assistance by way of representation shall be available in relation to such proceedings as may be prescribed, without reference to the financial limits under section 8 of this Act;
- (de) provide that section 11(2) of this Act shall not apply as respects assistance by way of representation received in relation to such proceedings as may be prescribed;”.

### **33 Recipients of disabled person’s tax credit**

In the Legal Aid (Scotland) Act 1986, in—

- (a) section 8(b) (availability of advice and assistance), and
- (b) section 11(2)(b) (clients' contributions),

after “of” insert “disabled person’s tax credit,”.

### **34 References by Scottish Criminal Cases Review Commission**

In section 25(7) of the Legal Aid (Scotland) Act 1986 (legal aid in appeals), for “Secretary of State under section 124” substitute “Scottish Criminal Cases Review Commission under section 194B”.

## **PART III**

### **PROVISION OF LEGAL SERVICES**

#### *Legal Services Consultative Panel*

### **35 Replacement of ACLEC by Consultative Panel**

- (1) The Lord Chancellor’s Advisory Committee on Legal Education and Conduct is abolished.
- (2) In the Courts and Legal Services Act 1990, after section 18 insert—

#### *“The Legal Services Consultative Panel*

#### **18A The Consultative Panel**

- (1) The Lord Chancellor shall appoint persons to form a panel to be known as the Legal Services Consultative Panel.
- (2) In appointing persons to the Consultative Panel the Lord Chancellor shall have regard to the desirability of securing that the Consultative Panel includes persons who (between them) have experience in or knowledge of—
  - (a) the provision of legal services;
  - (b) the lay advice sector;
  - (c) civil or criminal proceedings and the working of the courts;
  - (d) legal education and training;
  - (e) the maintenance of the professional standards of persons who provide legal services;
  - (f) the maintenance of standards in professions other than the legal profession;
  - (g) consumer affairs;
  - (h) commercial affairs; and
  - (i) social conditions.
- (3) The Consultative Panel shall have—
  - (a) the duty of assisting in the maintenance and development of standards in the education, training and conduct of persons offering legal services by considering relevant issues in accordance with a programme of work approved by the Lord Chancellor and, where

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- the Consultative Panel considers it appropriate to do so, making recommendations to him;
- (b) the duty of providing to the Lord Chancellor, at his request, advice about particular matters relating to any aspect of the provision of legal services (including the education, training and conduct of persons offering legal services); and
  - (c) the functions conferred or imposed on it by other provisions of this Act or any other enactment.
- (4) The Consultative Panel may, in performance of the duty in subsection (3)(a), seek information from or give advice to any body or person.
- (5) The Lord Chancellor shall publish—
- (a) any recommendations made to him by the Consultative Panel in performance of the duty in paragraph (a) of subsection (3); and
  - (b) any advice provided to him by the Consultative Panel in performance of the duty in paragraph (b) of that subsection.
- (6) The Lord Chancellor shall consider any recommendations made to him by the Consultative Panel in performance of the duty in subsection (3)(a).
- (7) The Lord Chancellor—
- (a) shall make available to the Consultative Panel appropriate administrative support; and
  - (b) may pay to any of the persons forming it any such allowances, and make any such reimbursement of expenses, as he considers appropriate.
- (8) For the purposes of the law of defamation the publication of any advice by the Consultative Panel in the exercise of any of its functions shall be absolutely privileged.”
- (3) In section 119(1) of that Act (interpretation), after the definition of “authorised practitioner” insert—
- ““Consultative Panel” means the Legal Services Consultative Panel;”.
- (4) In Schedule 9 to that Act (exemption from prohibition on preparation of probate papers: approval)—
- (a) for “Advisory Committee” (in each place) substitute “Consultative Panel”,
  - (b) in paragraph 2(1), for “Advisory Committee’s” substitute “Consultative Panel’s”, and
  - (c) in paragraphs 2(3) and 8(3), for “Committee” (in each place) substitute “Consultative Panel”.
- (5) In the First Schedule to the Public Records Act 1958 (definition of public records), in Part II of the Table set out at the end of paragraph 3, insert at the appropriate place—
- “The Legal Services Consultative Panel.”



*Rights of audience and rights to conduct litigation*

**36 Barristers and solicitors**

For sections 31 to 33 of the Courts and Legal Services Act 1990 (deemed rights of barristers and solicitors) substitute—

**“31 Barristers and solicitors**

- (1) Every barrister shall be deemed to have been granted by the General Council of the Bar a right of audience before every court in relation to all proceedings (exercisable in accordance with the qualification regulations and rules of conduct of the General Council of the Bar approved for the purposes of section 27 in relation to the right).
- (2) Every solicitor shall be deemed to have been granted by the Law Society—
  - (a) a right of audience before every court in relation to all proceedings (exercisable in accordance with the qualification regulations and rules of conduct of the Law Society approved for the purposes of section 27 in relation to the right); and
  - (b) a right to conduct litigation in relation to every court and all proceedings (exercisable in accordance with the qualification regulations and rules of conduct of the Law Society approved for the purposes of section 28 in relation to the right).
- (3) A person shall not have a right of audience by virtue of subsection (1) if—
  - (a) he has not been called to the Bar by an Inn of Court; or
  - (b) he has been disbarred, or is temporarily suspended from practice, by order of an Inn of Court.”

**37 Rights of audience: employed advocates**

In the Courts and Legal Services Act 1990, after section 31 (as substituted by section 36 above) insert—

**“31A Employed advocates**

- (1) Where a person who has a right of audience granted by an authorised body is employed as a Crown Prosecutor or in any other description of employment, any qualification regulations or rules of conduct of the body relating to that right which fall within subsection (2) shall not have effect in relation to him.
- (2) Qualification regulations or rules of conduct relating to a right granted by a body fall within this subsection if—
  - (a) they limit the courts before which, or proceedings in which, that right may be exercised by members of the body who are employed or limit the circumstances in which that right may be exercised by them by requiring them to be accompanied by some other person when exercising it; and
  - (b) they do not impose the same limitation on members of the body who have the right but are not employed.”

### **38 Employees of Legal Services Commission**

In the Courts and Legal Services Act 1990, after section 31A (inserted by section 37 above) insert—

#### **“31B Advocates and litigators employed by Legal Services Commission**

- (1) Where a person who has a right of audience or right to conduct litigation granted by an authorised body is employed by the Legal Services Commission, or by any body established and maintained by the Legal Services Commission, any rules of the authorised body which fall within subsection (2) shall not have effect in relation to him.
- (2) Rules of a body fall within this subsection if they are—
  - (a) rules of conduct prohibiting or limiting the exercise of the right on behalf of members of the public by members of the body who are employees; or
  - (b) rules of any other description prohibiting or limiting the provision of legal services to members of the public by such members of the body, and either of the conditions specified in subsection (3) is satisfied.
- (3) Those conditions are—
  - (a) that the prohibition or limitation is on the exercise of the right, or the provision of the services, otherwise than on the instructions of solicitors (or other persons acting for the members of the public); and
  - (b) that the rules do not impose the same prohibition or limitation on members of the body who have the right but are not employees.”

### **39 Rights of audience: change of authorised body**

In the Courts and Legal Services Act 1990, after section 31B (inserted by section 38 above) insert—

#### **“31C Change of authorised body**

- (1) Where a person—
  - (a) has at any time had, and been entitled to exercise, a right of audience before a court in relation to proceedings of any description granted by one authorised body; and
  - (b) becomes a member of another authorised body and has a right of audience before that court in relation to that description of proceedings granted by that body,any qualification regulations of that body relating to that right shall not have effect in relation to him.
- (2) Subsection (1) does not apply in relation to any qualification regulations to the extent that they impose requirements relating to continuing education or training which have effect in relation to the exercise of the right by all members of the body who have the right.

- (3) Subsection (1) does not apply to a person if he has been banned from exercising the right of audience by the body mentioned in paragraph (a) of that subsection as a result of disciplinary proceedings and that body has not lifted the ban.”

**40 Rights to conduct litigation: barristers and legal executives**

- (1) Section 28 of the Courts and Legal Services Act 1990 (rights to conduct litigation) is amended as follows.
- (2) In the definition of “authorised body” in subsection (5), after paragraph (a) (which specifies the Law Society), insert—
- “(aa) the General Council of the Bar;
  - (ab) the Institute of Legal Executives; and”.
- (3) After that subsection insert—
- “(5A) Nothing in this section shall be taken to require the General Council of the Bar or the Institute of Legal Executives to grant a right to conduct litigation.”

**41 Authorised bodies: designation and regulations and rules**

Schedule 5 (which substitutes new provisions for sections 29 and 30 of, and Schedule 4 to, the Courts and Legal Services Act 1990) has effect.

**42 Overriding duties of advocates and litigators**

- (1) In section 27 of the Courts and Legal Services Act 1990 (rights of audience), after subsection (2) insert—
- “(2A) Every person who exercises before any court a right of audience granted by an authorised body has—
- (a) a duty to the court to act with independence in the interests of justice; and
  - (b) a duty to comply with rules of conduct of the body relating to the right and approved for the purposes of this section;
- and those duties shall override any obligation which the person may have (otherwise than under the criminal law) if it is inconsistent with them.”
- (2) In section 28 of that Act (rights to conduct litigation), after subsection (2) insert—
- “(2A) Every person who exercises in relation to proceedings in any court a right to conduct litigation granted by an authorised body has—
- (a) a duty to the court to act with independence in the interests of justice; and
  - (b) a duty to comply with rules of conduct of the body relating to the right and approved for the purposes of this section;
- and those duties shall override any obligation which the person may have (otherwise than under the criminal law) if it is inconsistent with them.”

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#### **43 Minor and consequential amendments**

Schedule 6 (which makes minor and consequential amendments relating to rights of audience and rights to conduct litigation) has effect.

#### *Barristers and solicitors*

#### **44 Barristers employed by solicitors etc**

- (1) Where a barrister is employed by—
  - (a) a solicitor or other authorised litigator (within the meaning of the Courts and Legal Services Act 1990), or
  - (b) a body recognised under section 9 of the Administration of Justice Act 1985 (incorporated solicitors' practices),any rules of the General Council of the Bar which impose a prohibition or limitation on the provision of legal services shall not operate to prevent him from providing legal services to clients of his employer if either of the conditions specified in subsection (2) is satisfied.
- (2) Those conditions are—
  - (a) that the prohibition or limitation is on the provision of the services otherwise than on the instructions of a solicitor (or other person acting for the client), and
  - (b) that the prohibition or limitation does not apply to barristers who provide legal services but are not employees.

#### **45 Fees on application for appointment as Queen's Counsel**

- (1) A person who applies to the Lord Chancellor to be recommended for appointment as Queen's Counsel in England and Wales shall pay a fee to the Lord Chancellor.
- (2) The amount of the fee shall be specified by order made by the Lord Chancellor; and in determining that amount the Lord Chancellor shall have regard to the expenses incurred by him in considering such applications.
- (3) An order under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) This section does not affect section 9 of the Great Seal (Offices) Act 1874 (under which fees are charged in respect of the grant of Letters Patent under the Great Seal for appointment as Queen's Counsel).

#### **46 Bar practising certificates**

- (1) If the General Council of the Bar makes rules prohibiting barristers from practising as specified in the rules unless authorised by a certificate issued by the Council (a "practising certificate"), the rules may include provision requiring the payment of fees to the Council by applicants for practising certificates.
- (2) Rules made by virtue of subsection (1)—
  - (a) may provide for the payment of different fees by different descriptions of applicants, but

- (b) may not set fees with a view to raising a total amount in excess of that applied by the Council for the purposes of the regulation, education and training of barristers and those wishing to become barristers.
- (3) The Lord Chancellor may by order made by statutory instrument—
  - (a) amend subsection (2)(b) by adding to the purposes referred to in it such other purposes as the Lord Chancellor considers appropriate, or
  - (b) vary or revoke an order under paragraph (a).
- (4) No order shall be made under subsection (3) unless—
  - (a) the Lord Chancellor has consulted the Council, and
  - (b) a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (5) No provision included in rules by virtue of subsection (1), and no other provision of rules made by the Council about practising certificates, shall have effect unless approved by the Lord Chancellor.
- (6) The Council shall provide the Lord Chancellor with such information as he may reasonably require for deciding whether to approve any provision of rules made by the Council about practising certificates.

#### **47 Fees for solicitors' practising certificates**

- (1) The Lord Chancellor may by order made by statutory instrument amend section 11(3) of the Solicitors Act 1974 (power of Law Society to apply fees payable on issue of practising certificates for any of its purposes) by substituting for the purposes referred to in it (at any time)—
  - (a) the purposes of the regulation, education and training of solicitors and those wishing to become solicitors, or
  - (b) both those purposes and such other purposes as the Lord Chancellor considers appropriate.
- (2) No order shall be made under this section unless—
  - (a) the Lord Chancellor has consulted the Master of the Rolls and the Law Society, and
  - (b) a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

#### **48 Law Society's powers in relation to conduct of solicitors etc**

Schedule 7 (which extends the powers of the Law Society in relation to the conduct of solicitors and their employees and consultants) has effect.

#### *Legal Services Ombudsman*

#### **49 Powers of Ombudsman**

- (1) Section 23 of the Courts and Legal Services Act 1990 (recommendations of the Legal Services Ombudsman) is amended as follows.

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- (2) In subsection (1)(c) (written report of investigation to be sent to person with respect to whom recommendation is made), after “subsection (2)” insert “or an order under subsection (2A)”.
- (3) In paragraph (e) of subsection (2) (recommendation that costs be paid by person or body to which recommendation under paragraph (c) or (d) applies), for “which a recommendation under paragraph (c) or (d) applies” substitute “pay compensation under paragraph (c) or (d)”.
- (4) After that subsection insert—
  - “(2A) If after completing any investigation under this Act the Ombudsman considers that, rather than recommending the taking of any action by any person or professional body under paragraph (c), (d) or (e) of subsection (2), he should make an order requiring the taking of that action by the person or body—
    - (a) he shall afford the person or body, and the person who made the allegation, a reasonable opportunity of appearing before him to make representations; and
    - (b) having considered any representations from them, he may, in reporting his conclusions, make the order.”
- (5) In subsections (3) and (4) (reports), after “recommendation” (in each place) insert “or order”.
- (6) In subsection (6) (duty to have regard to Ombudsman’s report), for “subsection (1)(b) or (c)” substitute “subsection (1)(b), (c) or (d)”.
- (7) For the sidenote substitute “Recommendations and orders.”

## **50 Funding of Ombudsman by professional bodies**

In paragraph 7 of Schedule 3 to the Courts and Legal Services Act 1990 (financial provisions relating to Legal Services Ombudsman), for sub-paragraph (1) (Ombudsman’s expenses to be defrayed by Lord Chancellor) substitute—

- “(1) The Lord Chancellor may require any professional body (within the meaning of section 22 of this Act) to make payments of such amount as the Lord Chancellor considers appropriate to the Ombudsman towards meeting the expenditure incurred (or to be incurred) by him in the discharge of his functions.
- (1A) To the extent that that expenditure is not met by payments under sub-paragraph (1), it shall be met by the Lord Chancellor out of money provided by Parliament.”

### *Legal Services Complaints Commissioner*

## **51 Commissioner**

- (1) The Lord Chancellor may appoint a person as Legal Services Complaints Commissioner.

- (2) Any appointment of a person as Commissioner shall be for a period of not more than three years; and a person appointed as Commissioner shall hold and vacate office in accordance with the terms of his appointment.
- (3) At the end of his term of appointment the Commissioner shall be eligible for re-appointment.
- (4) The Commissioner shall not be an authorised advocate, authorised litigator, licensed conveyancer or authorised practitioner (within the meaning of the Courts and Legal Services Act 1990) or a notary.
- (5) Schedule 8 (which makes further provision about the Commissioner) has effect.

## **52 Commissioner's functions**

- (1) If it appears to the Lord Chancellor that complaints about members of any professional body are not being handled effectively and efficiently, he may by direction require the Legal Services Complaints Commissioner to consider exercising in relation to the body such of the powers in subsection (2) as are specified in the direction.
- (2) Those powers are—
  - (a) to require a professional body to provide information, or make reports, to the Commissioner about the handling of complaints about its members,
  - (b) to investigate the handling of complaints about the members of a professional body,
  - (c) to make recommendations in relation to the handling of complaints about the members of a professional body,
  - (d) to set targets in relation to the handling of complaints about the members of a professional body, and
  - (e) to require a professional body to submit to the Commissioner a plan for the handling of complaints about its members.
- (3) Where the Commissioner requires a professional body to submit to him a plan for the handling of complaints about its members but the body—
  - (a) fails to submit to him a plan which he considers adequate for securing that such complaints are handled effectively and efficiently, or
  - (b) submits to him such a plan but fails to handle complaints in accordance with it, he may require the body to pay a penalty.
- (4) Before requiring a professional body to pay a penalty under subsection (3) the Commissioner shall afford it a reasonable opportunity of appearing before him to make representations.
- (5) The Lord Chancellor shall by order made by statutory instrument specify the maximum amount of any penalty under subsection (3).
- (6) In determining the amount of any penalty which a professional body is to be required to pay under subsection (3) the Commissioner shall have regard to all the circumstances of the case, including in particular—
  - (a) the total number of complaints about members of the body and, where the penalty is imposed in respect of a failure to handle complaints in accordance with a plan, the number of complaints not so handled, and
  - (b) the assets of the body and the number of its members.

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- (7) A penalty under subsection (3) shall be paid to the Commissioner who shall pay it to the Lord Chancellor.
- (8) Where a direction under subsection (1) in relation to a professional body has been given (and not revoked), section 24(1) of the Courts and Legal Services Act 1990 (power of Legal Services Ombudsman to make recommendations about arrangements for investigation of complaints) shall not have effect in relation to the body.
- (9) No order shall be made under subsection (5) unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (10) In this section “professional body” has the same meaning as in section 22 of the Courts and Legal Services Act 1990.

#### *Public notaries*

### **53 Abolition of scriveners' monopoly**

A public notary may practise as a notary in, or within three miles of, the City of London whether or not he is a member of the Incorporated Company of Scriveners of London (even if he is admitted to practise only outside that area).

## **PART IV**

### APPEALS, COURTS, JUDGES AND COURT PROCEEDINGS

#### *Appeals*

### **54 Permission to appeal**

- (1) Rules of court may provide that any right of appeal to—
  - (a) a county court,
  - (b) the High Court, or
  - (c) the Court of Appeal,
 may be exercised only with permission.
- (2) This section does not apply to a right of appeal in a criminal cause or matter.
- (3) For the purposes of subsection (1) rules of court may make provision as to—
  - (a) the classes of case in which a right of appeal may be exercised only with permission,
  - (b) the court or courts which may give permission for the purposes of this section,
  - (c) any considerations to be taken into account in deciding whether permission should be given, and
  - (d) any requirements to be satisfied before permission may be given,
 and may make different provision for different circumstances.
- (4) No appeal may be made against a decision of a court under this section to give or refuse permission (but this subsection does not affect any right under rules of court to make a further application for permission to the same or another court).



- (5) For the purposes of this section a right to make an application to have a case stated for the opinion of the High Court constitutes a right of appeal.
- (6) For the purposes of this section a right of appeal to the Court of Appeal includes—
  - (a) the right to make an application for a new trial, and
  - (b) the right to make an application to set aside a verdict, finding or judgment in any cause or matter in the High Court which has been tried, or in which any issue has been tried, by a jury.

## **55 Second appeals**

- (1) Where an appeal is made to a county court or the High Court in relation to any matter, and on hearing the appeal the court makes a decision in relation to that matter, no appeal may be made to the Court of Appeal from that decision unless the Court of Appeal considers that—
  - (a) the appeal would raise an important point of principle or practice, or
  - (b) there is some other compelling reason for the Court of Appeal to hear it.
- (2) This section does not apply in relation to an appeal in a criminal cause or matter.

## **56 Power to prescribe alternative destination of appeals**

- (1) The Lord Chancellor may by order provide that appeals which would otherwise lie to—
  - (a) a county court,
  - (b) the High Court, or
  - (c) the Court of Appeal,shall lie instead to another of those courts, as specified in the order.
- (2) This section does not apply to an appeal in a criminal cause or matter.
- (3) An order under subsection (1)—
  - (a) may make different provision for different classes of proceedings or appeals, and
  - (b) may contain consequential amendments or repeals of enactments.
- (4) Before making an order under subsection (1) the Lord Chancellor shall consult—
  - (a) the Lord Chief Justice,
  - (b) the Master of the Rolls,
  - (c) the President of the Family Division, and
  - (d) the Vice-Chancellor.
- (5) An order under subsection (1) shall be made by statutory instrument.
- (6) No such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (7) For the purposes of this section an application to have a case stated for the opinion of the High Court constitutes an appeal.

## **57 Assignment of appeals to Court of Appeal**

- (1) Where in any proceedings in a county court or the High Court a person appeals, or seeks permission to appeal, to a court other than the Court of Appeal or the House of Lords—
  - (a) the Master of the Rolls, or
  - (b) the court from which or to which the appeal is made, or from which permission to appeal is sought,
 may direct that the appeal shall be heard instead by the Court of Appeal.
- (2) The power conferred by subsection (1)(b) shall be subject to rules of court.

## **58 Criminal appeals: minor amendments**

- (1) In section 40(6) of the Criminal Justice Act 1991 (order returning offender to prison for unserved portion of sentence to be treated for purposes of appeal provisions as sentence passed for original offence), for the words from “any enactment” to “made” substitute “sections 9 and 10 of the Criminal Appeal Act 1968, any order made by the Crown Court under subsection (2) above, or made under subsection (3A) above.”.
- (2) In section 8(1B)(b) of the Criminal Appeal Act 1968 (power of Court to direct entry of judgment and verdict of acquittal on applications relating to order for retrial), after “to” insert “set aside the order for retrial and”.
- (3) In section 9(2) of that Act (right of appeal against sentence for summary offence), insert at the end “or sub-paragraph (4) of that paragraph.”
- (4) Section 10 of that Act (appeal to Court of Appeal by person dealt with by Crown Court for offence of which he was not convicted on indictment) is amended in accordance with subsections (5) to (7).
- (5) In subsection (2) (proceedings from which an appeal lies), insert at the end “; or
  - (c) having been released under Part II of the Criminal Justice Act 1991 after serving part of a sentence of imprisonment or detention imposed for the offence, is ordered by the Crown Court to be returned to prison or detention.”
- (6) In subsection (3) (cases where person may appeal), in paragraph (cc) (order under section 40(3A)), for “40(3A)” substitute “40(2) or (3A)”.
- (7) In subsection (4) (calculation of length of term of imprisonment), after “imprisonment” insert “or detention”.

### *Civil division of Court of Appeal*

## **59 Composition**

In section 54 of the Supreme Court Act 1981 (composition of court of civil division of Court of Appeal), for subsections (2) to (4) (number of judges) substitute—

- “(2) Subject as follows, a court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of one or more judges.
- (3) The Master of the Rolls may, with the concurrence of the Lord Chancellor, give (or vary or revoke) directions about the minimum number of judges of

which a court must consist if it is to be duly constituted for the purpose of any description of proceedings.

- (4) The Master of the Rolls, or any Lord Justice of Appeal designated by him, may (subject to any directions under subsection (3)) determine the number of judges of which a court is to consist for the purpose of any particular proceedings.
- (4A) The Master of the Rolls may give directions as to what is to happen in any particular case where one or more members of a court which has partly heard proceedings are unable to continue.”

## **60 Calling into question of incidental decisions**

For section 58 of the Supreme Court Act 1981 (exercise of incidental jurisdiction in civil division of Court of Appeal) substitute—

### **“58 Calling into question of incidental decisions in civil division**

- (1) Rules of court may provide that decisions of the Court of Appeal which—
  - (a) are taken by a single judge or any officer or member of staff of that court in proceedings incidental to any cause or matter pending before the civil division of that court; and
  - (b) do not involve the determination of an appeal or of an application for permission to appeal,may be called into question in such manner as may be prescribed.
- (2) No appeal shall lie to the House of Lords from a decision which may be called into question pursuant to rules under subsection (1).”

### *High Court*

## **61 Cases stated by Crown Court**

For section 28A of the Supreme Court Act 1981 (proceedings on case stated by magistrates' court) substitute—

### **“28A Proceedings on case stated by magistrates' court or Crown Court**

- (1) This section applies where a case is stated for the opinion of the High Court—
  - (a) by a magistrates' court under section 111 of the Magistrates' Courts Act 1980; or
  - (b) by the Crown Court under section 28(1) of this Act.
- (2) The High Court may, if it thinks fit, cause the case to be sent back for amendment and, where it does so, the case shall be amended accordingly.
- (3) The High Court shall hear and determine the question arising on the case (or the case as amended) and shall—
  - (a) reverse, affirm or amend the determination in respect of which the case has been stated; or
  - (b) remit the matter to the magistrates' court, or the Crown Court, with the opinion of the High Court,

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and may make such other order in relation to the matter (including as to costs) as it thinks fit.

- (4) Except as provided by the Administration of Justice Act 1960 (right of appeal to House of Lords in criminal cases), a decision of the High Court under this section is final.”

## **62 Power to vary committal in default**

In the Supreme Court Act 1981, after section 43 insert—

### **“43ZA Power of High Court to vary committal in default**

- (1) Where the High Court quashes the committal of a person to prison or detention by a magistrates' court or the Crown Court for—
- (a) a default in paying a sum adjudged to be paid by a conviction; or
  - (b) want of sufficient distress to satisfy such a sum,
- the High Court may deal with the person for the default or want of sufficient distress in any way in which the magistrates' court or Crown Court would have power to deal with him if it were dealing with him at the time when the committal is quashed.
- (2) If the High Court commits him to prison or detention, the period of imprisonment or detention shall, unless the High Court otherwise directs, be treated as having begun when the person was committed by the magistrates' court or the Crown Court (except that any time during which he was released on bail shall not be counted as part of the period).”

## **63 Criminal causes and matters**

- (1) In section 1(1)(a) of the Administration of Justice Act 1960 (appeal to House of Lords from decision of Divisional Court of the Queen’s Bench Division in a criminal cause or matter), for “a Divisional Court of the Queen’s Bench Division” substitute “the High Court”.
- (2) In sections 4(2) and (3) and 9(2) of that Act (bail pending appeal), for “a Divisional Court” substitute “the High Court”.

## **64 Contempt of court**

- (1) Section 13(2) of the Administration of Justice Act 1960 (appeals in cases of contempt of court) is amended as follows.
- (2) In paragraph (a) (appeal from inferior courts from which appeal does not lie to Court of Appeal to lie to a Divisional Court of the High Court), omit “a Divisional Court of”.
- (3) In paragraph (b) (appeal to Court of Appeal from county court or single judge of High Court), for “decision, of a single” substitute “decision (other than a decision on an appeal under this section) of a single”.
- (4) In paragraph (c) (appeal from Divisional Court or Court of Appeal to House of Lords), insert at the beginning “from a decision of a single judge of the High Court on an appeal under this section,”.

## **65 Habeas corpus**

- (1) In the Administration of Justice Act 1960, omit—
  - (a) section 14(1) (order for release on criminal application for habeas corpus to be refused only by Divisional Court of Queen’s Bench Division), and
  - (b) section 15(2) (no appeal to House of Lords from order made by single judge on criminal application for habeas corpus).
- (2) In section 15 of that Act (appeals in habeas corpus cases)—
  - (a) in subsection (3) (no restriction on grant of leave to appeal to House of Lords against decision of Divisional Court on a criminal application for habeas corpus), and
  - (b) in subsection (4) (exceptions to right to be discharged in case of appeal to House of Lords against order of Divisional Court on such an application),  
for “a Divisional Court” substitute “the High Court”.

### *Crown Court*

## **66 Enforcement of community orders**

Schedule 9 (which makes provision about the enforcement of community orders by the Crown Court) has effect.

## **67 Time limits where accused sent for trial**

- (1) In paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998 (regulations about service of evidence where a person is sent without committal proceedings to Crown Court)—
  - (a) in sub-paragraph (1) (regulations to provide that evidence be served on or before the relevant date) omit the words “on or before the relevant date” and after paragraph (b) insert “before the expiry of the period prescribed by the regulations; but the judge may at his discretion extend or further extend that period.”, and
  - (b) for sub-paragraph (2) substitute—
    - “(2) The regulations may make provision as to the procedure to be followed on an application for the extension or further extension of a period under sub-paragraph (1) above.”
- (2) In section 13(1) of the Criminal Procedure and Investigations Act 1996 (transitional time limits relating to service of unused material), after paragraph (c) insert—
  - “(ca) copies of the documents containing the evidence on which the charge or charges are based are served on the accused (where this Part applies by virtue of section 1(2)(cc)).”
- (3) In section 22 of the Prosecution of Offences Act 1985 (time limits in preliminary stages of criminal proceedings), in paragraph (a) of the definition of “appropriate court” in subsection (11) (which has effect so as to allow the Crown Court to extend time limits where the accused is committed for trial or indicted), after “trial” insert “, sent for trial under section 51 of the Crime and Disorder Act 1998”.

*Judges etc.*

**68 Judges holding office in European or international courts**

- (1) A holder of a United Kingdom judicial office may hold office in a relevant international court without being required to relinquish the United Kingdom judicial office.
- (2) In this section—
  - “United Kingdom judicial office” means the office of—
    - (a) Lord Justice of Appeal, Justice of the High Court or Circuit judge, in England and Wales,
    - (b) judge of the Court of Session or sheriff, in Scotland, or
    - (c) Lord Justice of Appeal, judge of the High Court or county court judge, in Northern Ireland, and
  - “relevant international court” means—
    - (a) any court established for any purposes of the European Communities, or
    - (b) any international court (apart from the European Court of Human Rights) which is designated for the purposes of this section by the Lord Chancellor or the Secretary of State.
- (3) A holder of a United Kingdom judicial office who also holds office in a relevant international court is not required to perform any duties as the holder of the United Kingdom judicial office but does not count as holding the United Kingdom judicial office—
  - (a) for the purposes of section 12(1) to (6) of the Supreme Court Act 1981, section 9(1)(c) or (d) of the Administration of Justice Act 1973, section 18 of the Courts Act 1971, section 14 of the Sheriff Courts (Scotland) Act 1907 or section 106 of the County Courts Act (Northern Ireland) 1959 (judicial salaries),
  - (b) for the purposes of, or of any scheme established by and in accordance with, the Judicial Pensions and Retirement Act 1993, the Judicial Pensions Act 1981, the Sheriffs' Pensions (Scotland) Act 1961 or the County Courts Act (Northern Ireland) 1959 (judicial pensions), or
  - (c) for the purposes of section 2(1) or 4(1) of the Supreme Court Act 1981, section 1(1) of the Court of Session Act 1988 or section 2(1) or 3(1) of the Judicature (Northern Ireland) Act 1978 (judicial numbers).
- (4) If the sheriff principal of any sheriffdom also holds office in a relevant international court, section 11(1) of the Sheriff Courts (Scotland) Act 1971 (temporary appointment of sheriff principal) applies as if the office of sheriff principal of that sheriffdom were vacant.
- (5) The appropriate Minister may by order made by statutory instrument make in relation to a holder of a United Kingdom judicial office who has ceased to hold office in a relevant international court such transitional provision (including, in particular, provision for a temporary increase in the maximum number of judges) as he considers appropriate.
- (6) In subsection (5) “the appropriate Minister” means—
  - (a) in relation to any United Kingdom judicial office specified in paragraph (a) or (c) of the definition in subsection (2), the Lord Chancellor, and

- (b) in relation to any United Kingdom judicial office specified in paragraph (b) of that definition, the Secretary of State.
- (7) A statutory instrument containing an order made under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **69 Vice-president of Queen’s Bench Division**

- (1) The Lord Chancellor may appoint one of the ordinary judges of the Court of Appeal as vice-president of the Queen’s Bench Division; and any person so appointed shall hold that office in accordance with the terms of his appointment.
- (2) In section 4 of the Supreme Court Act 1981 (composition of High Court)—
  - (a) in subsection (1) (membership), after the words “the Senior Presiding Judge;” insert—

“(ddd) the vice-president of the Queen’s Bench Division;”, and
  - (b) in subsection (6) (vacancy in offices not to affect constitution), at the end insert “and whether or not an appointment has been made to the office of vice-president of the Queen’s Bench Division.”
- (3) In section 5 of that Act (divisions of High Court), in subsection (1)(b) (Queen’s Bench Division), after “thereof,” insert “the vice-president of the Queen’s Bench Division”.

## **70 Registrar of civil appeals**

The office of registrar of civil appeals is abolished.

### *Court proceedings*

## **71 Adjournment of inquest in event of judicial inquiry**

- (1) In the Coroners Act 1988, after section 17 insert—

### **“17A Adjournment of inquest in event of judicial inquiry**

- (1) If on an inquest into a death the coroner is informed by the Lord Chancellor before the conclusion of the inquest that—
  - (a) a public inquiry conducted or chaired by a judge is being, or is to be, held into the events surrounding the death; and
  - (b) the Lord Chancellor considers that the cause of death is likely to be adequately investigated by the inquiry,the coroner shall, in the absence of any exceptional reason to the contrary, adjourn the inquest and, if a jury has been summoned, may, if he thinks fit, discharge them.
- (2) Where a coroner adjourns an inquest in compliance with subsection (1) above, he shall send to the registrar of deaths a certificate under his hand stating, so far as they have been ascertained at the date of the certificate, the particulars which under the 1953 Act are required to be registered concerning the death.

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- (3) Where a coroner has adjourned an inquest in compliance with subsection (1) above, the Lord Chancellor shall send him the findings of the public inquiry as soon as reasonably practicable after their publication.
- (4) A coroner may only resume an inquest which has been adjourned in compliance with subsection (1) above if in his opinion there is exceptional reason for doing so; and he shall not do so—
  - (a) before the end of the period of 28 days beginning with the day on which the findings of the public inquiry are published; or
  - (b) if the Lord Chancellor notifies the coroner that this paragraph applies, before the end of the period of 28 days beginning with the day on which the public inquiry is concluded.
- (5) Where a coroner resumes an inquest which has been adjourned in compliance with subsection (1) above—
  - (a) the provisions of section 8(3) above shall not apply in relation to that inquest; and
  - (b) if he summons a jury (but not where he resumes without a jury, or with the same jury as before the adjournment), he shall proceed in all respects as if the inquest had not previously begun and the provisions of this Act shall apply accordingly as if the resumed inquest were a fresh inquest.
- (6) Where a coroner does not resume an inquest which he has adjourned in compliance with subsection (1) above, he shall (without prejudice to subsection (2) above) send to the registrar of deaths a certificate under his hand stating any findings of the public inquiry in relation to the death.”
- (2) In section 8(4) of that Act (power to summon jury), for “either before he proceeds to hold an inquest” substitute “before he proceeds to hold an inquest, on resuming an inquest begun with a jury after the inquest has been adjourned and the jury discharged”.
- (3) In the sidenote to section 16 of that Act (adjournment of inquest in certain cases), for “certain cases” substitute “event of criminal proceedings”.

## 72 Reporting of proceedings relating to children

In section 97 of the Children Act 1989 (privacy for children involved in certain proceedings)—

- (a) in subsection (2) (which prohibits the publication of material intended or likely to identify a child as being involved in proceedings before a magistrates' court in which powers under that Act may be exercised), after “before” insert “the High Court, a county court or”, and
- (b) in subsection (8) (which makes provision about the application of certain provisions of the Magistrates' Courts Act 1980 in relation to proceedings to which section 97 applies), after “any proceedings” insert “(before a magistrates' court)”.



### **73 Power to allow children to attend criminal proceedings**

- (1) In section 36 of the Children and Young Persons Act 1933 (child not to be present at criminal trial except where required as witness or otherwise for the purposes of justice), after “justice” insert “or while the court consents to his presence”.
- (2) In section 50(1) of the Criminal Procedure (Scotland) Act 1995 (child not to be present at criminal proceedings unless required as witness or otherwise for the purposes of justice), after “justice” insert “or the court consents to his presence”.

## **PART V**

### **MAGISTRATES AND MAGISTRATES' COURTS**

#### *Territorial organisation*

### **74 Commission areas**

- (1) For sections 1 and 2 of the Justices of the Peace Act 1997 (commission areas outside London and London commission areas) substitute—

#### **“1 Commission areas**

- (1) England and Wales shall be divided into areas for each of which there shall be a commission of the peace.
- (2) The areas shall be as specified by the Lord Chancellor by order made by statutory instrument; but a commission area may not consist of an area partly within and partly outside Greater London.
- (3) An area for which there is a commission of the peace shall be known as a commission area.”

- (2) In that Act, after section 32 insert—

#### **“32A Alteration of commission areas**

- (1) A magistrates' courts committee may at any time submit to the Lord Chancellor written proposals for an alteration of any commission area which includes the whole or any part of their area.
- (2) Before submitting such proposals the magistrates' courts committee shall consult—
  - (a) the magistrates for their area or that of any affected magistrates' courts committee; and
  - (b) any affected magistrates' courts committee.
- (3) Before making an order under section 1(2) above which makes an alteration of a commission area, other than an order which implements proposals submitted to him under subsection (1) above, the Lord Chancellor shall consult—
  - (a) the magistrates for the area of any affected magistrates' courts committee; and

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- (b) any affected magistrates' courts committee.
- (4) For the purposes of subsection (3) above an order shall be taken to implement proposals if it implements them without changes or any departures from the proposals do not, in the opinion of the Lord Chancellor, effect important changes in the proposals.
- (5) An order under section 1(2) above which makes an alteration of a commission area may contain such consequential and transitional provisions as appear to the Lord Chancellor to be necessary or expedient.
- (6) A statutory instrument containing an order under section 1(2) above which makes an alteration of a commission area shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section references to the alteration of a commission area include (as well as a change in the boundaries of the area)—
  - (a) the combination of the area with another commission area; and
  - (b) the division of the area between two or more commission areas.
- (8) For the purposes of this section a magistrates' courts committee is affected by proposals or a proposed order if the alteration proposed would affect any commission area which includes the whole or any part of their area.”

## 75 **Petty sessions areas**

- (1) For section 4 of the Justices of the Peace Act 1997 (petty sessions areas and petty sessional divisions) substitute—

### **“4 Petty sessions areas**

- (1) England and Wales shall also be divided into areas known as petty sessions areas.
- (2) The areas and their names shall be as specified by the Lord Chancellor by order made by statutory instrument.
- (3) Each petty sessions area shall consist of either—
  - (a) the whole of a commission area; or
  - (b) an area wholly included within a commission area.”
- (2) For section 33 of that Act (functions of magistrates' courts committee as to petty sessional divisions and related procedure) substitute—

### **“33 Alteration of petty sessions areas**

- (1) A magistrates' courts committee may at any time submit to the Lord Chancellor a draft order which makes an alteration of a petty sessions area for which they are the committee.
- (2) A magistrates' courts committee shall, if directed to do so by the Lord Chancellor, consider whether any alteration is required to any petty sessions area for which they are the committee and, on completion of its consideration, shall submit to the Lord Chancellor either—

- (a) a draft order under subsection (1) above; or
  - (b) a report giving reasons for no alteration.
- (3) The Lord Chancellor may only make an order under section 4(2) above which makes an alteration of a petty sessions area where—
  - (a) the magistrates' courts committee for the area have submitted a draft order to him under subsection (1) above and the alteration made by the order is in the terms of the draft or subject only to such modifications as the Lord Chancellor thinks fit;
  - (b) a magistrates' courts committee fail to comply within six months with a direction of the Lord Chancellor under subsection (2) above or he is dissatisfied with the draft order or report submitted in pursuance of such a direction; or
  - (c) the alteration is consequential on an order under section 1(2) or 27A(2) above.
- (4) An order under section 4(2) above which makes an alteration of a petty sessions area may contain such consequential and transitional provisions as appear to the Lord Chancellor to be necessary or expedient.
- (5) In this section and section 34 below references to the alteration of a petty sessions area include (as well as a change in the boundaries of the area)—
  - (a) the combination of the area with another petty sessions area;
  - (b) the division of the area between two or more petty sessions areas; and
  - (c) changing the name of the area.”
- (3) In section 34 of that Act (procedure relating to alteration of petty sessions areas)—
  - (a) in subsection (1) (consultation), after “any” insert “petty sessions”,
  - (b) in subsection (3) (copies of proposals), for “section 33 above about any area” substitute “section 4(2) above which makes an alteration of a petty sessions area”, and
  - (c) in subsection (4) (objections and inquiry), for “section 33 above” substitute “section 4(2) above which makes an alteration of a petty sessions area,”.

## **76 Areas: consequential provision**

- (1) The Lord Mayor and aldermen of the City of London shall not be justices of the peace unless appointed by the Lord Chancellor in accordance with the Justices of the Peace Act 1997.
- (2) Schedule 10 (which contains other provisions consequential on sections 74 and 75) has effect.

## **77 Youth courts**

- (1) Part I of the Second Schedule to the Children and Young Persons Act 1933 (constitution of youth courts outside the metropolitan area) is amended in accordance with subsections (2) to (5).
- (2) Omit the headings “Outside Metropolitan Area” and “Youth court panels”.
- (3) Omit paragraph 1 (exclusion of inner London and the City of London from the scope of Part I).

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- (4) In paragraph 8 (as amended by Schedule 10) (prohibition on forming combined youth court panel unless the area consists of single commission area), at the end insert “, or includes the City of London”.
- (5) For paragraph 9 substitute—
- “9 No order under this Schedule shall provide for the formation of a combined youth panel for an area unless the area consists of, or is wholly included in, the area of a single magistrates' courts committee.”
- (6) Omit Part II of that Schedule (particular provision for inner London and the City).

### *Justices*

## 78 Unification and renaming of stipendiary bench

- (1) For sections 11 to 20 of the Justices of the Peace Act 1997 and the heading preceding section 11 (stipendiary magistrates and metropolitan stipendiary magistrates) substitute—

### *“District Judges (Magistrates' Courts)*

#### **10A Appointment and tenure**

- (1) Her Majesty may, on the recommendation of the Lord Chancellor, appoint a person who has a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990) to be a District Judge (Magistrates' Courts).
- (2) The Lord Chancellor—
- (a) shall designate one of the District Judges (Magistrates' Courts) to be the Senior District Judge (Chief Magistrate); and
  - (b) may designate another of them to be his deputy.
- (3) A District Judge (Magistrates' Courts) may not be removed from office except by the Lord Chancellor on the ground of incapacity or misbehaviour.
- (4) The Lord Chancellor may pay to a District Judge (Magistrates' Courts) (in addition to the salary charged on and paid out of the Consolidated Fund under section 9 of the Administration of Justice Act 1973) such allowances as he may, with the approval of the Treasury, determine.

#### **10B Deputies**

- (1) The Lord Chancellor may appoint any person who has a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990) to be a Deputy District Judge (Magistrates' Courts) for such period as the Lord Chancellor considers appropriate (but subject to subsection (2) below).
- (2) The Lord Chancellor may remove a Deputy District Judge (Magistrates' Courts) from office on the ground of incapacity or misbehaviour.

- (3) The Lord Chancellor may pay to a Deputy District Judge (Magistrates' Courts) such remuneration and allowances as he may, with the approval of the Treasury, determine.
- (4) During the period of his appointment a Deputy District Judge (Magistrates' Courts) shall act as a District Judge (Magistrates' Courts) and shall be treated for all purposes (apart from appointment, tenure, remuneration and allowances and pensions) as if he were a District Judge (Magistrates' Courts).

### **10C Status**

- (1) A District Judge (Magistrates' Courts) shall by virtue of his office be a justice of the peace for every commission area.
- (2) Where any enactment makes provision defining the powers of any person or court by reference to the area for which a person is a justice of the peace, the provision shall have effect where that person is a District Judge (Magistrates' Courts) as if it defined the powers by reference to the area for which he is for the time being acting as a justice of the peace.
- (3) A District Judge (Magistrates' Courts) shall sit at such court-houses, on such days and at such times, as may be determined by, or in accordance with, directions given by the Lord Chancellor from time to time.
- (4) References in any enactment, instrument or other document to a district judge or deputy district judge do not include a District Judge (Magistrates' Courts).

### **10D Power to discharge functions exercisable by two justices**

- (1) A District Judge (Magistrates' Courts), sitting in a place appointed for the purpose, shall have power—
  - (a) to do any act; and
  - (b) to exercise alone any jurisdiction,which can be done or exercised by two justices, including any act or jurisdiction expressly required to be done or exercised by justices sitting or acting in petty sessions.
- (2) Subsection (1) above does not apply where the law under which the act or jurisdiction can be done or exercised was made after 2nd August 1858 and contains express provision contrary to that subsection.
- (3) Any statutory provision auxiliary to the jurisdiction exercisable by two justices of the peace shall apply also to the jurisdiction of a District Judge (Magistrates' Courts).
- (4) Subsections (1) and (3) above do not apply where the act or jurisdiction relates to the grant or transfer of any licence.
- (5) Any authority or requirement in any enactment for persons to be summoned or to appear at petty sessions in any case shall include authority or a requirement in such a case for persons to be summoned or to appear before a District Judge (Magistrates' Courts) at the place appointed for his sitting.

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- (6) Nothing in this section applies to the hearing or determination of family proceedings within the meaning of section 65 of the Magistrates' Courts Act 1980.

#### **10E Disapplication of restrictions**

- (1) Nothing in the Magistrates' Courts Act 1980—
- (a) requiring a magistrates' court to be composed of two or more justices or to sit in a petty sessional court-house or an occasional court-house; or
  - (b) limiting the powers of a magistrates' court when composed of a single justice or when sitting elsewhere than in a petty sessional court-house,
- shall apply to any District Judge (Magistrates' Courts) sitting in a place appointed for the purpose.
- (2) Subsection (1) above does not apply to the hearing or determination of family proceedings within the meaning of section 65 of the Magistrates' Courts Act 1980.”

- (2) Schedule 11 (which makes amendments consequential on this section) has effect.

#### **79 Justices not to sit on committal for sentence**

In section 74(1) of the Supreme Court Act 1981 (cases in which Crown Court is to consist of a judge sitting with justices of the peace), omit paragraph (b) (proceedings on committal for sentence).

#### **80 Jurisdiction over offences outside area**

- (1) In the Magistrates' Courts Act 1980, after section 3A insert—

##### **“3B Transfer of trials of summary offences**

- (1) Where a person is required to appear, or to be brought, before a magistrates' court on an information charging him with a summary offence, he or the prosecutor may apply to the court for the offence to be tried by a magistrates' court which is named in the application but which would not, apart from subsection (2) below, have jurisdiction to try the offence.
- (2) Where an application under this section is granted, the court named in it shall have jurisdiction to try the offence.
- (3) The Lord Chancellor may make regulations specifying—
- (a) matters which a court must consider in deciding whether to grant or refuse an application under this section; and
  - (b) circumstances in which a court must grant or refuse such an application.
- (4) The power to make regulations under subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment by resolution of either House of Parliament.”

(2) In section 145(1) of that Act (power to make rules of court as to specified matters), after paragraph (a) insert—

“(aa) as to the determination of applications under section 3B above (including provision for their determination by justices' clerks);”.

### *Magistrates' courts committees*

## **81 Areas outside Greater London**

For section 27 of the Justices of the Peace Act 1997 (general provisions about magistrates' courts committees) substitute—

### *“Introductory*

#### **27 Introduction**

Magistrates' courts committees shall have—

- (a) such functions as are conferred or imposed on them by or under this Act or any other enactment; and
- (b) such other functions relating to matters of an administrative character as they may be authorised by the Lord Chancellor to undertake.

### *Magistrates' courts committees outside Greater London*

#### **27A Committees**

- (1) England and Wales outside Greater London shall be divided into areas for each of which there shall be a magistrates' courts committee.
- (2) The areas of the committees shall be as specified by the Lord Chancellor by order made by statutory instrument.
- (3) Each area outside Greater London for which there is a magistrates' courts committee shall—
  - (a) consist of the whole of one or more commission areas or be included wholly within a single commission area; and
  - (b) comprise the whole of one or more petty sessions areas.

#### **27B Alteration of committee areas**

- (1) A magistrates' courts committee for an area outside Greater London may at any time submit to the Lord Chancellor written proposals for the alteration of their area.
- (2) Before submitting such proposals, the magistrates' courts committee shall consult—
  - (a) the magistrates for their area or any other magistrates' courts committee area to which the proposals relate;
  - (b) any other magistrates' courts committee to which the proposals relate; and

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- (c) every relevant authority whose area includes all or any part of any of the magistrates' courts committee areas to which the proposals relate.
- (3) The Lord Chancellor shall not make an order under section 27A(2) above which makes an alteration of any area unless he is satisfied that the making of the order is likely to contribute to an overall increase in the efficiency of the administration of magistrates' courts.
  - (4) Before making an order under section 27A(2) above which makes an alteration of any area, other than an order which implements proposals submitted to him under subsection (1) above, the Lord Chancellor shall consult—
    - (a) the magistrates for the area;
    - (b) the magistrates' courts committees for the area; and
    - (c) every relevant authority whose area includes all or any part of the magistrates' courts committee area.
  - (5) For the purposes of subsection (4) above, an order shall be taken to implement proposals if it implements them without changes or any departures from the proposals do not, in the opinion of the Lord Chancellor, effect important changes in the proposals.
  - (6) An order under section 27A(2) above which makes an alteration of any area may contain such consequential and transitional provisions as appear to the Lord Chancellor to be necessary or expedient, including—
    - (a) provision for the transfer of property, rights and liabilities;
    - (b) provision for the management or custody of transferred property (whether real or personal); and
    - (c) provision for any magistrates' courts committee coming into existence by virtue of the order to be constituted under section 30 below as a body corporate, and to incur liabilities, before the date on which the functions of any magistrates' courts committee are transferred to it.
  - (7) The Lord Chancellor may give directions with respect to convening the first meeting of a magistrates' courts committee coming into existence by virtue of an order under section 27A(2) above.
  - (8) A statutory instrument containing an order under section 27A(2) above which makes an alteration of any area shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (9) In this section references to the alteration of a magistrates' courts committee area include (as well as a change in the boundaries of the area)—
    - (a) the combination of the area with another magistrates' courts committee area; and
    - (b) the division of the area between two or more magistrates' courts committee areas.
  - (10) In this section “relevant authority” means—
    - (a) a county council;
    - (b) a county borough council; or
    - (c) the council of a unitary district.”



## **82 Constitution of committees outside Greater London**

For sections 28 to 30 of the Justices of the Peace Act 1997 (constitution of magistrates' courts committees) substitute—

### **“28 Constitution of committees**

- (1) A magistrates' courts committee for an area outside Greater London shall, subject to subsection (2) below, be composed of justices of the peace for the area to which the committee relates, chosen in accordance with regulations under section 29 below.
- (2) Such a magistrates' courts committee may also include persons (who need not be justices of the peace)—
  - (a) co-opted by the committee with the approval of the Lord Chancellor; or
  - (b) appointed by the Lord Chancellor.

### **29 Regulations about committees**

- (1) The Lord Chancellor may by statutory instrument make general regulations about the constitution, procedure and quorum of magistrates' courts committees for areas outside Greater London; but any such regulations shall have effect subject to the provisions of section 28 above.
- (2) The regulations shall provide for the members referred to in section 28(1) above to be chosen by a selection panel constituted in accordance with the regulations.
- (3) The regulations may—
  - (a) lay down an upper limit for the number of members of a magistrates' courts committee (inclusive of the members referred to in subsection (2) of section 28 above); and
  - (b) enable the Lord Chancellor to direct that, in relation to any magistrates' courts committee to which the direction is given, any members co-opted or appointed under that subsection are to be left out of account in applying the upper limit.
- (4) The regulations may make provision for the payment of remuneration to members of a magistrates' courts committee co-opted or appointed under section 28(2) above.
- (5) The regulations may make different provision in relation to magistrates' courts committees for different areas.
- (6) The regulations may also make provision with respect to the persons (other than the members, clerks and officers of the committee) who may be entitled to attend the meetings of a magistrates' courts committee and the rights of such persons to make representations to the committee.
- (7) A statutory instrument containing (whether alone or with other provisions) regulations made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### **30 Supplementary provisions about committees**

- (1) A magistrates' courts committee for an area outside Greater London shall appoint one of their members to be chairman of the committee.
- (2) Where the magistrates for a petty sessions area are required to meet for the purpose of carrying out any functions under section 29 above, a meeting shall be convened by the magistrates' courts committee or, if there is no such committee or the Lord Chancellor considers it appropriate, by the Lord Chancellor.
- (3) A magistrates' courts committee for an area outside Greater London may act through sub-committees appointed by them which, if they include at least one member of the committee, may also include persons who are not members.
- (4) Such a magistrates' courts committee may also arrange for the discharge of any of their functions—
  - (a) by the chairman of the committee; or
  - (b) by the justices' chief executive.
- (5) Subject to the provisions of this Act, a magistrates' courts committee for an area outside Greater London shall have power to regulate their own procedure, including quorum.
- (6) A magistrates' courts committee for an area outside Greater London shall be a body corporate.
- (7) A magistrates' courts committee for an area outside Greater London shall, on at least one occasion in every calendar year, admit members of the public to a meeting of the committee.
- (8) The minutes of proceedings of every meeting of such a magistrates' courts committee shall be open to inspection by members of the public at the offices of the committee, except to the extent that the committee determine that the minutes disclose information of a confidential nature.
- (9) Copies of any minutes which are open to inspection under subsection (8) above shall be made available to the public on payment of such reasonable fee as the magistrates' courts committee may in any case determine.
- (10) A magistrates' courts committee making a determination under subsection (8) above shall state their reasons for regarding the information in question as being of a confidential nature.”

### **83 Greater London Magistrates' Courts Authority**

- (1) In the Justices of the Peace Act 1997, after section 30 insert—

*“Greater London*

#### **30A Greater London Magistrates' Courts Authority**

- (1) There shall be a body corporate known as the Greater London Magistrates' Courts Authority.

- (2) The Authority shall be the magistrates' courts committee for Greater London.

### **30B Regulations about Authority**

- (1) The Lord Chancellor may by regulations made by statutory instrument make provision relating to the Greater London Magistrates' Courts Authority, including—
- (a) provision about the membership of the Authority (including provision as to who is to chair it and about the payment of remuneration to its members); and
  - (b) provision about the Authority's constitution and procedure (including quorum and meetings).
- (2) A statutory instrument containing (whether alone or with other provisions) regulations made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **30C Procedure of Authority**

- (1) The Greater London Magistrates' Courts Authority may, with the approval of the Lord Chancellor, act through committees appointed by the Authority which, if they include at least one member of the Authority, may also include persons who are not members.
- (2) The Authority may also arrange for the discharge of any of their functions—
- (a) by the chairman of the Authority; or
  - (b) by the justices' chief executive.
- (3) Subject to regulations made under this Act, the Authority shall have power to regulate their own procedure, including quorum.

*Provisions applying to all magistrates' courts committees.”*

- (2) After section 59 of that Act insert—

*“Greater London Magistrates' Courts Authority*

### **59A Functions**

- (1) The Greater London Magistrates' Courts Authority shall provide such petty sessional court-houses and other accommodation, and such goods and services, as they may determine proper for the performance of the Authority's functions and those of—
- (a) the magistrates for Greater London;
  - (b) any committee of the magistrates for Greater London; and
  - (c) the justices' clerks for any part of Greater London.
- (2) The Authority may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the function in subsection (1) above; but the Authority may not borrow money except insofar as authorised by any other enactment to do so.

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### **59B Funding**

- (1) The Lord Chancellor may pay grants to the Greater London Magistrates' Courts Authority in respect of the Authority's expenditure.
- (2) Grants under this section shall be paid at such times, in such manner and subject to such conditions as the Lord Chancellor may with the concurrence of the Treasury determine.
- (3) Each London local authority shall pay to the Authority such amount in respect of—
  - (a) any kind of the Authority's expenditure in any year; or
  - (b) if less, such amount as may, in relation to that kind of expenditure and that year, be for the time being determined by the Lord Chancellor, as may be determined in accordance with regulations made by the Lord Chancellor by statutory instrument.
- (4) The Lord Chancellor may by regulations made by statutory instrument make provision as to the making of payments under subsection (3) above, including provision—
  - (a) as to whether payments are to be made by instalments or otherwise;
  - (b) as to the time when payments are to be made;
  - (c) conferring a right to interest on anything unpaid; and
  - (d) permitting a London local authority to anticipate a payment under this section when making calculations in accordance with section 32 of the Local Government Finance Act 1992 (originally or by way of substitute).
- (5) The Lord Chancellor may with the consent of the Treasury make provision by regulations made by statutory instrument as to how any kind of the Authority's expenditure is to be determined.
- (6) Subject to any such regulations, the Lord Chancellor may direct that in determining any kind of the Authority's expenditure there shall be taken into account or disregarded, to such extent as may be specified in the direction, such items as may be so specified.
- (7) A statutory instrument containing regulations made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section "London local authority" means the council of any London borough or the Common Council of the City of London.

### **59C Consultation**

- (1) The Greater London Magistrates' Courts Authority shall consult each London local authority before making any determination under section 59A(1) above or any determination as to—
  - (a) the salary to be paid to a justices' clerk or justices' chief executive and to staff of the Authority; or

- (b) the nature and amount of the expenses which the Authority may incur in the discharge of their functions or may authorise to be incurred.
- (2) Any London local authority which is aggrieved by such a determination may, within one month from the receipt by the London local authority of written notice of the determination, appeal to the Lord Chancellor, whose decision shall be binding upon the Authority and the London local authority concerned.
- (3) In this section, “London local authority” has the same meaning as in section 59B above.

#### **59D Accounting**

- (1) The Greater London Magistrates' Courts Authority shall keep a fund to be known as the GLMCA fund.
- (2) All the Authority's receipts shall be paid into the GLMCA fund and all the Authority's expenditure shall be paid out of it.
- (3) The Authority shall—
  - (a) keep accounts of payments made into or out of the GLMCA fund; and
  - (b) make arrangements for the proper administration of their financial affairs.
- (4) The Lord Chancellor may by regulations made by statutory instrument make provision applying—
  - (a) Part VIII of the Local Government Finance Act 1988 (financial administration); and
  - (b) Part II of the Audit Commission Act 1998 (accounts and audit of public bodies),to the Authority, with or without modifications and exceptions.
- (5) A statutory instrument containing regulations made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Provisions applying to all magistrates' courts committees.”*

- (3) Schedule 12 (which makes provision supplementary to this section) shall have effect.

#### **84 Standard goods and services**

- (1) Part VI of the Justices of the Peace Act 1997 (administrative and financial arrangements) has effect subject to the following amendments.
- (2) After section 59D and the heading after that section (inserted by section 83 above) insert—

#### **“59E Standard goods and services**

- (1) The Lord Chancellor may by statutory instrument make regulations requiring every magistrates' courts committee, or every specified magistrates' courts

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committee, to obtain for the performance of any function referred to in section 55(1) or 59A(1) above—

- (a) specified goods or services; or
- (b) goods or services of a specified description,

if he considers that it would be in the interests of the efficient and effective administration of magistrates' courts generally for them to do so.

(2) Regulations made by virtue of subsection (1) above may include provision requiring magistrates' courts committees to obtain the specified goods or services, or goods or services of the specified description—

- (a) from a specified person or person of a specified description;
- (b) at or by a specified time; or
- (c) both from such a person and at or by such a time.

(3) A statutory instrument containing (whether alone or with other provisions) regulations made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(3) In section 55(2) (case where paying authority is not required to provide goods and services to magistrates' courts committee), after “or authorities” insert “—

- (a) to provide any goods or services which regulations made by virtue of section 59E(2) below require the magistrates' courts committee to obtain otherwise than from that authority or any of those authorities; or
- (b)”.

(4) After subsection (1) of section 56 (which specifies that, subject to the provisions of that section, the goods and services to be provided by a paying authority are to be determined by the magistrates' courts committee) insert—

“(1A) Subsection (1) above does not apply to the extent that regulations made by virtue of section 59E below have the effect of precluding a determination as to any of the matters mentioned in that subsection.”

## **85 Power to direct implementation of inspectors' recommendations**

In section 62 of the Justices of the Peace Act 1997 (inspectors of the magistrates' courts service), after subsection (4) insert—

“(4A) If pursuant to this section a recommendation is made for the taking of any action by a magistrates' courts committee, the Lord Chancellor may give a direction requiring the committee to take the recommended action within a period specified in the direction.”

## **86 Code of conduct**

In the Justices of the Peace Act 1997, after section 39 insert—

### **“39A Code of conduct for members etc**

- (1) The Lord Chancellor may prepare a code of conduct to be observed by—
  - (a) members of magistrates' courts committees; and

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- (b) members of selection panels for choosing members of such committees.
- (2) The Lord Chancellor may from time to time prepare a revised version of the code.
- (3) Before preparing the code or a revised version of the code the Lord Chancellor shall undertake such consultation as appears to him to be appropriate.
- (4) The code, and any revised version of the code, shall come into force as provided by an order made by the Lord Chancellor by statutory instrument; and an order providing for the coming into force of the code or a revised version shall set out the code or revised version.
- (5) A statutory instrument containing an order made by virtue of subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **39B Non-compliance with code**

- (1) The Lord Chancellor may make an order under subsection (2) below if he is of the opinion that—
  - (a) a member of a magistrates' courts committee; or
  - (b) a member of a selection panel for choosing members of such a committee,has, without reasonable excuse, failed to observe the code.
- (2) An order under this subsection shall state that the Lord Chancellor is of the opinion mentioned in subsection (1) above and may provide either or both of the following—
  - (a) that, on the making of the order, the person is to cease to be a member of the committee or selection panel concerned or to cease to be such a member for a specified period; or
  - (b) that, for a specified period, the person may not be appointed (or co-opted) as a member of any magistrates' courts committee or any selection panel for choosing members of such a committee.
- (3) The Lord Chancellor may by regulations made by statutory instrument make provision for the purpose of establishing whether persons have failed to observe the code.
- (4) A statutory instrument containing regulations made by virtue of subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

*Justices' chief executives, justices' clerks and staff*

## **87 Qualification for appointment as chief executive**

In section 40 of the Justices of the Peace Act 1997 (appointment of justices' chief executive), omit subsection (5) (under which a person may not be appointed unless eligible for appointment as a justices' clerk).

## 88 Role of chief executives

- (1) For section 41 of the Justices of the Peace Act 1997 (functions of justices' chief executives) substitute—

### “41 Role of justices' chief executive

- (1) The justices' chief executive appointed by any magistrates' courts committee shall make arrangements for the efficient and effective administration of the magistrates' courts for the area to which the committee relates.
  - (2) For that purpose the administration of the magistrates' courts for the area to which a magistrates' courts committee relates includes—
    - (a) the exercise of the function of acting as clerk to the committee; and
    - (b) the exercise of all of the functions conferred or imposed on justices' chief executives by or under any other enactment so far as relating to any of those courts or that committee.
  - (3) The duty imposed on a justices' chief executive by subsection (1) above shall in particular require him—
    - (a) to allocate responsibility for what falls to be done in the exercise of his functions among justices' clerks and the staff of the committee; and
    - (b) to determine the administrative procedures to be followed by them.
  - (4) The justices' chief executive appointed by a magistrates' courts committee shall make arrangements for discussions relating to matters of law (including procedure and practice) among the justices' clerks appointed by the committee, in particular with a view to securing consistency in the advice given by them to justices about such matters.
  - (5) The justices' chief executive appointed by a magistrates' courts committee shall perform—
    - (a) the duties imposed on him by this section; and
    - (b) any other functions conferred or imposed on him by or under any other enactment,
 in accordance with any directions given to him by the committee.
  - (6) Subject to section 48 below, the justices' chief executive appointed by a magistrates' courts committee may give directions to justices' clerks and the staff of the committee as to the carrying out of their responsibilities (including the performance of any functions conferred or imposed on them by or under any enactment).”
- (2) In section 31 of that Act (powers and duties of magistrates' courts committees), omit subsection (2) (power of magistrates' courts committees to allocate responsibilities among chief executive, clerks and members of staff and to determine the administrative procedures to be followed by them).
- (3) In section 40 of that Act (appointment of justices' chief executive), after subsection (1) insert—
- “(1A) The justices' chief executive appointed by a magistrates' courts committee is—
- (a) the justices' chief executive for every magistrates' court for the committee's area;



- (b) the justices' chief executive for every petty sessions area for which they are the committee; and
  - (c) the chief executive to the justices acting for every such petty sessions area.”
- (4) In section 61 of that Act (defaults of justices' clerk etc.), after “clerk” insert “, of a justices' chief executive”.

## **89 Independence of clerks and staff exercising legal functions**

- (1) For section 48 of the Justices of the Peace Act 1997 substitute—

### **“48 Independence of justices' clerks and staff exercising legal functions**

- (1) When exercising any legal function—
- (a) a justices' clerk shall not be subject to the direction of the justices' chief executive or any other person or body; and
  - (b) a member of the staff of a magistrates' courts committee shall not be subject to the direction of any person or body other than a justices' clerk.
- (2) In subsection (1) “legal function” means—
- (a) any function exercisable by one or more justices of the peace; or
  - (b) a function specified in section 45(4) or (5) above.”
- (2) In section 45 of that Act (functions of justices' clerks)—
- (a) in subsection (4) (advice on law, practice or procedure to justices at their request), for “law, practice or procedure” substitute “matters of law (including procedure and practice)”, and
  - (b) in subsection (5) (power to bring point of law, practice or procedure to attention of justices), for “law, practice or procedure” substitute “law (including procedure and practice)”.

## **90 Transfer of clerks' functions to chief executives**

- (1) Schedule 13 (which makes amendments transferring administrative functions of justices' clerks to justices' chief executives) has effect.
- (2) The Lord Chancellor may by order made by statutory instrument make provision for the transfer of other administrative functions of justices' clerks to justices' chief executives.
- (3) An order under subsection (2) may contain amendments of enactments.
- (4) A statutory instrument containing an order under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) For the purposes of this section the administrative functions of justices' clerks are all of their functions apart from those which are legal functions within the meaning given by section 48(2) of the Justices of the Peace Act 1997.

## 91 Accounting etc. functions of chief executives

- (1) In the Justices of the Peace Act 1997, after section 41 (as substituted by section 88(1) above) insert—

### **“41A Justices' chief executive as collecting officer**

- (1) A justices' chief executive shall, by virtue of his office, be collecting officer of each of the courts for the area of the magistrates' courts committee which appointed him.
- (2) A justices' chief executive shall act under any order made under section 30 of the Criminal Justice Administration Act 1914 (which provided for periodical payments under court orders to be made through an officer of the court or other third party) which, in accordance with the provisions of paragraph 16A of Schedule 4 to this Act, has effect to direct the payment of money to him.
- (3) This section is without prejudice to the provisions of—
- (a) section 59 of the Magistrates' Courts Act 1980 (periodical payments through justices' chief executive); and
  - (b) sections 59A and 62 of that Act (proceedings by justices' chief executive).”
- (2) In section 60 of that Act (application of fines and fees)—
- (a) in subsection (1) (payment to Lord Chancellor of sums received by a justices' clerk), for “justices' clerk” substitute “justices' chief executive” and omit paragraph (b)(ii) (special provision for compensation orders),
  - (b) in subsection (3) (exception for salary and expenses of justices' clerk), for “justices' clerk” substitute “justices' chief executive”,
  - (c) omit subsection (4) (which is superseded by the amendment made by subsection (3) of this section), and
  - (d) in the sidenote, for “fines and fees” substitute “receipts of justices' chief executive”.
- (3) After that section insert—

### **“60A Regulations about payment, accounting and banking**

The Lord Chancellor, with the concurrence of the Treasury, may by statutory instrument make regulations—

- (a) as to the times at which, and the manner in which, a justices' chief executive shall pay sums payable by him to the Lord Chancellor or any other person;
- (b) requiring the keeping and production of accounts by justices' chief executives in respect of sums received by them (apart from any received on account of their salaries or expenses as such) and for the inspection and audit of the accounts required to be kept; and
- (c) requiring justices' chief executives to use specified banking arrangements or facilities, or banking arrangements or facilities of a specified description, in relation to sums received by them (apart from any received on account of their salaries or expenses as such).”

(4) In Part II of Schedule 4 to that Act (transitional provisions and savings), after paragraph 16 insert—

“(16A) Any order made before 1st April 1953 under section 30 of the Criminal Justice Administration Act 1914 or section 1 of the Affiliation Orders Act 1914—

- (a) if it directs payments to be made to any officer of a court of summary jurisdiction, shall have effect as if it directed them to be made to the justices' chief executive who is the collecting officer of that court; and
- (b) if it directs payments to be made to any person who is not an officer of a court of summary jurisdiction, shall have effect as if it directed them to be made to the justices' chief executive who is the collecting officer of the court making the order.”

#### *Execution of warrants*

## **92 Civilian enforcement officers**

In the Magistrates' Courts Act 1980, after section 125 insert—

### **“125A Civilian enforcement officers**

- (1) A warrant to which this subsection applies may be executed anywhere in England and Wales by a civilian enforcement officer.
- (2) In this section “civilian enforcement officer”, in relation to a warrant, means a person who—
  - (a) is employed by an authority of a prescribed class which performs functions in relation to any area specified in the warrant; and
  - (b) is authorised in the prescribed manner to execute warrants.
- (3) The warrants to which subsection (1) above applies are any warrant of arrest, commitment, detention or distress issued by a justice of the peace—
  - (a) under any provision specified for the purposes of this subsection by an order made by the Lord Chancellor and the Secretary of State, acting jointly; or
  - (b) for the enforcement of a court order of any description so specified.
- (4) Where a warrant has been executed by a civilian enforcement officer, a written statement indicating—
  - (a) the name of the officer;
  - (b) the authority by which he is employed; and
  - (c) that he is authorised in the prescribed manner to execute warrants,shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.
- (5) The power to make orders conferred by subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

### 93 Approved enforcement agencies

(1) In the Justices of the Peace Act 1997, after section 31 insert—

#### “31A Execution of warrants

- (1) A magistrates' courts committee may approve persons or bodies for the purpose of executing warrants pursuant to section 125B of the Magistrates' Courts Act 1980.
- (2) The Lord Chancellor may by statutory instrument make regulations as to—
  - (a) conditions which must be satisfied by a person or body in order to be approved under subsection (1) above; and
  - (b) the procedure by which a person or body may be so approved.
- (3) A statutory instrument containing (whether alone or with other provisions) regulations made by virtue of subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A magistrates' courts committee shall maintain a register—
  - (a) containing the names of all persons and bodies approved by the committee under subsection (1) above; or
  - (b) stating that no person or body has been so approved.
- (5) Copies of the register kept by a committee under subsection (4) above shall be available for inspection by members of the public in every petty sessional court-house in the committee's area during the hours that the court-house is open to the public.
- (6) A decision by a magistrates' courts committee to revoke the approval of a person or body under subsection (1) above does not have effect to revoke the approval until the committee have informed the person or body in writing of the decision.”

(2) In the Magistrates' Courts Act 1980, after section 125A (inserted by section 92 above) insert—

#### “125B Execution by approved enforcement agency

- (1) A warrant to which section 125A(1) above applies may also be executed anywhere in England and Wales—
  - (a) by an individual who is an approved enforcement agency;
  - (b) by a director of a company which is an approved enforcement agency;
  - (c) by a partner in a partnership which is an approved enforcement agency; or
  - (d) by an employee of an approved enforcement agency who is authorised in writing by the agency to execute warrants.
- (2) In this section “approved enforcement agency”, in relation to a warrant, means a person or body approved under section 31A of the Justices of the Peace Act 1997 by the magistrates' courts committee for the petty sessions area of the justice (or any of the justices) who issued the warrant.

- (3) Failure by a magistrates' courts committee to comply with any provision of, or made under, section 31A(2) to (5) of the Justices of the Peace Act 1997 does not of itself render unlawful the execution of a warrant.
- (4) Where a warrant has been executed by a person mentioned in subsection (1) above, a written statement indicating the matters specified in subsection (5) below shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.
- (5) The matters referred to in subsection (4) above are—
  - (a) the name of the person by whom the warrant was executed;
  - (b) if he is a director of, or partner in, an approved enforcement agency, the fact that he is a director of, or partner in, that agency;
  - (c) if he is an employee of an approved enforcement agency, the fact that he is an employee authorised in writing by that agency to execute warrants; and
  - (d) the fact that his name, or (where paragraph (b) or (c) above applies) that of the agency indicated, is contained in the register maintained under section 31A(4) of the Justices of the Peace Act 1997 by the magistrates' courts committee concerned.”

#### **94 Disclosure of information for enforcing warrants**

In the Magistrates' Courts Act 1980, after section 125B (inserted by section 93(2) above) insert—

##### **“125C Disclosure of information for enforcing warrants**

- (1) Basic personal information held by a relevant public authority may, on the application of a justices' chief executive, be supplied by the authority to him (or to a justices' clerk appointed by, or member of the staff of, his magistrates' courts committee who is specified in the application) for the purpose of facilitating the enforcement of a section 125A(1) warrant which is so specified.
- (2) In this section—

“basic personal information” means a person’s name, date of birth or national insurance number or the address (or any of the addresses) of a person;

“relevant public authority” means a Minister of the Crown, government department, local authority or chief officer of police specified in an order made by the Lord Chancellor; and

“a section 125A(1) warrant” means a warrant to which section 125A(1) above applies and which has been issued by a justice of the peace to whom the justices' chief executive making the application is chief executive.
- (3) Information supplied to any person under subsection (1) above, or this subsection, for the purpose of facilitating the enforcement of a section 125A(1) warrant may be supplied by him for that purpose to—
  - (a) any person entitled to execute the warrant;

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- (b) any employee of a body or person who, for the purposes of section 125B above, is an approved enforcement agency in relation to the warrant; or
  - (c) any person who is the justices' chief executive, a justices' clerk or a member of the staff of the magistrates' courts committee whose justices' chief executive made the application for the information.
- (4) A person who intentionally or recklessly—
- (a) discloses information supplied to him under this section otherwise than as permitted by subsection (3) above; or
  - (b) uses information so supplied otherwise than for the purpose of facilitating the enforcement of the section 125A(1) warrant concerned, commits an offence.
- (5) But it is not an offence under subsection (4) above—
- (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
  - (b) to disclose any information which has previously been lawfully disclosed to the public.
- (6) A person guilty of an offence under subsection (4) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine.
- (7) The power to make orders conferred by subsection (2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

## **95 Warrants of detention**

- (1) In section 125(2) of the Magistrates' Courts Act 1980 (execution by person to whom warrant is directed or constable), after “warrant of commitment,” insert “warrant of detention,”.
- (2) In section 136(2) of that Act (warrants of detention), for the words from “, unless” to “functions” substitute “—
  - (a) shall authorise the person executing it”.

## **96 Execution by person not in possession of warrant**

In the Magistrates' Courts Act 1980, after section 125C (inserted by section 94 above) insert—

### **“125D Execution by person not in possession of warrant**

- (1) A warrant to which section 125A(1) above applies may be executed by any person entitled to execute it even though it is not in his possession at the time.
- (2) A warrant to which this subsection applies (and which is not a warrant to which section 125A(1) above applies) may be executed by a constable even though it is not in his possession at the time.

- (3) Subsection (2) above applies to—
- (a) a warrant to arrest a person in connection with an offence;
  - (b) a warrant under section 186(3) of the Army Act 1955, section 186(3) of the Air Force Act 1955, section 105(3) of the Naval Discipline Act 1957 or Schedule 2 to the Reserve Forces Act 1996 (desertion etc.);
  - (c) a warrant under section 102 or 104 of the General Rate Act 1967 (insufficiency of distress);
  - (d) a warrant under section 47(8) of the Family Law Act 1996 (failure to comply with occupation order or non-molestation order);
  - (e) a warrant under paragraph 4 of Schedule 3 to the Crime and Disorder Act 1998 (unwilling witnesses);
  - (f) a warrant under paragraph 3(2) of Schedule 1 to the Youth Justice and Criminal Evidence Act 1999 (offenders referred to court by youth offender panel); and
  - (g) a warrant under section 55, 76, 93, 97 or 97A above.
- (4) Where by virtue of this section a warrant is executed by a person not in possession of it, it shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.”

## **97 Cessation of warrants**

- (1) In the Maintenance Orders Act 1958, in—
- (a) section 2(4) (registration of orders), and
  - (b) section 5(4) (cancellation of registration),
- omit paragraph (b) (cessation of warrant of commitment on giving notice), apart from the word “and” at the end.
- (2) In section 83 of the Magistrates' Courts Act 1980 (process for securing attendance of offender for purposes of section 82), omit subsection (4) (warrant to cease to have effect when sum in respect of which it is issued is paid to police officer holding the warrant).
- (3) In section 86(4) of that Act (which applies subsections (3) and (4) of section 83 to warrants issued under section 86), for “subsections (3) and (4)” substitute “subsection (3)”.
- (4) In section 125(1) of that Act (warrants of arrest), insert at the end “or it ceases to have effect in accordance with the rules”.

## **PART VI**

### **IMMUNITY AND INDEMNITY**

#### *Justices and their clerks*

## **98 Justices and clerks: immunity from costs**

- (1) In the Justices of the Peace Act 1997, after section 53 insert—

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*Status: This is the original version (as it was originally enacted).*

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**“53A Costs in legal proceedings**

- (1) A court may not order any justice of the peace or justices' clerk to pay costs in any proceedings in respect of any act or omission of his in the execution (or purported execution) of his duty—
    - (a) as such a justice; or
    - (b) as such a clerk exercising, by virtue of any statutory provision, any of the functions of a single justice.
  - (2) Subsection (1) above does not apply in relation to—
    - (a) any proceedings in which a justice or justices' clerk is being tried for an offence or is appealing against a conviction; or
    - (b) any proceedings in which it is proved that a justice or justices' clerk acted in bad faith in respect of the matters giving rise to the proceedings.
  - (3) Where a court is prevented by subsection (1) above from ordering a justice or justices' clerk to pay costs in any proceedings, the court may instead order the making by the Lord Chancellor of a payment in respect of the costs of a person in the proceedings.
  - (4) The Lord Chancellor may by statutory instrument make regulations specifying—
    - (a) circumstances when a court shall or shall not exercise the power conferred on it by subsection (3) above; and
    - (b) how the amount of any payment ordered under that subsection is to be determined.
  - (5) No regulations may be made under subsection (4) above unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
  - (6) In this section references to a justices' clerk include any person appointed by a magistrates' courts committee to assist a justices' clerk.”
- (2) In the Magistrates' Courts (Northern Ireland) Order 1981, after Article 6 insert—

**6A “Costs in legal proceedings**

- (1) A court may not order any resident magistrate, justice of the peace or clerk of petty sessions to pay costs in any proceedings in respect of any act or omission of his in the execution (or purported execution) of his duty—
  - (a) as such a magistrate or justice; or
  - (b) as such a clerk exercising, by virtue of any statutory provision, any of the functions of a magistrates' court.
- (2) Paragraph (1) does not apply in relation to—
  - (a) any proceedings in which a resident magistrate, justice of the peace or clerk of petty sessions is being tried for an offence or is appealing against a conviction; or



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*Status: This is the original version (as it was originally enacted).*

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- (b) any proceedings in which it is proved that a resident magistrate, justice of the peace or clerk of petty sessions acted in bad faith in respect of the matters giving rise to the proceedings.
- (3) Where a court is prevented by paragraph (1) from ordering a resident magistrate, justice of the peace or clerk of petty sessions to pay costs in any proceedings, the court may instead order the making by the Lord Chancellor of a payment in respect of the costs of a person in the proceedings.
- (4) The Lord Chancellor may by regulations specify—
  - (a) circumstances when a court shall or shall not exercise the power conferred on it by paragraph (3); and
  - (b) how the amount of any payment ordered under that paragraph is to be determined.
- (5) Regulations under paragraph (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.”
- (3) In—
  - (a) Article 145A of the Magistrates' Courts (Northern Ireland) Order 1981 (county court judge hearing certain appeals to be treated like resident magistrate in relation to immunity), and
  - (b) paragraph 2A of Schedule 2 to the Children and Young Persons Act (Northern Ireland) 1968 (member of panel formed under paragraph 1 of that Schedule to be so treated),after “6” insert “, 6A”.

## **99 Justices and clerks: indemnity**

In section 54 of the Justices of the Peace Act 1997 (indemnity for justices and their clerks)—

- (a) in subsection (1)(a)(i) (which refers to proceedings against a justice, clerk or assistant clerk), omit “against him”, and
- (b) in subsection (2)(b)(i) (which makes provision for the indemnification of a justice, clerk or assistant clerk on a discretionary basis), after “funds” insert “unless it is proved, in respect of the matters giving rise to the proceedings or claim, that he acted in bad faith”.

## **100 Assistant justices' clerks: immunity from action**

In each of sections 51 and 52 of the Justices of the Peace Act 1997 (immunity for acts of justices and justices' clerks within and beyond jurisdiction), number the existing provision as subsection (1) and after it insert—

- “(2) In this section references to a justices' clerk include any person appointed by a magistrates' courts committee to assist a justices' clerk.”

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*Status: This is the original version (as it was originally enacted).*

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*General Commissioners of income tax and their clerks*

**101 General Commissioners: immunity from action**

In section 2 of the Taxes Management Act 1970 (General Commissioners), after subsection (8) insert—

- “(9) No action shall lie against a General Commissioner in respect of any act or omission of his—
- (a) in the execution of his duty; and
  - (b) with respect to any matter within his jurisdiction.
- (10) No action shall lie against a General Commissioner in respect of any act or omission of his—
- (a) in the purported execution of his duty; but
  - (b) with respect to any matter not within his jurisdiction,
- unless it is proved that he acted in bad faith.”

**102 General Commissioners: immunity from costs and expenses**

In the Taxes Management Act 1970, after section 2 insert—

**“2A General Commissioners: costs and expenses in legal proceedings**

- (1) A court may not order a General Commissioner to pay costs or (in Scotland) expenses in any proceedings in respect of any act or omission of his in the execution (or purported execution) of his duty as a General Commissioner.
- (2) Subsection (1) above does not apply in relation to—
  - (a) any proceedings in which a General Commissioner is being tried for an offence or is appealing against a conviction; or
  - (b) any proceedings in which it is proved that a General Commissioner acted in bad faith in respect of the matters giving rise to the proceedings.
- (3) Where a court is prevented by subsection (1) above from ordering a General Commissioner to pay costs or expenses in any proceedings, the court may instead order the making by the relevant Minister of a payment in respect of the costs or expenses of a person in the proceedings.
- (4) The relevant Minister may by regulations made by statutory instrument make provision specifying—
  - (a) circumstances when a court shall or shall not exercise the power conferred on it by subsection (3) above; and
  - (b) how the amount of any payment ordered under that subsection is to be determined.
- (5) No regulations may be made under subsection (4) above unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (6) In this section “relevant Minister” means the Lord Chancellor or, in Scotland, the Secretary of State.”

### 103 General Commissioners and clerks: indemnity

In the Taxes Management Act 1970, after section 3 insert—

#### “3A General Commissioners and clerks: indemnity

- (1) A General Commissioner or a clerk may be indemnified by the relevant Minister in respect of—
  - (a) any costs or (in Scotland) expenses which the General Commissioner or clerk reasonably incurs in or in connection with proceedings in respect of anything done or omitted in the exercise (or purported exercise) of his duty as a General Commissioner or clerk;
  - (b) any costs or expenses which he reasonably incurs in taking steps to dispute any claim which might be made in such proceedings;
  - (c) any damages awarded against him or costs or expenses ordered to be paid by him in any such proceedings; and
  - (d) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim,unless it is proved, in respect of matters giving rise to the proceedings or claim in question, that he acted in bad faith.
- (2) A General Commissioner or a clerk shall be indemnified by the relevant Minister in respect of any such costs or expenses, damages or sums as are mentioned in subsection (1)(a) to (d) above if, in respect of the matters giving rise to the proceedings or claim in question, he acted reasonably and in good faith.
- (3) Any question whether, or to what extent, a person is to be indemnified under this section shall be determined by the relevant Minister.
- (4) A determination under subsection (3) above with respect to any such costs or expenses or sums as are mentioned in subsection (1)(a), (b) or (d) above may, if the person claiming to be indemnified so requests, be made in advance before they are incurred or the settlement made.
- (5) Any such determination in advance for indemnity in respect of costs or expenses to be incurred—
  - (a) shall be subject to such limitations, if any, as the relevant Minister thinks proper and to the subsequent determination of the amount of the costs or expenses reasonably incurred; and
  - (b) shall not affect any other determination which may fall to be made in connection with the proceedings or claim in question.
- (6) In this section “clerk” means—
  - (a) any person appointed to be a clerk or assistant clerk to the General Commissioners for any division; or
  - (b) a person who assists any such person;and “relevant Minister” means the Lord Chancellor or, in Scotland, the Secretary of State.”

## *Coroners*

### 104 Indemnity

(1) In the Coroners Act 1988, after section 27 insert—

#### “27A Indemnity

- (1) A coroner shall be indemnified by the relevant council (without having to lay before them an account under section 27 above) in respect of—
  - (a) any costs which he reasonably incurs in or in connection with proceedings in respect of anything done or omitted in the exercise (or purported exercise) of his duty as a coroner;
  - (b) any costs which he reasonably incurs in taking steps to dispute any claim which might be made in such proceedings;
  - (c) any damages awarded against him or costs ordered to be paid by him in any such proceedings; and
  - (d) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim.
- (2) Subsection (1) above applies in relation to proceedings by a coroner only if and to the extent that the relevant council agrees in advance to indemnify him.
- (3) A coroner may appeal to the Secretary of State, or to any person appointed by the Secretary of State for the purpose, from any decision of the relevant council under subsection (2) above.
- (4) Any amount due to a coroner under this section shall be paid—
  - (a) in the case of a metropolitan or non-metropolitan district council or London borough council, out of the general fund;
  - (b) in the case of a non-metropolitan county council in England, out of the county fund;
  - (c) in the case of the council of a Welsh principal area, out of the council fund; and
  - (d) in the case of the Common Council, out of the City fund.
- (5) In the case of a coroner for a coroner’s district which—
  - (a) consists of two or more metropolitan districts, special non-metropolitan districts or London boroughs;
  - (b) lies partly in each of two or more Welsh principal areas; or
  - (c) lies partly in each of two or more non-metropolitan counties in England,

any amount due to the coroner under this section shall be apportioned between the councils of those districts, boroughs, areas or counties in such manner as they may agree or, in default of agreement, as may be determined by the Secretary of State.”

(2) In the Coroners Act (Northern Ireland) 1959, after section 5 insert—

#### “5A Indemnity

- (1) A coroner shall be indemnified by the Lord Chancellor in respect of—

- (a) any costs which he reasonably incurs in or in connection with proceedings in respect of anything done or omitted in the exercise (or purported exercise) of his duty as a coroner;
- (b) any costs which he reasonably incurs in taking steps to dispute any claim which might be made in such proceedings;
- (c) any damages awarded against him or costs ordered to be paid by him in any such proceedings; and
- (d) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim.

(2) Sub-section (1) applies in relation to proceedings by a coroner only if and to the extent that the Lord Chancellor agrees in advance to indemnify him.”

## **PART VII**

### **SUPPLEMENTARY**

#### **105 Transitional provisions and savings**

Schedule 14 (transitional provisions and savings) has effect.

#### **106 Repeals and revocations**

Schedule 15 (repeals and revocations) has effect.

#### **107 Crown application**

This Act binds the Crown.

#### **108 Commencement**

- (1) Subject to subsections (2) and (3), the preceding provisions of this Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint; and different days may be appointed for different purposes and, in the case of section 67(2), for different areas.
- (2) Section 45 shall come into force on the day on which this Act is passed.
- (3) The following provisions shall come into force at the end of the period of two months beginning with the day on which this Act is passed—
  - (a) in Part II, sections 32 to 34,
  - (b) Part IV, apart from section 66 and Schedule 9 and sections 67(2) and 71,
  - (c) in Part V, sections 74 to 76, 81, 82, 84, 86 and 87 and Schedule 10,
  - (d) in Part VI, section 104,
  - (e) Schedule 14,
  - (f) in Schedule 15, Part III and Part V(1) and (5), apart from the provisions specified in subsection (4), and
  - (g) section 107.

- (4) The provisions excepted from subsection (3)(f) are the repeal of section 67(8) of the Magistrates' Courts Act 1980 (and that in Schedule 11 to the Children Act 1989) contained in Part V(1) of Schedule 15.

#### **109 Extent**

- (1) Sections 32 to 34 and 73(2) extend to Scotland.
- (2) Sections 98(2) and (3) and 104(2) extend to Northern Ireland.
- (3) Sections 68, 101, 102 and 103 extend to England and Wales, Scotland and Northern Ireland.
- (4) The other provisions of this Act which make amendments or repeals or revocations in other enactments also have the same extent as the enactments which they amend or repeal or revoke.
- (5) Subject to subsection (4), the provisions of this Part (including paragraph 1, but not the rest, of Schedule 14) extend to England and Wales, Scotland and Northern Ireland.
- (6) Subject to the preceding provisions, this Act extends to England and Wales.
- (7) For the purposes of the Scotland Act 1998 this Act, so far as it extends to Scotland, shall be taken to be a pre-commencement enactment within the meaning of that Act.

#### **110 Short title**

This Act may be cited as the Access to Justice Act 1999.

## SCHEDULES

### SCHEDULE 1

Section 1.

#### LEGAL SERVICES COMMISSION

##### *Incorporation and status*

- 1 The Commission shall be a body corporate.
- 2 The Commission shall not be regarded—
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown;
- and the Commission's property shall not be regarded as property of, or held on behalf of, the Crown.

##### *Tenure of members*

- 3 (1) Subject to paragraphs 4 and 5, any member of the Commission shall hold and vacate office in accordance with the terms of his appointment.
- (2) But a person shall not be appointed a member of the Commission for a period of more than five years.
- 4 (1) A member of the Commission, or the person appointed to chair it, may resign office by giving notice in writing to the Lord Chancellor.
- (2) If the person appointed to chair the Commission ceases to be a member of it, he shall cease to chair it.
- (3) A person who ceases to be a member of the Commission, or to chair it, shall be eligible for reappointment.
- 5 The Lord Chancellor may terminate the appointment of a member of the Commission if satisfied that—
- (a) he has become bankrupt or made an arrangement with his creditors,
  - (b) he is unable to carry out his duties as a member of the Commission by reason of illness,
  - (c) he has been absent from meetings of the Commission for a period longer than six consecutive months without the permission of the Commission, or
  - (d) he is otherwise unable or unfit to discharge the functions of a member of the Commission.

##### *Members' interests*

- 6 (1) Before appointing a person to be a member of the Commission, the Lord Chancellor shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member of the Commission.

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- (2) The Lord Chancellor shall from time to time satisfy himself with respect to every member of the Commission that he has no such interest as is referred to in sub-paragraph (1).
- (3) Any person whom the Lord Chancellor proposes to appoint as, and who has consented to be, a member of the Commission, and any member of the Commission, shall (whenever requested by the Lord Chancellor to do so) supply him with such information as the Lord Chancellor considers necessary for the performance by the Lord Chancellor of his duties under this paragraph.
- 7 (1) A member of the Commission who is in any way directly or indirectly interested in an individual contract entered into or proposed to be entered into, or an individual grant, loan or other payment made or proposed to be made, by the Commission shall disclose the nature of his interest at a meeting of the Commission; and—
- (a) the disclosure shall be recorded in the minutes of the Commission, and
  - (b) the member shall not take any part in any deliberation or decision of the Commission with respect to that contract or grant, loan or other payment.
- (2) For the purposes of sub-paragraph (1), a general notice given at a meeting of the Commission by a member of the Commission to the effect—
- (a) that he is a person with whom a contract may be entered into, or to whom a grant, loan or other payment may be made, by the Commission, or
  - (b) that he is a member of a specified body with which a contract may be entered into, or to which a grant, loan or other payment may be made, by the Commission,
- shall be regarded as a sufficient disclosure of his interest in relation to any contract subsequently entered into with, or grant, loan or other payment made to, him or the body.
- (3) A member of the Commission need not attend in person at a meeting of the Commission in order to make any disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is brought up and read out at the meeting.

#### *Remuneration of members*

- 8 (1) The Commission may—
- (a) pay to its members such remuneration, and
  - (b) make provision for the payment of such pensions, allowances or gratuities to or in respect of its members,
- as the Lord Chancellor may determine.
- (2) Where a person ceases to be a member of the Commission otherwise than on the expiry of his term of office, and it appears to the Lord Chancellor that there are special circumstances which make it right for that person to receive compensation, the Lord Chancellor may require the Commission to make that person a payment of such amount as the Lord Chancellor may determine.

#### *Staff*

- 9 (1) The Commission shall appoint a person to be the chief executive of the Commission who shall be responsible to the Commission for the exercise of its functions.



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- (2) The Commission may appoint such other employees as it thinks fit.
  - (3) The Commission may only appoint a person to be—
    - (a) its chief executive, or
    - (b) the holder of any other employment of a description specified by the Lord Chancellor by direction given to the Commission,after consultation with, and subject to the approval of, the Lord Chancellor.
  - (4) An appointment under this paragraph may be made on such terms and conditions as the Commission, with the approval of the Lord Chancellor, may determine.
- 10 (1) The Commission shall make, in respect of such of its employees as, with the approval of the Lord Chancellor, it may determine such arrangements for providing pensions, allowances or gratuities, including pensions, allowances or gratuities by way of compensation for loss of employment, as it may determine.
- (2) Arrangements under sub-paragraph (1) may include the establishment and administration, by the Commission or otherwise, of one or more pension schemes.
  - (3) If an employee of the Commission—
    - (a) becomes a member of the Commission, and
    - (b) was by reference to his employment by the Commission a participant in a pension scheme established and administered by it for the benefit of its employees,the Commission may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Commission whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 8.
  - (4) Where the Commission exercises the power conferred by sub-paragraph (3), any discretion as to the benefits payable to or in respect of the member concerned which the scheme confers on the Commission shall be exercised only with the approval of the Lord Chancellor.

*Funding of costs relating to administration etc.*

- 11 (1) The Lord Chancellor shall pay to the Commission such sums as he may determine as appropriate for—
  - (a) the exercise by the Commission of functions in relation to the Community Legal Service other than the funding of services, and
  - (b) the administrative costs of the Commission.
- (2) The Lord Chancellor may—
    - (a) determine the manner in which and times at which the sums mentioned in sub-paragraph (1) are to be paid to the Commission, and
    - (b) impose conditions on the payment of those sums.

*Proceedings*

- 12 (1) Subject to anything in any instrument made under this Part, the Commission may regulate its own proceedings.
- (2) Committees—
    - (a) may be appointed, and may be dissolved, by the Commission, and

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- (b) may include, or consist entirely of, persons who are not members of the Commission,  
but the Lord Chancellor may by direction require the Commission to make such provision relating to committees as is specified in the direction.
- (3) A committee shall act in accordance with such instructions as the Commission may from time to time give; and the Commission may provide for anything done by a committee to have effect as if it had been done by the Commission.
- (4) The Commission may pay to the members of any committee such fees and allowances as the Lord Chancellor may determine.
- (5) The validity of any proceedings of the Commission or of any committee appointed by the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any member.

*Provision of information*

- 13 (1) The Commission shall provide the Lord Chancellor with such information as he may require relating to its property and to the discharge or proposed discharge of its functions.
- (2) The Commission shall—
- (a) permit any person authorised by the Lord Chancellor to inspect and make copies of any accounts or documents of the Commission, and
  - (b) provide such explanation of them as any such person, or the Lord Chancellor, may require.

*Annual report*

- 14 (1) The Commission shall provide to the Lord Chancellor, as soon as possible after the end of each financial year, a report on how it has during that year—
- (a) funded services from the Community Legal Service Fund,
  - (b) funded services as part of the Criminal Defence Service, and
  - (c) exercised its other functions.
- (2) The Lord Chancellor may by direction require the Commission to deal with the matters specified in the direction in reports, or a particular report, under this paragraph.
- (3) The Lord Chancellor shall lay before each House of Parliament a copy of each report provided to him under this paragraph and the Commission shall publish a report once it has been so laid.
- (4) In this paragraph and paragraphs 15 and 16 “financial year” means—
- (a) the period beginning with the day on which the Commission is established and ending with the next 31st March, and
  - (b) each subsequent period of twelve months ending with 31st March.

*Annual plan*

- 15 (1) The Commission shall, before the beginning of each financial year (other than that specified in paragraph 14(4)(a)), prepare a plan setting out how it intends in that year—

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- (a) to fund services from the Community Legal Service Fund,
- (b) to fund services as part of the Criminal Defence Service, and
- (c) to exercise its other functions,

and the plan shall include a summary of what the Commission has ascertained in the exercise of its functions under section 4(6).

- (2) The Lord Chancellor may by direction require the Commission to deal with the matters specified in the direction in plans, or a particular plan, under sub-paragraph (1).
- (3) The Commission shall send a copy of each plan prepared under sub-paragraph (1) to the Lord Chancellor.
- (4) If the Lord Chancellor approves it, he shall lay a copy before each House of Parliament and the Commission shall publish the plan once it has been so laid.
- (5) If he does not approve it, he shall by direction require the Commission to revise it in accordance with the direction; and the direction shall include the Lord Chancellor's reasons for not approving the plan.
- (6) When the Commission has revised the plan it shall send the Lord Chancellor a copy of the revised plan and he shall lay a copy before each House of Parliament and the Commission shall publish the revised plan once it has been so laid.

#### *Accounts and audit*

- 16
- (1) The Commission shall keep accounts and shall prepare in respect of each financial year a statement of accounts.
  - (2) The accounts shall be kept, and the statement of accounts shall be prepared, in such form as the Lord Chancellor may, with the approval of the Treasury, specify by direction given to the Commission.
  - (3) The Commission shall send a copy of the statement of accounts in respect of each financial year to the Lord Chancellor and to the Comptroller and Auditor General within such period after the end of the financial year to which it relates as the Lord Chancellor may specify by direction given to the Commission.
  - (4) The Comptroller and Auditor General shall—
    - (a) examine, certify and report on each statement of accounts received by him under sub-paragraph (3), and
    - (b) lay a copy of each such statement of accounts, and his report on it, before each House of Parliament.

#### *Instruments*

- 17
- (1) The fixing of the seal of the Commission shall be authenticated by a member of the Commission or by some other person authorised either generally or specially by the Commission to act for that purpose.
  - (2) A document purporting to be duly executed under the seal of the Commission or to be signed on the Commission's behalf—
    - (a) shall be received in evidence, and
    - (b) unless the contrary is proved, shall be deemed to be so executed or signed.

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## SCHEDULE 2

Section 6.

### COMMUNITY LEGAL SERVICE: EXCLUDED SERVICES

The services which may not be funded as part of the Community Legal Service are as follows.

- 1 Services consisting of the provision of help (beyond the provision of general information about the law and the legal system and the availability of legal services) in relation to—
  - (a) allegations of negligently caused injury, death or damage to property, apart from allegations relating to clinical negligence,
  - (b) conveyancing,
  - (c) boundary disputes,
  - (d) the making of wills,
  - (e) matters of trust law,
  - (f) defamation or malicious falsehood,
  - (g) matters of company or partnership law, or
  - (h) other matters arising out of the carrying on of a business.
  
- 2 Advocacy in any proceedings except—
  - (1) proceedings in—
    - (a) the House of Lords in its judicial capacity,
    - (b) the Judicial Committee of the Privy Council in the exercise of its jurisdiction under the Government of Wales Act 1998, the Scotland Act 1998 or the Northern Ireland Act 1998,
    - (c) the Court of Appeal,
    - (d) the High Court,
    - (e) any county court,
    - (f) the Employment Appeal Tribunal, or
    - (g) any Mental Health Review Tribunal,
  - (2) proceedings in the Crown Court—
    - (a) for the variation or discharge of an order under section 5 of the Protection from Harassment Act 1997,
    - (b) which relate to an order under section 4 or 10 of the Crime and Disorder Act 1998, or
    - (c) under section 8 of that Act where the order is made by virtue of subsection (1)(c) of that section,
  - (3) proceedings in a magistrates' court—
    - (a) under section 43 or 47 of the National Assistance Act 1948, section 22 of the Maintenance Orders Act 1950, section 4 of the Maintenance Orders Act 1958 or section 106 of the Social Security Administration Act 1992,
    - (b) under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 relating to a maintenance order made by a court of a country outside the United Kingdom,
    - (c) in relation to an application for leave of the court to remove a child from a person's custody under section 27 or 28 of the Adoption Act 1976 or in which the making of an order under Part II or section 29 or 55 of that Act is opposed by any party to the proceedings,

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- (d) for or in relation to an order under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978,
  - (e) under the Children Act 1989,
  - (f) under section 30 of the Human Fertilisation and Embryology Act 1990,
  - (g) under section 20 or 27 of the Child Support Act 1991,
  - (h) under Part IV of the Family Law Act 1996,
  - (i) for the variation or discharge of an order under section 5 of the Protection from Harassment Act 1997, or
  - (j) under section 1, 2, 8 or 11 of the Crime and Disorder Act 1998, and
- (4) proceedings before any person to whom a case is referred (in whole or in part) in any proceedings within paragraphs (1) to (3).

### SCHEDULE 3

Section 14.

#### CRIMINAL DEFENCE SERVICE: RIGHT TO REPRESENTATION

##### *Individuals to whom right may be granted*

- 1
- (1) A right to representation for the purposes of any kind of criminal proceedings before a court may be granted to an individual such as is mentioned in relation to that kind of proceedings in section 12(2).
  - (2) A right to representation for the purposes of criminal proceedings may also be granted to an individual to enable him to resist an appeal to the Crown Court otherwise than in an official capacity.
  - (3) In this Schedule “court” includes any body before which criminal proceedings take place.

##### *Grant of right by court*

- 2
- (1) A court before which any criminal proceedings take place, or are to take place, has power to grant a right to representation in respect of those proceedings except in such circumstances as may be prescribed.
  - (2) Where a right to representation is granted for the purposes of criminal proceedings it includes the right to representation for the purposes of any related bail proceedings and any preliminary or incidental proceedings; and regulations may make provision specifying whether any proceedings are or are not to be regarded as preliminary or incidental.
  - (3) A court also has power to grant a right to representation for the purposes of criminal proceedings before another court in such circumstances as may be prescribed.
  - (4) The form of the application for a grant of a right to representation under this paragraph, and the form of the grant of such a right, shall be such as may be prescribed.

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- (5) A right to representation in respect of proceedings may be withdrawn by any court before which the proceedings take place; and a court must consider whether to withdraw a right to representation in such circumstances as may be prescribed.
- (6) The powers of a magistrates' court for any area under this paragraph may be exercised by a single justice of the peace for the area.
- (7) Any rules under section 144 of the Magistrates' Courts Act 1980 which provide for the functions of a single justice under sub-paragraph (6) to be exercised by a justices' clerk may make different provision for different areas.

*Grant of right by commission*

- 3 (1) Regulations may provide that the Commission shall have power to grant rights to representation in respect of any one or more of the descriptions of proceedings prescribed under section 12(2)(g), and to withdraw any rights to representation granted by it.
- (2) The form of any application for a grant of a right to representation under this paragraph, and the form of the grant of such a right, shall be such as may be prescribed.
- (3) Regulations under sub-paragraph (1) may make such transitional provisions as the Lord Chancellor may consider appropriate.

*Appeals*

- 4 Except where regulations otherwise provide, an appeal shall lie to such court or other person or body as may be prescribed against a decision to refuse to grant a right to representation or to withdraw a right to representation.

*Criteria for grant of right*

- 5 (1) Any question as to whether a right to representation should be granted shall be determined according to the interests of justice.
- (2) In deciding what the interests of justice consist of in relation to any individual, the following factors must be taken into account—
  - (a) whether the individual would, if any matter arising in the proceedings is decided against him, be likely to lose his liberty or livelihood or suffer serious damage to his reputation,
  - (b) whether the determination of any matter arising in the proceedings may involve consideration of a substantial question of law,
  - (c) whether the individual may be unable to understand the proceedings or to state his own case,
  - (d) whether the proceedings may involve the tracing, interviewing or expert cross-examination of witnesses on behalf of the individual, and
  - (e) whether it is in the interests of another person that the individual be represented.
- (3) The Lord Chancellor may by order amend sub-paragraph (2) by adding new factors or varying any factor.

- (4) A right to representation shall always be granted in such circumstances as may be prescribed.

## SCHEDULE 4

Section 24.

### AMENDMENTS CONSEQUENTIAL ON PART I

#### *The Public Records Act 1958 (c. 51)*

- 1 In the First Schedule to the Public Records Act 1958 (definition of public records), in Part I of the Table at the end of paragraph 3, in the second column, after “Legal Aid Board.” insert—

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“Legal Services Commission.”

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#### *The Parliamentary Commissioner Act 1967 (c. 13)*

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (which lists the bodies subject to the jurisdiction of the Parliamentary Commissioner), insert (at the appropriate place in alphabetical order)—  
“Legal Services Commission.”

#### *The Criminal Appeal Act 1968 (c. 19)*

- 3 In section 50 of the Criminal Appeal Act 1968 (meaning of “sentence”), at the end insert—  
“(3) An order under section 17 of the Access to Justice Act 1999 is not a sentence for the purposes of this Act.”

#### *The Children and Young Persons Act 1969 (c. 54)*

- 4 The Children and Young Persons Act 1969 has effect subject to the following amendments.
- 5 In section 12AA(9) (restrictions on power to require young offender who is not legally represented to live in local authority accommodation)—  
(a) for paragraph (a) substitute—  
“(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service for the purposes of those proceedings but the right was withdrawn because of his conduct; or”, and  
(b) in paragraph (b), for “legal aid” substitute “such representation”.
- 6 In section 23 (remands and committals to local authority accommodation), in subsection (5A) (restrictions on imposing a security requirement on person who is not legally represented)—  
(a) for paragraph (a) substitute—

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- “(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and
- (b) in paragraph (b), for “legal aid” substitute “such representation”.
- 7 In that section as it has effect pursuant to section 98 of the Crime and Disorder Act 1998 (alternative provision for 15 and 16 year old boys), in subsection (4A) (restrictions on remand of boy who is not legally represented)—
- (a) for paragraph (a) substitute—
- “(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and
- (b) in paragraph (b), for “legal aid” substitute “such representation”.

*The Attachment of Earnings Act 1971 (c. 32)*

- 8 In section 1(3)(c) of the Attachment of Earnings Act 1971 (magistrates' court may make order to secure payment of any sum required to be paid by legal aid contribution order), for “legal aid contribution order” substitute “order under section 17(2) of the Access to Justice Act 1999”.

*The Powers of Criminal Courts Act 1973 (c. 62)*

- 9 In section 21(1) of the Powers of Criminal Courts Act 1973 (restrictions on imposing sentence on person who is not legally represented)—
- (a) for paragraph (a) substitute—
- “(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and
- (b) in paragraph (b), for “legal aid” substitute “such representation”.

*The Solicitors Act 1974 (c. 47)*

- 10 (1) Section 47 of the Solicitors Act 1974 (jurisdiction of Solicitors Disciplinary Tribunal) is amended as follows.
- (2) In subsection (2)(d) (exclusion of solicitor from legal aid work), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.
- (3) In subsection (2A) (exclusion of solicitor from providing legal aid work because of conduct in connection with services under the Legal Aid Act 1988)—
- (a) for “legal aid work” substitute “providing representation”, and
- (b) in paragraph (a), for “under the Legal Aid Act 1988” substitute “funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service”.
- (4) In subsection (2B) (exclusion of member of solicitor's firm from legal aid work), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.



- (5) In subsection (2D) (person excluded from legal aid work may apply for termination of exclusion), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.

*The House of Commons Disqualification Act 1975 (c. 24)*

- 11 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—  
“The Legal Services Commission.”

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 12 In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—  
“The Legal Services Commission.”

*The Sex Discrimination Act 1975 (c. 65)*

- 13 In section 75(4) of the Sex Discrimination Act 1975 (charges to recover costs of assistance in legal proceedings subject to charges under the Legal Aid Act 1988 or any provision in that Act for sum payable to Legal Aid Board)—  
(a) for “under the Legal Aid Act 1988” substitute “imposed by section 10(7) of the Access to Justice Act 1999”,  
(b) after “any provision in” insert “, or made under,”, and  
(c) for “Legal Aid Board” substitute “Legal Services Commission”.

*The Race Relations Act 1976 (c. 74)*

- 14 In section 66(6) of the Race Relations Act 1976 (charges to recover costs of assistance in legal proceedings subject to charges under the Legal Aid Act 1988 or any provision in that Act for sum payable to Legal Aid Board)—  
(a) for “under the Legal Aid Act 1988” substitute “imposed by section 10(7) of the Access to Justice Act 1999”,  
(b) after “any provision in” insert “, or made under,”, and  
(c) for “Legal Aid Board” substitute “Legal Services Commission”.

*The Magistrates' Courts Act 1980 (c. 43)*

- 15 The Magistrates' Courts Act 1980 has effect subject to the following amendments.
- 16 In section 8(4) (matters which may be contained in a report of committal proceedings without an order), for paragraph (i) substitute—  
“(i) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”
- 17 In section 92(1)(b) (no restriction on power to impose imprisonment for default in paying contribution ordered under section 23 of the Legal Aid Act 1988), for the words from “section 23” to “to” substitute “section 17(2) of the Access to Justice Act 1999 (payment by individual in respect of”.

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- 18 In section 130(3) (power of alternate court in remand hearings to grant legal aid), for “the grant of legal aid” substitute “the grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service”.
- 19 In section 145A(4) (rules about costs may include provision for the reimbursement of sums paid by the Legal Aid Board), for “Legal Aid Board” substitute “Legal Services Commission”.
- 20 In Part I of Schedule 6 (fees), in paragraph 1(a) of the Note at the end (persons from whom fees not required), for the words from “a legally assisted person” to “1988” substitute “receiving services funded by the Legal Services Commission as part of the Community Legal Service”.

*The Supreme Court Act 1981 (c. 54)*

- 21 The Supreme Court Act 1981 has effect subject to the following amendments.
- 22 In section 28 (appeal by way of case stated from decisions of Crown Court, other than those relating to trial on indictment), at the end insert—
- “(4) In subsection (2)(a) the reference to a decision of the Crown Court relating to trial on indictment does not include a decision relating to an order under section 17 of the Access to Justice Act 1999.”
- 23 In section 29 (judicial review of decisions of Crown Court, other than matters relating to trial on indictment), at the end insert—
- “(6) In subsection (3) the reference to the Crown Court’s jurisdiction in matters relating to trial on indictment does not include its jurisdiction relating to orders under section 17 of the Access to Justice Act 1999.”
- 24 In section 47(7) (references to orders not to include contribution orders), for “a contribution order made under section 23 of the Legal Aid Act 1988” substitute “an order under section 17(2) of the Access to Justice Act 1999”.

*The Criminal Justice Act 1982 (c. 48)*

- 25 In section 3(1) of the Criminal Justice Act 1982 (restriction on imposing sentence on person under 21 who is not legally represented)—
- (a) for paragraph (i) substitute—
- “(i) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and
- (b) in paragraph (ii), for “legal aid” substitute “such representation”.

*The Telecommunications Act 1984 (c. 12)*

- 26 In section 52(5) of the Telecommunications Act 1984 (charges to recover costs of assistance in legal proceedings subject to legal aid charges), for paragraph (a) substitute—
- “(a) any charge imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission;”.

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*The Prosecution of Offences Act 1985 (c. 23)*

- 27 The Prosecution of Offences Act 1985 has effect subject to the following amendments.
- 28 In section 19(2)(b) (in making an order for costs account to be taken of grant of representation under Legal Aid Act 1988), for the words from “or any grant” to the end substitute “or any grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service;”.
- 29 In section 20(2) (recovery of sums paid by Legal Aid Board where legally assisted person is awarded costs), for “Legal Aid Board” substitute “Legal Services Commission”.
- 30 (1) Section 21 (interpretation) is amended as follows.
- (2) In subsection (1), in the definition of “legally assisted person”, for “representation under the Legal Aid Act 1988” substitute “a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service”.
- (3) In subsection (4A)—
- (a) in paragraph (a), for the words from “include” to “of contribution;” substitute “the cost of representation funded for him by the Legal Services Commission as part of the Criminal Defence Service;”, and
- (b) in paragraph (b), for the words from “and 19” to the end substitute “, 19 and 19A of this Act, his costs shall be taken to include the cost of representation funded for him by the Legal Services Commission as part of the Criminal Defence Service;”.

*The Child Abduction and Custody Act 1985 (c. 60)*

- 31 In section 11 of the Child Abduction and Custody Act 1985 (costs of application for child custody or access), for the words from “by virtue of” to “1988,” substitute “by virtue of—
- (a) the provision of any service funded by the Legal Services Commission as part of the Community Legal Service, or
- (b) the grant of legal aid or legal advice and assistance under.”

*The Administration of Justice Act 1985 (c. 61)*

- 32 The Administration of Justice Act 1985 has effect subject to the following amendments.
- 33 In section 40(1) (legal aid complaints), for “under the Legal Aid Act 1988” substitute “funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service”.
- 34 In section 41(2) (reduction of fees payable in connection with services provided by barristers under Legal Aid Act 1988), for paragraphs (a) and (b) substitute “otherwise payable by the Legal Services Commission in connection with services provided by him as part of the Community Legal Service or Criminal Defence Service”.
- 35 In section 42 (exclusion of barristers from legal aid work), in subsections (1) and (3), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.

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- 36 In section 43(3) (reduction of costs payable in connection with services provided by solicitors under Legal Aid Act 1988), for the words from “any costs” to “solicitor” substitute “any costs otherwise payable by the Legal Services Commission in connection with services provided by the solicitor as part of the Community Legal Service or Criminal Defence Service”.

*The Housing Act 1985 (c. 68)*

- 37 In section 170(5) of the Housing Act 1985 (charges to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission.”

*The Criminal Justice Act 1987 (c. 38)*

- 38 The Criminal Justice Act 1987 has effect subject to the following amendments.
- 39 In section 4(1) (functions of magistrates' court to cease when case transferred to Crown Court, except for purposes of grant of legal aid), for “section 20(4) of the Legal Aid Act 1988” substitute “paragraph 2 of Schedule 3 to the Access to Justice Act 1999”.
- 40 In section 11(12) (matters to which restrictions on reporting do not apply), for paragraph (h) substitute—
- “(h) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

*The Consumer Arbitration Agreements Act 1988 (c. 21)*

- 41 In section 4(3) of the Consumer Arbitration Agreements Act 1988 (availability of legal aid to be considered in determining whether to make reference to arbitration), for “legal aid” substitute “services funded by the Legal Services Commission as part of the Community Legal Service”.

*The Housing Act 1988 (c. 50)*

- 42 The Housing Act 1988 has effect subject to the following amendments.
- 43 In section 82(4) (charge to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission.”
- 44 In section 107(4) (charge to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission.”

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*Status: This is the original version (as it was originally enacted).*

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*The Children Act 1989 (c. 41)*

- 45 In section 25(6) of the Children Act 1989 (child without legal representation not to be placed in secure accommodation without having been informed of right to apply for legal aid), for “legal aid” substitute “representation funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service”.

*The Courts and Legal Services Act 1990 (c. 41)*

- 46 In section 17(3)(c)(iii) of the Courts and Legal Services Act 1990 (effect of rules of a professional body relating to the withholding of services from persons receiving support under the Legal Aid Act 1988), for “under the Legal Aid Act 1988” substitute “as part of the Community Legal Service or Criminal Defence Service”.

*The Criminal Justice Act 1991 (c. 53)*

- 47 In section 53(3) of the Criminal Justice Act 1991 (functions of magistrates' court to cease when case transferred to Crown Court, except for purposes of grant of legal aid), for “section 20(4) of the Legal Aid Act 1988” substitute “paragraph 2 of Schedule 3 to the Access to Justice Act 1999”.

*The Social Security Administration Act 1992 (c. 5)*

- 48 (1) Section 108(7) of the Social Security Administration Act 1992 (Secretary of State to inform Legal Aid Board if he recovers maintenance arrears for a person who owes money to the Board) is amended as follows.
- (2) For “the Legal Aid Board” substitute “the Legal Services Commission”.
- (3) In paragraph (a), for “; and” substitute “; or  
(iii) received services funded by the Legal Services Commission as part of the Community Legal Service; and”.
- (4) In paragraph (b), after paragraph (ii) insert “or  
(iii) by virtue of section 10 of the Access to Justice Act 1999 in respect of services funded by the Legal Services Commission as part of the Community Legal Service.”.

*The Criminal Procedure and Investigations Act 1996 (c. 25)*

- 49 In section 37(9) of the Criminal Procedure and Investigations Act 1996 (matters to which restrictions on reporting do not apply), for paragraph (g) substitute—  
“(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

*The Family Law Act 1996 (c. 27)*

- 50 The Family Law Act 1996 has effect subject to the following amendments.
- 51 (1) Section 8 (information meetings) is amended as follows.
- (2) In subsection (9) (matters about which regulations must be made for the purposes of information given at information meetings), for paragraph (h) substitute—

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- “(h) the availability of services funded by the Legal Services Commission as part of the Community Legal Service, and where parties can get advice about obtaining such services;”.
- (3) In subsection (12) (contributions), for “provided for him under Part IIIA of the Legal Aid Act 1988” substitute “funded for him by the Legal Services Commission as part of the Community Legal Service”.
- 52 (1) Section 23 (provision of marriage counselling) is amended as follows.
- (2) In subsection (3) (contributions), for “provided for them under Part IIIA of the Legal Aid Act 1988” substitute “funded for them by the Legal Services Commission as part of the Community Legal Service”.
- (3) In subsection (8) (powers of the Legal Aid Board)—
- (a) for “the Legal Aid Board” substitute “the Legal Services Commission”,
  - (b) for “the Board” substitute “the Commission”,
  - (c) for “the Legal Aid Act 1988” substitute “Part I of the Access to Justice Act 1999”, and
  - (d) after “purposes of”, in the second place, insert “that Part of”.

*The Crime and Disorder Act 1998 (c. 37)*

- 53 The Crime and Disorder Act 1998 has effect subject to the following amendments.
- 54 In section 50(2) (procedure at early administrative hearing), for paragraphs (a) to (c) substitute “the accused shall be asked whether he wishes to be granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service and, if he does, the justice shall decide whether or not to grant him such a right.”
- 55 In paragraph 3(8) of Schedule 3 (matters which may be contained in a report of an application for dismissal of charges), for paragraph (g) substitute—
- “(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

*The Disability Rights Commission Act 1999 (c. 17)*

- 56 In section 8(4)(a) of the Disability Rights Commission Act 1999 (charges to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under” to “Board” substitute “imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission”.

SCHEDULE 5

Section 41.

AUTHORISED BODIES: DESIGNATION AND REGULATIONS AND RULES

- 1 For sections 29 and 30 of the Courts and Legal Services Act 1990 substitute—

## “29 Authorised bodies

The provisions of Schedule 4 shall have effect with respect to the authorisation of bodies for the purposes of sections 27 and 28 and the approval and alteration of qualification regulations and rules of conduct.”

2 For Schedule 4 to that Act substitute—

“SCHEDULE 4

Section 29.

### AUTHORISED BODIES

#### PART I

#### DESIGNATION OF BODIES AND APPROVAL OF REGULATIONS AND RULES

##### *Application to Lord Chancellor*

- 1 (1) If a professional or other body wishes to grant rights of audience or rights to conduct litigation to any of its members, it shall apply to the Lord Chancellor in writing for him—
- (a) to recommend to Her Majesty that an Order in Council be made designating the body as an authorised body for the purposes of section 27 (if it proposes to grant rights of audience) or section 28 (if it proposes to grant rights to conduct litigation); and
  - (b) to approve what the body proposes as qualification regulations and rules of conduct in relation to the proposed rights.
- (2) An application under this paragraph shall be accompanied by—
- (a) a statement of the proposed rights;
  - (b) the proposed qualification regulations and rules of conduct; and
  - (c) such explanatory material (including material about the applicant’s constitution and activities) as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.
- (3) The applicant shall provide the Lord Chancellor with such additional information as he may reasonably require.
- (4) The Lord Chancellor shall send a copy of—
- (a) the application and accompanying material; and
  - (b) any information provided under sub-paragraph (3),
- to the Consultative Panel, the Director and each of the designated judges.

##### *Advice of Consultative Panel*

- 2 (1) The Consultative Panel shall consider whether the application should be granted.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The applicant shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its consideration it shall give such advice to the Lord Chancellor as it thinks fit.
- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 3 (1) The Director shall consider whether granting the application would have, or be likely to have, any significant effect on competition.
- (2) The applicant shall provide the Director with such additional information as he may reasonably require.
- (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (4) The Director shall publish any advice given by him under this paragraph.
- (5) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

*Representations by applicant*

- 4 (1) When the Lord Chancellor has received the advice of the Consultative Panel and the Director, he shall send a copy of the advice to the applicant.
- (2) The applicant shall be allowed a period of 28 days beginning with the day on which the copy is sent to him, or such other period as the applicant and the Lord Chancellor may agree, to make representations about the advice to the Lord Chancellor.

*Advice of designated judges*

- 5 (1) The Lord Chancellor shall send to each of the designated judges a copy of—
  - (a) the advice of the Consultative Panel and the Director; and
  - (b) any representations made under paragraph 4(2).
- (2) Each of the designated judges shall then consider whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.



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*Status: This is the original version (as it was originally enacted).*

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- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

*Decision by Lord Chancellor*

- 6 (1) After considering—
- (a) the advice given by the Consultative Panel and any representations made about it;
  - (b) the advice given by the Director and any representations made about it; and
  - (c) the advice given by each of the designated judges,
- the Lord Chancellor shall decide whether to grant the application.
- (2) When the Lord Chancellor has made his decision he shall notify the applicant of it.
- (3) If the Lord Chancellor has decided to refuse the application he shall also notify the applicant of the reasons for his decision.

*Effect of grant of application*

- 7 Where the application is granted—
- (a) the Lord Chancellor may recommend to Her Majesty that an Order in Council be made designating the body as an authorised body for the purposes of section 27 (if it proposes to grant rights of audience) or section 28 (if it proposes to grant rights to conduct litigation); and
  - (b) the proposed regulations and rules are approved as qualification regulations and rules of conduct in relation to the proposed rights.

**PART II**

APPROVAL IN CASES OF ALTERED REGULATIONS, RULES OR RIGHTS

*Requirement of approval*

- 8 (1) If an authorised body makes an alteration of its qualification regulations or rules of conduct, the alteration shall not have effect unless approved by the Lord Chancellor.
- (2) If an authorised body makes an alteration of—
- (a) any rights of audience granted by it (including the grant of a new right of audience); or
  - (b) any rights to conduct litigation granted by it (including the grant of a new right to conduct litigation),
- the qualification regulations and rules of conduct of the body shall not have effect in relation to the rights as altered unless approved by the Lord Chancellor.

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*Status: This is the original version (as it was originally enacted).*

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- (3) If a question arises whether approval is required by virtue of this paragraph it shall be for the Lord Chancellor to decide.

*Application to Lord Chancellor*

- 9 (1) An application by a body for the Lord Chancellor to approve—
- (a) an alteration of qualification regulations or rules of conduct; or
  - (b) qualification regulations or rules of conduct in relation to altered rights,
- shall be made in writing.
- (2) The application shall be accompanied by—
- (a) the qualification regulations and rules of conduct;
  - (b) a statement of the alteration of the regulations, rules or rights; and
  - (c) such explanatory material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.
- (3) The applicant shall provide the Lord Chancellor with such additional information as he may reasonably require.
- (4) The Lord Chancellor shall—
- (a) send a copy of the application and accompanying material and any information provided under sub-paragraph (3) to each of the designated judges; and
  - (b) consider whether it would be appropriate to seek the advice of either or both of the Consultative Panel and the Director.

*Early advice of designated judges*

- 10 (1) If the Lord Chancellor considers that it would not be appropriate to seek the advice of the Consultative Panel or the Director, he—
- (a) shall inform each of the designated judges that that is his view; and
  - (b) may inform each of them of his provisional view as to whether or not the application should be granted.
- (2) If so informed, each of the designated judges shall consider whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (5) After considering the advice given by each of the designated judges, the Lord Chancellor shall consider again whether or not it would be appropriate to seek the advice of either or both of—
- (a) the Consultative Panel; and
  - (b) the Director,
- before deciding whether to grant the application.

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*Status: This is the original version (as it was originally enacted).*

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*Advice of Consultative Panel*

- 11 (1) If the Lord Chancellor decides (after considering the matter under paragraph 9(4)(b) or 10(5)) to seek the advice of the Consultative Panel, he shall send to the Consultative Panel a copy of—
- (a) the application and accompanying material; and
  - (b) any information provided under paragraph 9(3).
- (2) The Consultative Panel shall consider whether the application should be granted.
- (3) The applicant shall provide the Consultative Panel with such additional information as it may reasonably require.
- (4) When the Consultative Panel has completed its consideration it shall give such advice to the Lord Chancellor as it thinks fit.
- (5) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 12 (1) If the Lord Chancellor decides (after considering the matter under paragraph 9(4)(b) or 10(5)) to seek the advice of the Director, he shall send to the Director a copy of—
- (a) the application and accompanying material; and
  - (b) any information provided under paragraph 9(3).
- (2) The Director shall consider whether granting the application would have, or be likely to have, any significant effect on competition.
- (3) The applicant shall provide the Director with such additional information as he may reasonably require.
- (4) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (5) The Director shall publish any advice given by him under this paragraph.
- (6) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (5) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- (7) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

*Representations by applicant*

- 13 (1) If the Lord Chancellor has sought the advice of the Consultative Panel or the Director he shall, on receiving it, send a copy to the applicant.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The applicant shall be allowed a period of 28 days beginning with the day on which the copy is sent to him, or such other period as the applicant and the Lord Chancellor may agree, to make representations about the advice to the Lord Chancellor.

*Advice or further advice of designated judges*

- 14 (1) If the Lord Chancellor has sought the advice of the Consultative Panel or the Director he shall, on receiving it, send to each of the designated judges a copy of—
- (a) the advice; and
  - (b) any representations made under paragraph 13(2).
- (2) Each of the designated judges shall then consider (or consider again) whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

*Decision by Lord Chancellor*

- 15 (1) After considering—
- (a) any advice given by the Consultative Panel and any representations made about it;
  - (b) any advice given by the Director and any representations made about it; and
  - (c) the advice given by each of the designated judges (under paragraph 10 or 14 or both of those paragraphs),
- the Lord Chancellor shall decide whether to grant the application.
- (2) The Lord Chancellor may not refuse the application unless he has received advice from the Consultative Panel.
- (3) When the Lord Chancellor has made his decision he shall notify the applicant of it.
- (4) If the Lord Chancellor has decided to refuse the application he shall also notify the applicant of the reasons for his decision.

*Effect of grant of application*

- 16 Where the application is granted—
- (a) in a case within sub-paragraph (1) of paragraph 8, the alteration of the qualification regulations or rules of conduct is approved; and
  - (b) in a case within sub-paragraph (2) of that paragraph, the qualification regulations or rules of conduct are approved in relation to the rights as altered.

### PART III

#### ALTERATION OF REGULATIONS AND RULES BY ORDER

##### *Notice to authorised body*

- 17 (1) If the Lord Chancellor considers—
- (a) that any of the qualification regulations of an authorised body may unduly restrict a right of audience or right to conduct litigation or the exercise of such a right, or
  - (b) that any of the rules of conduct of an authorised body may unduly restrict the exercise of such a right,
- he may give written notice to the body.
- (2) Before giving notice to an authorised body under sub-paragraph (1) the Lord Chancellor shall inform each of the designated judges that he intends to do so.

##### *Representations by authorised body*

- 18 (1) The notice shall invite the authorised body to make representations in writing to the Lord Chancellor.
- (2) Any such representations must be made before the end of—
- (a) the period of three months beginning with the date on which the notice was given; or
  - (b) such other period as the authorised body and the Lord Chancellor may agree.
- (3) When that period has expired the Lord Chancellor shall consider, in the light of any representations made under sub-paragraph (2), whether he proposes to make alterations of the qualification regulations or rules of conduct.
- (4) If the Lord Chancellor proposes to make alterations of the qualification regulations or rules of conduct he shall send a copy of—
- (a) the alterations which he proposes to make; and
  - (b) any representations made under sub-paragraph (2),
- to the Consultative Panel, the Director and each of the designated judges.

##### *Advice of Consultative Panel*

- 19 (1) The Consultative Panel shall consider whether the alterations should be made.
- (2) The Lord Chancellor and the authorised body shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its consideration it shall give such advice to the Lord Chancellor as it thinks fit.

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*Status: This is the original version (as it was originally enacted).*

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- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 20 (1) The Director shall consider whether making the alterations would have, or be likely to have, any significant effect on competition.
- (2) The Lord Chancellor and the authorised body shall provide the Director with such additional information as he may reasonably require.
- (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (4) The Director shall publish any advice given by him under this paragraph.
- (5) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the authorised body) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

*Further representations by authorised body*

- 21 (1) When the Lord Chancellor has received the advice of the Consultative Panel and the Director, he shall send a copy of the advice to the authorised body.
- (2) The authorised body shall be allowed a period of 28 days, beginning with the day on which the copy is sent to him, or such other period as the authorised body and the Lord Chancellor may agree, to make representations about the advice to the Lord Chancellor.

*Advice of designated judges*

- 22 (1) The Lord Chancellor shall send to each of the designated judges a copy of—
- (a) the advice of the Consultative Panel and the Director; and
  - (b) any representations made under paragraph 21(2).
- (2) Each of the designated judges shall then consider whether the alterations should be made.
- (3) The Lord Chancellor and the authorised body shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

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*Status: This is the original version (as it was originally enacted).*

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*Decision by Lord Chancellor*

- 23 (1) After considering—
- (a) the advice given by the Consultative Panel and any representations made about it;
  - (b) the advice given by the Director and any representations made about it; and
  - (c) the advice given by each of the designated judges under paragraph 22,
- the Lord Chancellor shall decide whether to make the alterations.
- (2) When the Lord Chancellor has made his decision he shall notify the authorised body of it.
- (3) If the Lord Chancellor has decided to make the alterations he shall also notify the authorised body of the reasons for his decision.

*Order effecting alterations*

- 24 If the Lord Chancellor has decided to make the alterations he may make an order giving effect to the alterations.

**PART IV**

REVOCATION OF DESIGNATION

*Order in Council*

- 25 (1) Where an Order in Council has been made designating a body as an authorised body for the purposes of section 27, or for the purposes of section 28, the Lord Chancellor may recommend to Her Majesty that an Order in Council be made revoking that designation.
- (2) A recommendation may be made under sub-paragraph (1) only if—
- (a) the authorised body has made a written request to the Lord Chancellor asking for it to be made;
  - (b) the authorised body has agreed in writing to its being made; or
  - (c) the Lord Chancellor is satisfied that the circumstances at the time when he is considering whether to make the recommendation are such that, had that body then been applying to become an authorised body, its application would have failed.

*Requirement to seek advice*

- 26 Where the Lord Chancellor considers that it may be appropriate for him to make a recommendation in reliance on paragraph 25(2)(c), he shall seek the advice of the Consultative Panel and the Director.

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*Status: This is the original version (as it was originally enacted).*

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*Advice of Consultative Panel*

- 27 (1) The Consultative Panel shall carry out such investigations with respect to the authorised body as it considers appropriate.
- (2) The Lord Chancellor and the authorised body shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its investigations it shall—
- (a) advise the Lord Chancellor as to whether or not there appear to be grounds for making the recommendation; and
  - (b) if its advice is that there appear to be such grounds, advise the Lord Chancellor as to the transitional and incidental provision (if any) which it considers should be included in any Order made in pursuance of it.
- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 28 (1) The Director shall consider whether revoking the designation would have, or be likely to have, any significant effect on competition.
- (2) The Lord Chancellor and the authorised body shall provide the Director with such additional information as he may reasonably require.
- (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (4) The Director shall publish any advice given by him under this paragraph.
- (5) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the authorised body) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

*Notice to authorised body*

- 29 (1) When the Lord Chancellor has received the advice of the Consultative Panel and the Director, he may give to the body a notice containing—
- (a) a copy of the advice; and
  - (b) a statement of the effect of an Order made in pursuance of the recommendation.
- (2) The notice shall invite the authorised body to make representations in writing to the Lord Chancellor.



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*Status: This is the original version (as it was originally enacted).*

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- (3) Any such representations must be made before the end of—
  - (a) the period of three months beginning with the date on which the notice was given; or
  - (b) such other period as the authorised body and the Lord Chancellor may agree.

*Notice to members of authorised body*

- 30 (1) Where the Lord Chancellor—
  - (a) has given a notice to an authorised body under paragraph 29(1); or
  - (b) is proposing to make a recommendation in relation to an authorised body in reliance on paragraph 25(2)(a) or (b),he shall take such steps as are reasonably practicable to bring the matter to the attention of the members of the authorised body and of any other persons who, in his opinion, are likely to be affected by an Order made in pursuance of the recommendation.
- (2) Any such steps shall include inviting those members and other persons to make representations to the Lord Chancellor.
- (3) Any such representations—
  - (a) shall, except in such circumstances as the Lord Chancellor may specify, be in writing; and
  - (b) must be made before the end of the period of three months beginning with such date as may be specified by the Lord Chancellor.

*Advice of designated judges*

- 31 (1) The Lord Chancellor shall send to each of the designated judges—
  - (a) a copy of any written representations made under paragraph 30 and a note of any oral representations made under that paragraph; and
  - (b) in a case where he is required to seek the advice of the Consultative Panel and the Director, a copy of the advice given to him by the Consultative Panel and the Director and of any representations made under paragraph 29.
- (2) Each of the designated judges shall then consider whether the Lord Chancellor should make the recommendation.
- (3) The Lord Chancellor and the authorised body shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

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*Status: This is the original version (as it was originally enacted).*

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*Consideration by Lord Chancellor*

- 32 Before deciding whether to make the recommendation the Lord Chancellor shall consider—
- (a) any representations made under paragraph 30 and the advice given by each of the designated judges; and
  - (b) in a case where he is required to seek the advice of the Consultative Panel and the Director, the advice given to him by the Consultative Panel and the Director and of any representations made under paragraph 29.

*The Order*

- 33 (1) An Order made in pursuance of a recommendation under paragraph 25 may include any appropriate transitional and incidental provision.
- (2) Where an Order is made in relation to a body in pursuance of such a recommendation, the grant of any rights of audience, or rights to conduct litigation, to any person by the body shall cease to have effect, subject to any transitional provision included in the Order.
- (3) Where such an Order is made, the Lord Chancellor shall—
- (a) give the body written notice of the making of the Order and of his reasons for recommending that it be made;
  - (b) take such steps as are reasonably practicable to bring the making of the Order to the attention of the members of that body; and
  - (c) publish notice of the making of the Order in such manner as he considers appropriate for bringing it to the attention of persons (other than those members) who, in his opinion, are likely to be affected by the Order.”

SCHEDULE 6

Section 43.

RIGHTS OF AUDIENCE AND RIGHTS TO CONDUCT LITIGATION

*The Solicitors Act 1974 (c. 47)*

- 1 The Solicitors Act 1974 has effect subject to the following amendments.
- 2 In section 2(4) (Lord Chief Justice or Master of the Rolls deemed to concur in making of regulations approved by him under Schedule 4 to the Courts and Legal Services Act 1990), for the words from “, the Lord Chief Justice” to the end substitute “approves any regulation such as is mentioned in subsection (1), the requirement of the concurrence of the Lord Chief Justice and the Master of the Rolls imposed by that subsection shall not apply.”
- 3 In section 31(3) (Master of the Rolls deemed to concur in making of rules approved by him under Schedule 4 to the Courts and Legal Services Act 1990), for the words from “Master of the Rolls” to the end substitute “Lord Chancellor approves any rule such as is mentioned in subsection (1), the requirement of the concurrence of the Master of the Rolls imposed by that subsection shall not apply.”

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*Status: This is the original version (as it was originally enacted).*

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*The Courts and Legal Services Act 1990 (c. 41)*

- 4 The Courts and Legal Services Act 1990 has effect subject to the following amendments.
- 5 (1) Section 18 (duty to exercise functions as soon as reasonably practicable and in accordance with that section) is amended as follows.
- (2) In subsection (1) (matters to which duty relates), in paragraph (c) (approval of qualification regulations or rules of conduct), after “approval” insert “or alteration”.
- (3) After that subsection insert—
- “(1A) Where any person other than the Lord Chancellor is called upon to exercise any such functions, the Lord Chancellor may require him to do so within such time as the Lord Chancellor may reasonably specify.”
- 6 (1) Section 27 (rights of audience) is amended as follows.
- (2) In subsection (2)(a)(ii) (approval of qualification regulations and rules of conduct in relation to granting of right), omit “the granting of”.
- (3) After subsection (8) insert—
- “(8A) But a court may not limit the right to appear before the court in any proceedings to only some of those who have the right by virtue of the provisions of this section.”
- (4) In subsection (9)—
- (a) in the definition of “qualification regulations”, after “entitled to” insert “, or to exercise,”, and
- (b) in the definition of “qualified litigator”, for “(“practising” having the same meaning as in section 19(8)(b))” substitute “(that is, one who has a practising certificate in force or is employed wholly or mainly for the purpose of providing legal services to his employer)”.
- 7 (1) Section 28 (rights to conduct litigation) is amended as follows.
- (2) In subsection (2)(a)(ii) (approval of qualification regulations and rules of conduct in relation to granting of right), omit “the granting of”.
- (3) After subsection (4) insert—
- “(4A) A court may not limit the right to conduct litigation in relation to proceedings before the court to only some of those who have the right by virtue of the provisions of this section.”
- (4) In subsection (5), in the definition of “qualification regulations”, after “entitled to” insert “, or to exercise,”.
- 8 In section 53(6)(a) (Council for Licensed Conveyancers), for “section 29” substitute “Schedule 4”.
- 9 In section 71 (qualification for judicial appointments), for subsection (6) substitute—
- “(6) Any period during which a person had a right of audience but was, as a result of disciplinary proceedings, prevented by the authorised body

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concerned from exercising it shall not count towards the period mentioned in subsection (5)(b).”

- 10 (1) Section 119(1) (interpretation) is amended as follows.
- (2) In the definition of “right of audience”, for “exercise any of the functions of appearing before and addressing a court including the calling and examining of” substitute “appear before and address a court including the right to call and examine”.
- (3) In the definition of “right to conduct litigation”, for “exercise all or any of the functions of issuing a writ or otherwise commencing” substitute “issue”.
- 11 (1) Section 120 (subordinate legislation) is amended as follows.
- (2) In subsection (4) (orders and regulations subject to affirmative procedure), for “or paragraph 4” substitute “, paragraph 24 of Schedule 4, paragraph 4”.
- (3) In subsection (5) (Orders in Council subject to affirmative procedure), for “section 29(2) or 30(1)” substitute “Part I or Part IV of Schedule 4”.

## SCHEDULE 7

Section 48.

### POWERS OF LAW SOCIETY

#### *Monitoring of compliance with rules*

- 1 In section 31(1) of the Solicitors Act 1974 (power of Council of the Law Society to make rules about professional practice, conduct and discipline), insert at the end “and for empowering the Society to take such action as may be appropriate to enable the Society to ascertain whether or not the provisions of rules made, or of any code or guidance issued, by the Council are being complied with.”

#### *Bank and building society accounts*

2. In—
- (a) section 32(4) of that Act (power of Council of the Law Society to disclose report or information about solicitor’s accounts to Director of Public Prosecutions for investigation and prosecution of offences), and
- (b) paragraph 3 of Schedule 2 to the Administration of Justice Act 1985 (corresponding provision in relation to accounts of incorporated practices), omit “to the Director of Public Prosecutions” and “, if the Director thinks fit”.
- 3 In the Solicitors Act 1974, after section 33 insert—

#### **“33A Inspection of practice bank accounts etc**

- (1) The Council may make rules, with the concurrence of the Master of the Rolls, empowering the Council to require a solicitor to produce documents relating to any account kept by him at a bank or with a building society—
- (a) in connection with his practice; or
- (b) in connection with any trust of which he is or formerly was a trustee, for inspection by a person appointed by the Council pursuant to the rules.

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(2) The Council shall be at liberty to disclose information obtained in exercise of the powers conferred by rules made under subsection (1) for use in investigating the possible commission of an offence by the solicitor and for use in connection with any prosecution of the solicitor consequent on the investigation.”

4 In section 87(1) of that Act (interpretation), in the definition of “building society”, omit “; and a reference to an account with a building society is a reference to a deposit account”.

5 In Schedule 2 to the Administration of Justice Act 1985, after paragraph 4 insert—

*“Inspection of bank accounts*

(4A) Where rules made under section 33A(1) of the 1974 Act are applied to recognised bodies in accordance with section 9(2)(f) of this Act, the Council shall be at liberty to disclose information about a recognised body’s accounts obtained in pursuance of the rules for use in investigating the possible commission of an offence by that body and for use in connection with any prosecution of that body consequent on the investigation.”

*Intervention for breach of rules on practice, conduct and discipline*

6 In Schedule 1 to the Solicitors Act 1974 (intervention in solicitor’s practice), in paragraph 1(1) (circumstances in which Law Society may intervene), in paragraph (c) (failure to comply with rules made by virtue of section 32 or 37(2) (c)), after “section” insert “31.”.

*Solicitors’ employees and consultants*

7 (1) Section 43 of that Act (control of employment of clerks) is amended as follows.

(2) In subsection (1) (power of Law Society to apply to Solicitors Disciplinary Tribunal for order in the case of clerk guilty of an offence of dishonesty or other act which makes it undesirable for him to be employed by solicitor)—

- (a) for “a clerk to a solicitor” substitute “employed or remunerated by a solicitor in connection with his practice”,
- (b) after “employed” (in both places) insert “or remunerated”,
- (c) for “to whom he is or was clerk” substitute “by whom he is or was employed or remunerated”, and
- (d) for the words from “an application” to the end substitute “the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) with respect to him.”

(3) After that subsection insert—

“(1A) Where the Society investigates whether there are grounds for making, or making an application to the Tribunal for it to make, an order under subsection (2) with respect to a person, the Council may direct him to pay to the Council an amount which—

- (a) is calculated by the Council as the cost to the Society of investigating the matter; or

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- (b) in the opinion of the Council represents a reasonable contribution towards that cost.”
  - (4) In subsection (2) (order of Tribunal barring solicitor from employing the clerk)—
    - (a) for the words from the beginning to “an order” substitute “An order under this subsection made by the Society or the Tribunal shall state”, and
    - (b) for “application is” substitute “order is”.
  - (5) For subsection (3) (revocation by Tribunal) substitute—
    - “(3) Where an order has been made under subsection (2) with respect to a person by the Society or the Tribunal—
      - (a) that person or the Society may make an application to the Tribunal for it to be reviewed, and
      - (b) whichever of the Society and the Tribunal made it may at any time revoke it.
    - (3A) On the review of an order under subsection (3) the Tribunal may order—
      - (a) the quashing of the order;
      - (b) the variation of the order; or
      - (c) the confirmation of the order;
 and where in the opinion of the Tribunal no prima facie case for quashing or varying the order is shown, the Tribunal may order its confirmation without hearing the applicant.”
  - (6) In subsection (5) (inspection of orders), for “this section and filed with the Society” substitute “subsection (2) by the Society, or made, varied or confirmed under this section by the Tribunal and filed with the Society”.
  - (7) In the sidenote, for “employment of certain clerks” substitute “solicitors' employees and consultants”.
- 8        In section 44(2) of that Act (breach of order by solicitor), for the words from “an order” to the end of paragraph (b) substitute “an order under section 43(2) is in force in respect of a person”.
- 9        (1) Section 49 of that Act (appeals from Tribunal) is amended as follows.
- (2) In subsection (3) (who can appeal)—
    - (a) for “43(2)” substitute “43(3A)”, and
    - (b) for “application” substitute “order”.
  - (3) In subsection (6) (finality of appeal), for “43(2)” substitute “43(3A)”.
- 10       In paragraph 11(1) of Schedule 2 to the Administration of Justice Act 1985 (control of employment of employees of recognised bodies)—
  - (a) after “employed” (in each place) insert “or remunerated”, and
  - (b) for the words from “an application” to the end substitute “the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) of section 43 of the 1974 Act with respect to him.”
- Power to examine files*
- 11       (1) Section 44B of the Solicitors Act 1974 (power of Law Society to examine files of solicitor or his firm in connection with complaints) is amended as follows.

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(2) In subsection (1), for the words from “investigating” to the end of paragraph (b) substitute “investigating—

- (a) whether there has been professional misconduct by a solicitor;
- (b) whether a solicitor has failed to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council;
- (c) whether any professional services provided by a solicitor were not of the quality which it is reasonable to expect of him as a solicitor; or
- (d) whether there are grounds for making, or making an application to the Tribunal for it to make, an order under section 43(2) with respect to a person who is or was employed or remunerated by a solicitor in connection with his practice,”;

and for the words from “all documents” to the end substitute “all relevant documents in the possession of the solicitor or his firm.”

(3) For the sidenote substitute “Examination of files.”

12 In paragraph 14(1) of Schedule 2 to the Administration of Justice Act 1985 (power of Law Society to examine files of recognised body in connection with complaints), for paragraphs (a) and (b) substitute—

- “(a) whether a recognised body has failed to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council and applicable to it by virtue of section 9 of this Act;
- (b) whether any professional services provided by a recognised body were not of the quality which it is reasonable to expect of it as a recognised body; or
- (c) whether there are grounds for making, or making an application to the Tribunal for it to make, an order under section 43(2) with respect to a person who is or was employed or remunerated by a recognised body in connection with its business,”;

and for the words from “all documents” to the end substitute “all relevant documents in the body’s possession.”

#### *Payment of costs by solicitor under investigation*

13 In the Solicitors Act 1974, after section 44B insert—

#### *“Costs of investigations*

#### **44C Payment of costs of investigations**

Where the Society investigates possible professional misconduct by a solicitor, or a failure or apprehended failure by a solicitor to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council, the Council may direct him to pay to the Council an amount which—

- (a) is calculated by the Council as the cost to the Society of investigating and dealing with the matter; or
- (b) in the opinion of the Council represents a reasonable contribution towards that cost.”

14 In Schedule 2 to the Administration of Justice Act 1985, after paragraph 14 insert—

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*“Payment of costs of investigations*

- 14A      Where the Society investigates a failure or apprehended failure by a recognised body to comply with any requirement imposed by or by virtue of this Act or any rules applicable to it by virtue of section 9 of this Act, the Council may direct the body to pay to the Council an amount which—
- (a) is calculated by the Council as the cost to the Society of the investigation; or
  - (b) in the opinion of the Council represents a reasonable contribution towards that cost.”

*Registered foreign lawyers*

- 15      Subsections (5) to (7) of section 89 of the Courts and Legal Services Act 1990 (power to apply existing provisions to registered foreign lawyers with or without modifications and power to modify existing provisions in their application to recognised bodies whose officers include registered foreign lawyers) apply in relation to the provisions contained in this Schedule as if they were contained in an Act passed before the commencement of that section.

SCHEDULE 8

Section 51.

LEGAL SERVICES COMPLAINTS COMMISSIONER

*Provision for discharge of functions*

- 1      (1) The Lord Chancellor may give general directions concerning the discharge of the functions of the Legal Services Complaints Commissioner.
- (2) Any such directions shall be published by the Lord Chancellor in such manner as appears to him to be appropriate.
- (3) Subject to any such direction and to the provisions of this Act, the Commissioner may make such provision as he considers appropriate for the discharge of his functions.

*Delegation of functions*

- 2      (1) The Commissioner may delegate any of his functions to such members of his staff as he thinks fit.
- (2) All reports prepared by or on behalf of the Commissioner must be signed by him.

*Remuneration*

- 3      (1) The Lord Chancellor shall pay to, or in respect of, the Commissioner such amounts—
- (a) by way of remuneration, pensions, allowances or gratuities, or
  - (b) by way of provision for any such benefits,
- as he may determine.



- (2) If—
- (a) the Commissioner ceases to hold office, and
  - (b) it appears to the Lord Chancellor that there are special circumstances which make it right that he should receive compensation,
- the Lord Chancellor may pay to him such sum as the Lord Chancellor may determine.

*Staff*

- 4 (1) The Commissioner may appoint such staff as he thinks necessary for the discharge of his functions.
- (2) Appointments shall be made by the Commissioner on such terms and conditions (including terms as to pensions, allowances and gratuities) as he may, with the approval of the Lord Chancellor, determine.
- (3) The reference in sub-paragraph (2) to pensions, allowances or gratuities includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Commissioner's staff who suffer loss of employment or loss or diminution of emoluments.

*Annual and other reports*

- 5 (1) The Commissioner shall make an annual report to the Lord Chancellor on the discharge of his functions during the year to which the report relates.
- (2) The Commissioner may, in addition, report to the Lord Chancellor at any time on any matter relating to the discharge of the Commissioner's functions.
- (3) The Commissioner shall provide the Lord Chancellor with such information relating to the discharge of his functions as the Lord Chancellor may see fit to require.
- (4) The Lord Chancellor shall lay before each House of Parliament a copy of any annual report made to him under sub-paragraph (1).

*Accounts and audit*

- 6 (1) The Commissioner shall keep accounts with respect to his receipts and expenditure and shall prepare a statement of accounts with respect to each financial year.
- (2) The accounts shall be kept, and the statement of accounts prepared, in such form as the Lord Chancellor may, with the approval of the Treasury, direct.
- (3) The accounts shall be audited by persons appointed by the Lord Chancellor in respect of each financial year.
- (4) The auditors shall send to the Lord Chancellor a copy of the statement of accounts and of their report.
- (5) The Lord Chancellor shall lay before each House of Parliament a copy of every statement of accounts and auditors' report sent to him under this paragraph.

*Financial provisions*

- 7 (1) The Lord Chancellor may require any professional body in relation to which a direction under section 52 of this Act has been given (and not revoked) to make

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payments of such amounts as the Lord Chancellor considers appropriate to the Commissioner towards meeting the expenditure incurred (or to be incurred) by him in the discharge of his functions.

- (2) To the extent that that expenditure is not met by payments under sub-paragraph (1), it shall be met by the Lord Chancellor out of money provided by Parliament.
- (3) The Commissioner may, with the approval of the Lord Chancellor, pay fees or allowances to any person who, in the Commissioner's opinion, is qualified to assist him in the discharge of his functions and who so assists him.

*Parliamentary disqualification*

- 8 In Part III of Schedule 1 to—
  - (a) the House of Commons Disqualification Act 1975, and
  - (b) the Northern Ireland Assembly Disqualification Act 1975,
 (disqualifying offices), insert (at the appropriate place in alphabetical order)—  
 “The Legal Services Complaints Commissioner.”

*Parliamentary Commissioner*

- 9 In Schedule 2 to the Parliamentary Commissioner Act 1967 (which lists the bodies subject to the jurisdiction of the Parliamentary Commissioner), insert (at the appropriate place in alphabetical order)—  
 “The Legal Services Complaints Commissioner.”

*Acting Commissioner*

- 10 (1) The Lord Chancellor may appoint a person to exercise the functions of the Commissioner where—
  - (a) the Commissioner's office becomes vacant, or
  - (b) the Commissioner is incapable of exercising his functions or considers that it would be inappropriate for him to exercise any of his functions in connection with a particular matter (because of a possible conflict of interests or for any other reason).
- (2) A person so appointed shall have the powers of the Commissioner but shall act only in accordance with the terms on which he is appointed.
- (3) The Lord Chancellor may pay to any person so appointed such remuneration as he may determine.

SCHEDULE 9

Section 66.

ENFORCEMENT OF COMMUNITY ORDERS

- 1 Schedule 2 to the Criminal Justice Act 1991 (enforcement of community orders) has effect subject to the amendments in paragraphs 2 to 8.
- 2 In paragraph 2(2) (issue by justice of the peace of summons or warrant to direct offender to appear or be brought, in the case of a drug treatment or testing order, before the court responsible for the order and, in the case of any other relevant order,

- before a magistrates' court for the petty sessions area concerned), for paragraphs (a) and (b) substitute—
- “(a) in the case of a drug treatment and testing order, before the court responsible for the order;
  - (b) in the case of any other relevant order which was made by the Crown Court and included a direction that any failure to comply with any of the requirements of the order be dealt with by the Crown Court, before the Crown Court; and
  - (c) in the case of any other relevant order, before a magistrates' court acting for the petty sessions area concerned.”
- 3 In paragraph 3(1) (powers of magistrates' court), for “the magistrates' court” substitute “a magistrates' court”.
- 4 In paragraph 6(5) (community service orders)—
- (a) in paragraph (a), for “7(2)(a)(ii)” substitute “7(2)(b)”, and
  - (b) in paragraph (b), for “reference in paragraph 7(1)(b)” substitute “references in paragraphs 7(1)(b) and 8(1)(a)” and for “a reference” substitute “references”.
- 5 (1) Paragraph 7 (revocation of order by magistrates' court) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) after “a relevant order” insert “made by a magistrates' court”, and
  - (b) for “for which a magistrates' court is responsible, to that court” substitute “, to the magistrates' court responsible for the order”.
- (3) For sub-paragraph (2) substitute—
- “(2) The court may—
- (a) revoke the order; or
  - (b) revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence.”
- (4) In sub-paragraph (3), for “(2)(a)(i)” substitute “(2)(a)”.
- (5) In sub-paragraphs (4) and (5), for “(2)(a)(ii)” substitute “(2)(b)”.
- (6) Omit sub-paragraph (6).
- 6 For paragraph 8(1) and (1A) (circumstances in which Crown Court may revoke an order) substitute—
- “8 (1) This paragraph applies where—
- (a) a relevant order made by the Crown Court is in force in respect of an offender and the offender or the responsible officer applies to the Crown Court for the order to be revoked or for the offender to be dealt with in some other manner for the offence in respect of which the order was made; or
  - (b) an offender in respect of whom a relevant order is in force is convicted of an offence before the Crown Court or, having been committed by a magistrates' court to the Crown Court for sentence, is brought or appears before the Crown Court.”

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- 7 (1) Paragraph 8A (replacement of probation order with conditional discharge) is amended as follows.
- (2) In sub-paragraph (1), for “it appears to a magistrates' court acting for the petty sessions area concerned” substitute “to a magistrates' court acting for the petty sessions area concerned (where the order was made by a magistrates' court) or the Crown Court (where the order was made by the Crown Court) it appears to the court”.
- (3) In sub-paragraph (2), after “paragraph 7” insert “or 8”.
- (4) In sub-paragraph (3)—
- (a) omit “and the probation order was made by a magistrates' court”, and
  - (b) for “the magistrates' court” substitute “the court”.
- (5) Omit sub-paragraphs (4) and (5).
- (6) In sub-paragraph (6)—
- (a) for “sub-paragraphs (3) and (5)” substitute “sub-paragraph (3)”, and
  - (b) in the words treated as substituted in section 1A(1) of the Powers of Criminal Courts Act 1973, omit “or (5)”.
- 8 In paragraph 11A (application of paragraph 6A for purposes of paragraphs 6 and 7), for “7(2)(a)(ii)” substitute “7(2)(b)”.
- 9 (1) In each of the provisions specified in sub-paragraph (2) (which refer to paragraph 7 of Schedule 2 to the Criminal Justice Act 1991), for “7(2)(a)(ii)” substitute “7(2)(b)”.
- (2) The provisions referred to in sub-paragraph (1) are—
- (a) section 16B(2) of the Children and Young Persons Act 1969,
  - (b) section 35(5) and (8) of the Crime (Sentences) Act 1997, and
  - (c) paragraph 5(4) of Schedule 5 to the Crime and Disorder Act 1998.

## SCHEDULE 10

Section 76.

### COMMISSION AREAS AND PETTY SESSIONS AREAS

#### *The Parochial Libraries Act 1708 (c. 14)*

- 1 In section 10 of the Parochial Libraries Act 1708 (warrant to search for lost library books), for “within the county riding or division” substitute “for the commission area”.

#### *The Distress for Rent Act 1737 (c. 19)*

- 2 In section 4 of the Distress for Rent Act 1737 (procedure where goods fraudulently carried off), for “county, riding, or division or such county,” substitute “commission area”.

#### *The Inclosure Act 1773 (c. 81)*

- 3 In section 4 of the Inclosure Act 1773 (expenses), for “county” substitute “commission area”.

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*The Burial Ground Act 1816 (c. 141)*

- 4 In section 2 of the Burial Ground Act 1816 (valuation of land), for “county, town, or district” substitute “commission area”.

*The Inclosure and Drainage (Rates) Act 1833 (c. 35)*

- 5 In section 1 of the Inclosure and Drainage (Rates) Act 1833 (recovery of rates or assessments), for “county, riding, or division” substitute “commission area”.

*The Ordnance Survey Act 1841 (c. 30)*

- 6 In section 2 of the Ordnance Survey Act 1841 (powers of entry), for “of the county” substitute “of the place”.

*The Geological Survey Act 1845 (c. 63)*

- 7 In section 1 of the Geological Survey Act 1845 (powers of entry), for “county in which” substitute “place where”.

*The Inclosure Act 1845 (c. 118)*

- 8 In section 159 of the Inclosure Act 1845 (recovery of penalties), after “county” insert “or other jurisdiction”.

*The Hares Act 1848 (c. 29)*

- 9 In section 2 of the Hares Act 1848 (authority to kill hares to be delivered to clerk for petty sessions division), for “petty sessions division” substitute “petty sessions area”.

*The Fairs Act 1873 (c. 37)*

- 10 In section 6 of the Fairs Act 1873 (alteration of fair day on representation of justices for petty sessional division), for “petty sessional division” (in both places) substitute “petty sessions area”.

*The Commons Act 1876 (c. 56)*

- 11 In section 20 of the Commons Act 1876 (prohibition on gravel digging on certain commons without authority of justices for petty sessional division), for “petty sessional division” substitute “petty sessions area”.

*The Municipal Corporations Act 1882 (c. 50)*

- 12 In section 153(3) of the Municipal Corporations Act 1882 (warrant of two justices for the county requiring payment to county treasurer), for “for the county” substitute “for a commission area consisting of or including the whole or part of the county”.

*The Local Government Act 1888 (c. 41)*

- 13 In section 28(2) of the Local Government Act 1888 (power of county council to delegate to justices of the county functions relating to contagious diseases of

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animals), for “county sitting in petty sessions” substitute “peace for a commission area consisting of or including the whole or part of the county”.

*The Children and Young Persons Act 1933 (c. 12)*

14 The Children and Young Persons Act 1933 has effect subject to the following amendments.

15 In section 48(3) (power of youth court acting for same petty sessional division as remanding court), for “petty sessional division” substitute “petty sessions area”.

16 (1) The Second Schedule (constitution of youth courts) is amended as follows.

(2) In paragraph 1 (Part I to have effect as respects any area outside the inner London area and the City), for the words from “any area” to the end substitute “petty sessions areas falling wholly outside the area consisting of the inner London boroughs and the City of London.”

(3) In paragraph 8 (restrictions on forming combined panels), for the words from “which” to the end substitute “unless the area consists of, or is wholly included in, a single commission area”.

(4) In paragraph 13 (Part II to have effect as respects the inner London area and the City), for the words from “as respects” to “of London” substitute “as respects the area consisting of the petty sessions areas falling wholly or partly within the area consisting of the inner London boroughs and the City of London”.

*The Criminal Justice Act 1948 (c. 58)*

17 In section 80(1) of the Criminal Justice Act 1948 (interpretation), in the definition of “local authority”, for “petty sessional division” substitute “petty sessions area”.

*The Prevention of Damage by Pests Act 1949 (c. 55)*

18 In section 15(1) of the Prevention of Damage by Pests Act 1949 (appeal to court for petty sessional division), for “petty sessional division” substitute “petty sessions area”.

*The National Parks and Access to the Countryside Act 1949 (c. 97)*

19 In section 68(3) of the National Parks and Access to the Countryside Act 1949 (complaint to court of petty sessional division about notice to enforce access), for “petty sessional division” substitute “petty sessions area”.

*The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65)*

20 (1) Paragraph 4 of Part II of Schedule 2 to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (allocation of functions to make up civil remuneration of justices' clerks) is amended as follows.

(2) In the first column—

- (a) for “Clerk to county justices” substitute “Justices' clerk”, and
- (b) for “said Act” substitute “Justices of the Peace Act 1997”.

(3) For the entry in the third column substitute—

“The paying authority is the authority which is the paying authority in relation to the magistrates' courts committee for the purposes of section 55 of the Justices of the Peace Act 1997 (and where there are two or more such authorities, the proportions in which they contribute to give effect to any determination shall be such as they may agree or, in default of agreement, as may be determined by the Lord Chancellor).

The justices for whom the clerk acts are the authority entitled to appeal against a determination.”

*The Prison Act 1952 (c. 52)*

- 21 In section 19(1) of the Prison Act 1952 (right of justice to visit prison)—
- (a) for “county”, in the first place, substitute “commission area”, and
  - (b) for “county”, in the second and third places, substitute “area”.

*The Maintenance Orders Act 1958 (c. 39)*

- 22 In section 21(1) of the Maintenance Orders Act 1958 (interpretation), in the definition of “magistrates' court” and “petty sessions area”, for the words from “and “petty sessions area”” to “court” substitute “has the meaning assigned to it by the Magistrates' Courts Act 1980 and”.

*The Licensing Act 1964 (c. 26)*

- 23 The Licensing Act 1964 has effect subject to the following amendments.
- 24 In section 2 (licensing justices and districts), for subsection (2) substitute—
- “(2) The licensing justices for any petty sessions area shall be a committee (which shall be known as the area licensing committee) of the justices acting for that area.”
- 25 In section 85(1) (search warrants for parties organised for gain), for “county or borough” substitute “commission area”.
- 26 In section 187(1) (search warrants), for “county or borough” substitute “commission area”.
- 27 In section 188(1) (closing of licensed premises in case of riot or tumult), for “county or borough” (in both places) substitute “commission area”.
- 28 (1) Section 193 (disqualification of justices) is amended as follows.
- (2) In subsection (1) (disqualifying trades)—
    - (a) for “any county” substitute “any commission area”, and
    - (b) for “county or borough” substitute “area”.
  - (3) In subsection (2) (disqualifying shareholdings)—
    - (a) for “any county” substitute “any commission area”, and
    - (b) for “that county” substitute “that area”.
- 29 In section 201(1) (interpretation), in the definition of “the metropolis”, for the words from “an area” to the end substitute “the area consisting of the inner London boroughs and the City of London;”.

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*Status: This is the original version (as it was originally enacted).*

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*The Administration of Justice Act 1964 (c. 42)*

- 30 (1) Section 19 of the Administration of Justice Act 1964 (sheriff of Greater London and under-sheriffs for London commission areas) is amended as follows.
- (2) In subsection (1) (appointment of sheriff of Greater London and under-sheriff for each London commission area), for “and for each London commission area an under-sheriff shall be so appointed” substitute “and an under-sheriff shall be so appointed for each area of Greater London (not including any part of the City) specified by the Lord Chancellor by order; and an order under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament”
- (3) In subsection (2) (application of enactments to under-sheriffs as if London commission areas were counties), for “London commission area” substitute “area specified by virtue of subsection (1) of this section”.
- (4) In subsection (4) (modification of Sheriffs Act 1887 in its application to Greater London)—
- (a) for “London commission area” substitute “area specified by virtue of subsection (1) of this section”,
  - (b) for “a justice of the peace for any of the London commission areas” substitute “any justice of the peace for a commission area consisting of or including the whole or part of Greater London”, and
  - (c) for the words from “shall be sent” to the end substitute “shall be sent to the officer specified by the Lord Chancellor by order made by statutory instrument.”

*The Sunday Theatre Act 1972 (c. 26)*

- 31 In section 2(2) of the Sunday Theatre Act 1972 (definition of “inner London area”), for the words from “which” to the end substitute “consisting of the inner London boroughs”.

*The Solicitors Act 1974 (c. 47)*

- 32 In section 38(2) of the Solicitors Act 1974 (disqualification of a solicitor who is a justice of the peace for an area divided into petty sessional divisions)—
- (a) for “is divided into petty sessional divisions” substitute “consists of two or more petty sessions areas”, and
  - (b) for “petty sessional division” substitute “petty sessions area”.

*The Magistrates' Courts Act 1980 (c. 43)*

- 33 The Magistrates' Courts Act 1980 has effect subject to the following amendments.
- 34 In section 70 (jurisdiction in inner London for family proceedings), in subsection (3), in the definition of “inner London petty sessions area”, for the words after “means” substitute “any petty sessions area falling wholly or partly within the area consisting of the inner London boroughs and the City of London.”
- 35 In section 146(5) (rules relating to youth courts), for “inner London area” substitute “area consisting of the inner London boroughs”.



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*Status: This is the original version (as it was originally enacted).*

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- 36 In section 150(1) (interpretation), in the definition of “petty sessional court-house”, for “petty sessional division” substitute “petty sessions area”.

*The Public Passenger Vehicles Act 1981 (c. 14)*

- 37 In section 82(1) of the Public Passenger Vehicles Act 1981 (interpretation), in the definition of “magistrates' court” and “petty sessions area”, for “and “petty sessions area” have the same meanings” substitute “has the same meaning”.

*The Road Traffic Regulation Act 1984 (c. 27)*

- 38 In section 142(1) of the Road Traffic Regulation Act 1984 (interpretation), in the definition of “magistrates' court” and “petty sessions area”, for “and “petty sessions area” have the same meanings” substitute “has the same meaning”.

*The Criminal Justice Act 1991 (c. 53)*

- 39 In section 76 of the Criminal Justice Act 1991 (provision of court security officers), in subsection (5) (requirement of confirmation of Secretary of State), for “consists of or forms part of” substitute “falls wholly or partly within”.

*The Local Government Finance Act 1992 (c. 14)*

- 40 (1) Section 46 of the Local Government Finance Act 1992 (special expenses of precepting authority) is amended as follows.
- (2) In subsection (2)(d) (expenses of the Receiver relating to magistrates' courts in the inner London area)—
- (a) after “courts” insert “acting for petty sessions areas falling wholly or partly”, and
  - (b) for “that area” substitute “the inner London area”.
- (3) In subsection (4) (interpretation), in the definition of “inner London area”, for “has the same meaning as in the Justices of the Peace Act 1997” substitute “means the area consisting of the inner London boroughs”.

*The Probation Service Act 1993 (c. 47)*

- 41 The Probation Service Act 1993 has effect subject to the following amendments.
- 42 In section 2(3) (Secretary of State to make provision for inner London probation area)—
- (a) in paragraph (a) (combination into one probation area of all the petty sessional divisions of inner London), for “petty sessional divisions of” substitute “petty sessions areas falling wholly or partly within”, and
  - (b) in paragraph (b) (addition to inner London probation area of one or more petty sessions areas outside inner London), for the words “one or more petty sessions areas outside the inner London area” substitute “any other petty sessions area”.
- 43 In section 18(2) (expenditure of inner London probation committee)—
- (a) for “If” substitute “Unless”, and

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*Status: This is the original version (as it was originally enacted).*

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(b) for “does not include any petty sessions area outside” substitute “includes any petty sessions area not falling wholly or partly within”.

44 In section 29(1)(a) (definition of “responsible authority” for inner London probation area), for the words from “is situated” to the end substitute “a petty sessions area included in the inner London probation area by virtue of section 2(3)(b) above wholly or partly falls”.

45 In section 30(1), in the definition of “inner London area”, for “has the same meaning as in the Justices of the Peace Act 1997” substitute “means the area consisting of the inner London boroughs”.

*The Local Government (Wales) Act 1994 (c. 19)*

46 In section 55(3) of the Local Government (Wales) Act 1994 (alteration of areas in Wales in connection with alteration of local government area), for paragraphs (a) to (c) substitute “the commission areas, petty sessions area or areas of magistrates’ courts committees in Wales.”

*The Justices of the Peace Act 1997 (c. 25)*

47 The Justices of the Peace Act 1997 has effect subject to the following amendments.

48 In section 6 (residence qualification for justices), after subsection (1) insert—

“(1A) If a person who is the Lord Mayor or an alderman of the City of London is appointed in accordance with section 5 above as a justice of the peace for a commission area including the City of London, subsection (1) above shall not apply in relation to his appointment as a justice of the peace for that area so long as he holds either of those offices.”

49 (1) Section 10 (allowances for justices) is amended as follows.

(2) In subsection (7) (meaning of “the appropriate authority”), for the words from “means” to the end substitute “means, in relation to a justice—

(a) the council of the local government area which consists of or includes the petty sessions area for which he acts; or

(b) where he acts for a petty sessions area which is partly included in two or more local government areas, the councils of those local government areas.”

(3) For subsection (8) (meaning of “local government area”) substitute—

“(8) In subsection (7) above “local government area” means—

(a) in relation to England, the City of London, a London borough, a metropolitan district, a non-metropolitan county for which there is a council or a unitary district; and

(b) in relation to Wales, a county or a county borough;

and for the purposes of that subsection the Common Council shall be regarded as the council of the City of London.”

(4) In subsection (9) (joint payment of allowances), for “subsection (7)(d)(ii)” substitute “subsection (7)(b)”.

50 For section 26 (Greater Manchester, Merseyside and Lancashire) substitute—

## “26 Greater Manchester, Merseyside and Lancashire

(1) This section applies to the area consisting of the counties of Greater Manchester and Merseyside and the retained county of Lancashire; and for this purpose the retained county of Lancashire is that county as it stood immediately before 1st April 1995.

(2) Sections 5(1), 6 and 25 above have effect—

- (a) in the case of a commission area which is wholly included within the area to which this section applies with the substitution, for any reference to the Lord Chancellor, of a reference to the Chancellor of the Duchy of Lancaster; and
- (b) in the case of a commission area which is partly included within that area with the substitution, for any reference to the Lord Chancellor, of a reference to the Lord Chancellor and the Chancellor of the Duchy of Lancaster acting jointly.

(3) Sections 7(4) to (6) and 8 above have effect—

- (a) in the case of a person who is a justice of the peace only for a commission area which is wholly included within that area with the substitution, for any reference to the Lord Chancellor, of a reference to the Chancellor of the Duchy of Lancaster; and
- (b) in the case of a person who is a justice either for such a commission area and another commission area or for a commission area which is partly included within that area with the substitution, for any reference to the Lord Chancellor, of a reference to the Lord Chancellor and the Chancellor of the Duchy of Lancaster acting jointly.”

51 In section 50(11) (pensions etc. of court staff in inner London area: interpretation), in the definition of “inner London court staff”, after “justices' clerk for” insert “a petty sessions area which is included (wholly or partly) in”.

52 (1) Section 72(1) (definitions) is amended as follows.

(2) After the definition of “commission area” insert—

““inner London area” means the area consisting of the inner London boroughs;”.

(3) In the definition of “petty sessional court-house”, for “petty sessional division” substitute “petty sessions area”.

53 In paragraph 11(4) of Schedule 4 (chief clerks in inner London), for “that petty sessional division” substitute “the corresponding petty sessions area”.

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*Status: This is the original version (as it was originally enacted).*

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SCHEDULE 11

Section 78.

UNIFICATION AND RENAMING OF STIPENDIARY BENCH

*The Metropolitan Police Act 1839 (c. 47)*

- 1 The Metropolitan Police Act 1839 has effect subject to the following amendments.
- 2 In section 52 (prevention of obstruction in neighbourhood of public buildings), for “police courts” substitute “magistrates' courts”.
- 3 In section 75 (“magistrate” to mean every justice of the peace appointed to be a magistrate of a police court), for the words from “justice” to the end substitute “District Judge (Magistrates' Courts)”.
- 4 In section 76 (complaints to be heard and determined by one of the police magistrates), for the words from “by one” to the end substitute “by a District Judge (Magistrates' Courts)”.

*The Metropolitan Police Courts Act 1840 (c. 84)*

- 5 In section 13 of the Metropolitan Police Courts Act 1840 (duties of police magistrates in relation to deserted premises), for “police magistrates” (in both places) substitute “District Judges (Magistrates' Courts)”.

*The London Hackney Carriages Act 1843 (c. 86)*

- 6 In section 24 of the London Hackney Carriages Act 1843 (application for summons to police court of district)—
- (a) for “police court of the district” substitute “magistrates' court for the petty sessions area”, and
  - (b) for “police court”, in each other place, substitute “magistrates' court”.

*The London Hackney Carriages Act 1850 (c. 7)*

- 7 In section 4 of the London Hackney Carriages Act 1850 (notice of hackney carriage standings to be hung in police courts), for “police courts” substitute “magistrates' courts acting for an area falling wholly within an inner London borough”.

*The London Hackney Carriage Act 1853 (c. 33)*

- 8 In section 18 of the London Hackney Carriage Act 1853 (jurisdiction of police magistrates)—
- (a) for “any one of the police magistrates at any of the Metropolitan Police Courts” substitute “two justices of the peace”, and
  - (b) omit the words from “or if the offence,”, in the first place, to “the county;”.

*The Regulation of Railways Act 1871 (c. 78)*

- 9 In section 7(1) of the Regulation of Railways Act 1871 (orders directing specified officials to hold investigation of a railway accident with the assistance of an inspector or other assessor), for “stipendiary magistrate, metropolitan police magistrate,” substitute “District Judge (Magistrates' Courts), stipendiary magistrate,”.

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*Status: This is the original version (as it was originally enacted).*

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*The Metropolitan Police Courts Act 1897 (c. 26)*

- 10 In section 4 of the Metropolitan Police Courts Act 1897 (powers of receiver with respect to land and buildings for metropolitan police courts), for “metropolitan police courts” substitute “magistrates' courts acting for petty sessions areas falling wholly within the inner London boroughs”.

*The Law of Distress Amendment Act 1908 (c. 53)*

- 11 In section 2 of the Law of Distress Amendment Act 1908 (order by stipendiary magistrate or two justices for restoration of goods illegally distrained by landlord etc.), for the words from “a stipendiary” to “or justices” substitute “two justices who”.

*The Children and Young Persons Act 1933 (c. 12)*

- 12 (1) The Second Schedule to the Children and Young Person Act 1933 (constitution of youth courts) is amended as follows.
- (2) Before paragraph 2 insert—

““*Qualification to sit as member of youth court*”.”

- (3) In paragraph 2 (justice not qualified to sit as member of youth court unless he is a member of a youth court panel), after “he is” insert—
- “(a) a District Judge (Magistrates' Courts), or  
(b)”.
- (4) After that paragraph insert—

“*Constitution by single District Judge (Magistrates' Courts)*”

- (2A) A youth court may consist of a District Judge (Magistrates' Courts) sitting alone.

*Youth court panels.*”

*The Local Government Act 1948 (c. 26)*

- 13 (1) Section 121 of the Local Government Act 1948 (precept for expenses of metropolitan police) is amended as follows.
- (2) In subsection (3) (precepts for expenses of metropolitan police courts and probation system in the metropolitan police court area)—
- (a) for the first paragraph substitute—
- “(3) In relation to expenses of and incidental to magistrates' courts acting for petty sessions areas falling wholly within the inner London boroughs and the probation system within those petty sessions areas respectively, precepts issued under this section shall be issued to all rating authorities with areas falling wholly within the area comprising those petty sessions areas.”, and

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- (b) in the proviso, for “metropolitan police court area” substitute “the area comprising those petty sessions areas”.
- (3) In subsection (6) (receipts), for “metropolitan police courts and the probation system within the metropolitan police court area” substitute “magistrates' courts acting for petty sessions areas falling wholly within the inner London boroughs and the probation system within those petty sessions areas”.
- (4) In subsection (7) (receipts exceeding expenses), for “metropolitan police courts or the probation system within the metropolitan police court area” substitute “magistrates' courts acting for petty sessions areas falling wholly within the inner London boroughs or the probation system within those petty sessions areas”.

*The Metropolitan Magistrates' Courts Act 1959 (c. 45)*

- 14 The Metropolitan Magistrates' Courts Act 1959 (functions of Receiver) has effect subject to the following amendments.
- 15 In section 3(1) (power of Receiver to provide premises for probation purposes), for the words “and the metropolitan magistrates courts” substitute “and the magistrates' courts acting for petty sessions areas falling wholly within the inner London boroughs”.
- 16 In section 4(2) (borrowing power of Receiver), for the words “of the metropolitan magistrates' courts” substitute “of the magistrates' courts acting for petty sessions areas falling wholly within the inner London boroughs”.

*The Licensing Act 1964 (c. 26)*

- 17 In section 29(2) of the Licensing Act 1964 (fees chargeable in stipendiary magistrates' court), for “stipendiary magistrates' court” substitute “court of a District Judge (Magistrates' Courts)”.

*The Backing of Warrants (Republic of Ireland) Act 1965 (c. 45)*

- 18 In paragraph 2A of the Schedule to the Backing of Warrants (Republic of Ireland) Act 1965 (which extends the exemption from certain requirements of the Magistrates' Courts Act 1980 conferred on stipendiary magistrates by section 15 of the Justices of the Peace Act 1997 to the requirements of paragraph 2 of that Schedule)—
  - (a) for “15” substitute “10E”, and
  - (b) for “stipendiary magistrates” substitute “District Judges (Magistrates' Courts)”.

*The Courts Act 1971 (c. 23)*

- 19 In Part IA of Schedule 2 to the Courts Act 1971 (certain office-holders eligible for appointment as Circuit judges), for “Stipendiary magistrate” substitute “District Judge (Magistrates' Courts).”

*The Local Government Act 1972 (c. 70)*

- 20 In section 67(2)(b) of the Local Government Act 1972 (which provides that regulations may make provision about the functions or areas of jurisdiction of

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*Status: This is the original version (as it was originally enacted).*

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certain bodies or officers in connection with changes in local government areas in Wales)—

- (a) for “justice of the peace, stipendiary magistrate” substitute “justice of the peace other than a District Judge (Magistrates' Courts),” and
- (b) after “police officers” insert “, and the functions of any District Judge (Magistrates' Courts),”.

*The Administration of Justice Act 1973 (c. 15)*

- 21 In section 9(1) of the Administration of Justice Act 1973 (judicial salaries charged on and paid out of the Consolidated Fund), for paragraphs (e) and (f) (metropolitan stipendiary magistrates and other stipendiary magistrates) substitute—
- “(e) District Judges (Magistrates' Courts);”.

*The Juries Act 1974 (c. 23)*

- 22 In Part I of Schedule 1 to the Juries Act 1974 (persons ineligible for jury service), in Group A (the judiciary) for “Metropolitan and other stipendiary magistrates” substitute “District Judges (Magistrates' Courts)”.

*The Solicitors Act 1974 (c. 47)*

- 23 In section 38 of the Solicitors Act 1974 (disqualification of a solicitor who is a justice of the peace), after subsection (3) insert—
- “(3A) Subsection (1) does not apply where a solicitor is a Deputy District Judge (Magistrates' Courts); but where a solicitor is acting as a Deputy District Judge (Magistrates' Courts) for any petty sessions area it shall not be lawful for him, or for any partner of his, to act in connection with proceedings before any justice of the peace acting for that area as solicitor or agent for the solicitor of any person concerned in those proceedings.”

*The House of Commons Disqualification Act 1975 (c. 24)*

- 24 In Part I of Schedule 1 to the House of Commons Disqualification Act 1975 (judicial offices disqualifying for membership of the House of Commons), for “Stipendiary Magistrate within the meaning of the Justices of the Peace Act 1997.” substitute “District Judge (Magistrates' Courts) (but not Deputy District Judge (Magistrates' Courts)).”

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 25 In Part I of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (judicial offices disqualifying for membership of the Northern Ireland Assembly), for “Stipendiary Magistrate within the meaning of the Justices of the Peace Act 1949.” substitute “District Judge (Magistrates' Courts) (but not Deputy District Judge (Magistrates' Courts)).”

*The Magistrates' Courts Act 1980 (c. 43)*

- 26 The Magistrates' Courts Act 1980 has effect subject to the following amendments.
- 27 For section 66 substitute—

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*Status: This is the original version (as it was originally enacted).*

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**“66 Composition of magistrates' courts for family proceedings: general**

(1) A magistrates' court when hearing family proceedings shall be composed of—

- (a) two or three lay justices; or
- (b) a District Judge (Magistrates' Courts) as chairman and one or two lay justices;

or, if it is not practicable for such a court to be so composed, a District Judge (Magistrates' Courts) sitting alone.

(2) Except where such a court is composed of a District Judge (Magistrates' Courts) sitting alone, it shall, so far as practicable, include both a man and a woman.

(3) In this section and section 67 below “lay justices” means justices of the peace who are not District Judges (Magistrates' Courts).”

28 (1) Section 67 (family courts and panels) is amended as follows.

(2) In subsection (2) (justice not to be qualified to hear family proceedings unless a member of a family panel of justices), for the words from “he” to “justices” substitute—

- “(a) he is a District Judge (Magistrates' Courts) nominated by the Lord Chancellor to do so; or
- (b) he is a member of a family panel, that is to say a panel of lay justices”.

(3) Omit subsection (7) (stipendiary magistrate may hear and determine family proceedings sitting alone if a member of a family panel).

29 In section 144(2) (rule committee for magistrates' courts to include chief metropolitan stipendiary magistrate), for “chief metropolitan stipendiary magistrate” substitute “Senior District Judge (Chief Magistrate)”.

30 In section 150(1) (interpretation), in the definition of “petty-sessional court-house”, for “stipendiary magistrate” substitute “District Judge (Magistrates' Courts)”.

*The Extradition Act 1989 (c. 33)*

31 The Extradition Act 1989 has effect subject to the following amendments.

32 In section 8(1)(a) (issue of warrant for arrest on receipt of an authority to proceed by the chief metropolitan stipendiary magistrate or a designated metropolitan magistrate), for “chief metropolitan stipendiary magistrate or a designated metropolitan magistrate” substitute “Senior District Judge (Chief Magistrate) or another District Judge (Magistrates' Courts) designated by him”.

33 (1) Section 9 (proceedings for committal) is amended as follows.

(2) In subsection (1) (person arrested in pursuance of a warrant under section 8 to be brought before a court consisting of a metropolitan magistrate or a sheriff), omit the words from “consisting” to the end.



*Status: This is the original version (as it was originally enacted).*

- (3) In subsection (2) (court of committal in England and Wales), after “Wales” insert “shall consist of the Senior District Judge (Chief Magistrate) or another District Judge (Magistrates' Courts) designated by him and”.
- (4) In subsection (3) (court of committal in Scotland), after “Scotland” insert “shall consist of the sheriff of Lothian and Borders and”.
- 34 In section 10(7) (cases in which order by metropolitan magistrate ceases to have effect), for “metropolitan magistrate” substitute “District Judge (Magistrates' Courts)”.
- 35 In section 24(4) (suppression of terrorism), in the paragraph (c) treated as added at the end of paragraph 1(2)(b) of Schedule 1, for “metropolitan magistrate” substitute “District Judge (Magistrates' Courts)”.
- 36 (1) Schedule 1 (provisions deriving from the Extradition Act 1870 and associated enactments) is amended as follows.
- (2) In paragraphs 1(2)(b), 6(2), 7(1) and (2), 8(1) and 11, for “metropolitan magistrate” substitute “District Judge (Magistrates' Courts)”.
- (3) In paragraph 4(2) (order of Secretary of State for issue of warrant), for “a metropolitan magistrate” substitute “the Senior District Judge (Chief Magistrate) or another District Judge (Magistrates' Courts) designated by him”.
- (4) In paragraph 5 (issue of warrant for apprehension on receipt of order by metropolitan magistrate)—
- (a) in sub-paragraphs (1)(a) and (3), for “a metropolitan magistrate” substitute “the Senior District Judge (Chief Magistrate), or another District Judge (Magistrates' Courts) designated by him,”, and
- (b) in sub-paragraph (4), for “metropolitan magistrate, unless the metropolitan magistrate” substitute “District Judge (Magistrates' Courts) unless he”.
- (5) In paragraph 6(1) (hearing of case), for “metropolitan magistrate, the metropolitan magistrate” substitute “District Judge (Magistrates' Courts) he”.
- (6) In paragraph 13 (crimes committed at sea)—
- (a) in sub-paragraph (1)(a), for the words after “as if” substitute “the references to the Senior District Judge (Chief Magistrate) or another District Judge (Magistrates' Courts) designated by him were to any District Judge (Magistrates' Courts) and those references and the references to a District Judge (Magistrates' Courts) (apart from that in paragraph 11) included any sheriff in Scotland and any resident magistrate in Northern Ireland;”,
- (b) in sub-paragraph (1)(c), for “the stipendiary magistrate,” substitute “any District Judge (Magistrates' Courts), or the”, and
- (c) omit sub-paragraph (2).

*The Courts and Legal Services Act 1990 (c. 41)*

- 37 In Schedule 11 to the Courts and Legal Services Act 1990 (judges etc. barred from legal practice), for “Stipendiary Magistrate” substitute “District Judge (Magistrates' Courts)”.

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*Status: This is the original version (as it was originally enacted).*

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*The Local Government Act 1992 (c. 19)*

- 38 In section 19(2)(d) of the Local Government Act 1992 (which provides that regulations may make provision about the functions or areas of jurisdiction of certain bodies or officers in connection with changes in local government areas in England)—
- (a) in sub-paragraph (i), for “justice of the peace, stipendiary magistrate” substitute “justice of the peace other than a District Judge (Magistrates' Courts),” and
  - (b) before “and the costs” insert “, and the functions of any District Judge (Magistrates' Courts),”.

*The Judicial Pensions and Retirement Act 1993 (c. 8)*

- 39 The Judicial Pensions and Retirement Act 1993 has effect subject to the following amendments.
- 40 In Part I of Schedule 1 (qualifying offices), after “County Court Judge in Northern Ireland” insert “District Judge (Magistrates' Courts)”.
- 41 In Schedule 5 (retirement), for “Stipendiary magistrate in England and Wales” substitute “District Judge (Magistrates' Courts)”.

*The Probation Service Act 1993 (c. 47)*

- 42 (1) Schedule 1 to the Probation Service Act 1993 (probation committees) is amended as follows.
- (2) In paragraph 1(1) (probation committee for the inner London probation area to consist of specified number of metropolitan stipendiary magistrates nominated by the chief metropolitan stipendiary magistrate and other justices)—
- (a) for “metropolitan stipendiary magistrates” (in each place) substitute “District Judges (Magistrates' Courts),” and
  - (b) for “chief metropolitan stipendiary magistrate” substitute “Senior District Judge (Chief Magistrate)”.
- (3) In paragraph 6(3) (justice not to be co-opted as member of probation committee or probation liaison committee covering any of commission area for which he is a justice), after “that area” insert “(other than a District Judge (Magistrates' Courts))”.
- (4) In paragraph 7 (power of probation committee to co-opt stipendiary magistrates), for the words “stipendiary magistrates” to the end substitute “District Judges (Magistrates' Courts).”

*The Justices of the Peace Act 1997 (c. 25)*

- 43 The Justices of the Peace Act 1997 has effect subject to the following amendments.
- 44 In subsection (2)(a) of section 5 (which specifies that the provision made by subsection (1) about the appointment and removal of justices does not apply to stipendiary magistrates), and in the heading preceding that section, for “stipendiary magistrates” substitute “District Judges (Magistrates' Courts)”.
- 45 In section 7(7) (which provides that the provisions about the supplemental list do not apply to stipendiary magistrates), for “stipendiary magistrate” substitute “District Judge (Magistrates' Courts)”.

*Status: This is the original version (as it was originally enacted).*

- 46 In section 10(4) (provisions about travelling, subsistence and financial loss allowances not to apply to stipendiary magistrates), for “stipendiary magistrate” substitute “District Judge (Magistrates' Courts)”.
- 47 In section 22(4)(c) (chairman or deputy chairman of justices not to preside when stipendiary magistrate is administering justice), for “stipendiary magistrate” substitute “District Judge (Magistrates' Courts)”.
- 48 In section 69(4) (oaths required to be taken by acting stipendiary magistrate may be taken before a metropolitan stipendiary magistrate), for the words “a metropolitan” to the end substitute “a Deputy District Judge (Magistrates' Courts) may be taken before any District Judge (Magistrates' Courts).”
- 49 In section 72(1) (interpretation), in the definition of “petty sessional court-house”, for “stipendiary magistrate” substitute “District Judge (Magistrates' Courts)”.
- 50 In paragraph 7 of Schedule 4 (inner London), in sub-paragraph (2)(a)(ii) (continued operation of section 58 of the Justices of the Peace Act 1979), after “have effect” insert “(with the reference in subsection (3) to metropolitan stipendiary magistrates being construed as a reference to District Judges (Magistrates' Courts))”.

## SCHEDULE 12

Section 83.

### GREATER LONDON MAGISTRATES' COURTS AUTHORITY

#### *The Public Works Loans Act 1965 (c. 63)*

- 1 In section 2(1)(a) of the Public Works Loans Act 1965 (authorities to which Public Works Loans Commissioners may make unsecured loans), after sub-paragraph (iv) insert “and  
(v) the Greater London Magistrates' Courts Authority;”.

#### *The National Loans Act 1968 (c. 13)*

- 2 In paragraph 1(a) of Schedule 4 to the National Loans Act 1968 (authorities to which local loans may be made), after sub-paragraph (iv) insert “and  
(v) the Greater London Magistrates' Courts Authority;”.

#### *The Road Traffic Offenders Act 1988 (c. 53)*

- 3 In section 82(2A) of the Road Traffic Offenders Act 1988 (definition of “paying authority” and “responsible authority”), at the end insert “; except that, in relation to the Greater London Magistrates' Courts Authority, the Authority is the paying authority and responsible authority.”

#### *The Local Government and Housing Act 1989 (c. 42)*

- 4 The Local Government and Housing Act 1989 has effect subject to the following amendments.
- 5 In section 39(1) (authorities to which provisions about revenue accounts and capital apply), after paragraph (e) insert—  
“(ea) the Greater London Magistrates' Courts Authority;”.

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*Status: This is the original version (as it was originally enacted).*

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6 In section 67(3) (authorities to which provisions about interests in companies apply), after paragraph (g) insert—

“(ga) the Greater London Magistrates' Courts Authority;”

*The Criminal Justice Act 1991 (c. 53)*

7 (1) Section 76 of the Criminal Justice Act 1991 as amended by Schedule 10 to this Act (provision of court security officers) is amended as follows.

(2) In subsection (1) (determination as to provision of officers), after “area” insert “outside Greater London”.

(3) After subsection (4) insert—

“(4A) In relation to each petty sessions area within Greater London, the Greater London Magistrates' Courts Authority shall from time to time determine—

- (a) whether court security officers should be provided; and
- (b) if so, how many such officers should be provided.

(4B) As soon as practicable after making a determination under subsection (4A) (b) above, the Greater London Magistrates' Courts Authority shall provide the required number of court security officers, on such terms and conditions as they may determine—

- (a) by employing persons to act as court security officers; or
- (b) by entering into a contract with another person for the employment by him of persons to act as such officers.”

*The Local Government Finance Act 1992 (c. 14)*

8 In section 19(2) of the Local Government Finance Act 1992 (exclusion of Crown exemption in relation to certain authorities), after paragraph (e) insert—

“(ea) the Greater London Magistrates' Courts Authority;”.

*The Justices of the Peace Act 1997 (c. 25)*

9 The Justices of the Peace Act 1997 has effect subject to the following amendments.

10 In section 10(7) as amended by Schedule 10 to this Act (authority responsible for paying allowances to justices), after “justice” insert “for a commission area consisting wholly or partly of Greater London, the Greater London Magistrates' Courts Authority, and in relation to any other justice”.

11 In section 40(8) (regulations about appointment of justices' chief executive), after “by statutory instrument” insert “which may make different provision in relation to the Greater London Magistrates' Courts Authority and other magistrates' courts committees”.

12 In section 44 (terms of employment), after subsection (1) insert—

“(1A) The approval of the Lord Chancellor shall be required for any determination by a magistrates' courts committee reducing the salary of a justices' clerk or justices' chief executive, unless the justices' clerk or justices' chief executive concerned consents to the reduction.”

13 For section 50 substitute—

### “50 Pensions of employees of GLMCA

- (1) The Lord Chancellor may, with the consent of the Minister for the Civil Service, make provision by order made by statutory instrument for section 1 of the Superannuation Act 1972 (pensions of civil servants etc.) to apply to persons employed by the Greater London Magistrates' Courts Authority (and may make such provision by amendment of that Act).
- (2) An order under subsection (1) above may provide for the Authority to pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to such provision in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.
- (3) Where an order under subsection (1) above is made, the Minister for the Civil Service may, to such extent and subject to such conditions as he thinks fit—
  - (a) delegate to any person the function of administering a scheme made under section 1 of the Superannuation Act 1972, so far as relating to employees of the Authority; or
  - (b) authorise the exercise of that function (so far as so relating) by, or by employees of, any person.
- (4) A person to whom the function of administering a scheme made under section 1 of the Superannuation Act 1972 is delegated under subsection (3) (a) above may, to such extent and subject to such conditions as he may determine, authorise the exercise of that function by, or by employees of, any person.
- (5) Where a person is authorised under subsection (3)(b) or (4) above to exercise the function of administering a scheme made under section 1 of the Superannuation Act 1972, anything done or omitted to be done by or in relation to him (or an employee of his) in, or in connection with, the exercise or purported exercise of the function shall be treated for all purposes as done or omitted to be done by the person who authorised him.
- (6) Subsection (5) above does not apply for the purposes of—
  - (a) any criminal proceedings against the authorised person (or any employee of his); or
  - (b) any contract between him and the person who authorised him, so far as relating to the function.
- (7) A statutory instrument containing an order under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

- 14 (1) Section 54 (indemnification of justices' and their clerks) is amended as follows.
- (2) In subsection (2) (indemnification out of local funds), for “out of local funds” (in both places) substitute “by the appropriate authority”.
  - (3) After that subsection insert—

“(2A) In subsection (2) above the “appropriate authority” means—

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- (a) the Greater London Magistrates' Courts Authority, where at the material time the justice or justices' clerk was acting for an area consisting of or falling within Greater London; or
  - (b) the paying authority or authorities, where at the material time the justice or justices' clerk was acting for an area outside Greater London.”
- (4) In subsection (7) (apportionment between paying authorities), for the words from “there are” to “clerk,” substitute “, in relation to any justice or justices' clerk acting for an area outside Greater London, there are two or more paying authorities,”.
- (5) In subsection (9) (interpretation), in the definition of “paying authority”, for the words from “, in relation” to the end substitute—
- “(a) in relation to any justice or justices' clerk who at the material time acted for an area outside Greater London, means any authority which is a paying authority for the purposes of section 55 below in relation to the magistrates' courts committee for that area; and
  - (b) in relation to a justice or justices' clerk who at the material time acted for an area consisting of or falling within Greater London, means the council of any London borough or the Common Council of the City of London.”
- 15        Before section 55 insert the heading—
- ““Magistrates' courts committees outside Greater London”.”*
- 16        (1) Section 55 (duties of local authorities) is amended as follows.
- (2) In subsection (1) (duties of local authorities), after “committee”, in the first place, insert “for an area outside Greater London”.
  - (3) In subsections (4) and (5) (duty of paying authority or authorities to pay expenses of magistrates' courts committee), after “courts' committee” insert “for an area outside Greater London”.
  - (4) In subsection (10) (interpretation), after “courts' committee” insert “for an area outside Greater London”.
- 17        (1) Section 56 (provision supplementary to section 55) is amended as follows.
- (2) In subsection (1) (determination by committee)—
    - (a) in paragraph (b), after “committee” insert “for an area outside Greater London”, and
    - (b) in paragraph (c), after “which” insert “such”.
  - (3) In subsection (2) (apportionment), after “committee”, in the first place, insert “for an area outside Greater London”.
- 18        In section 59(1) (regulations relating to accounts of magistrates' courts committees), after “magistrates' courts committees” insert “for areas outside Greater London”.
- 19        After section 68 insert—

### “68A Provision of accommodation for justices and staff

Any accommodation provided under any enactment for any justice, justices' clerk or justices' chief executive may be outside the area for which the justices act and, in the case of a petty sessional court-house, shall be treated as being in that area for the purposes of the jurisdiction of the justices when acting in the court-house.”

## SCHEDULE 13

Section 90.

### FUNCTIONS TRANSFERRED TO JUSTICES' CHIEF EXECUTIVES

#### *The London Hackney Carriages Act 1843 (c. 86)*

- 1 In section 24 of the London Hackney Carriages Act 1843 (application for summons), for “clerk of” substitute “justices' chief executive for”.

#### *The Evidence Act 1851 (c. 99)*

- 2 (1) Section 13 of the Evidence Act 1851 (proof of previous conviction by copy of record certified by clerk) is amended as follows.
- (2) Number the existing provision as subsection (1) and for the words from “under the hand” to “such clerk or other officer,” substitute “by the proper officer of the court where such conviction or acquittal took place”.
- (3) After that subsection insert—
- “(2) In subsection (1) “proper officer” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
  - (b) in relation to any other court, the clerk of the court or other officer having the custody of the records of the court, or the deputy of such clerk or other officer.”

#### *The Criminal Procedure Act 1865 (c. 18)*

- 3 (1) Section 6 of the Criminal Procedure Act 1865 (proof of previous conviction of witness by certificate signed by clerk) is amended as follows.
- (2) Number the existing provision as subsection (1) and for the words from “the clerk” to “such clerk or officer,” substitute “the proper officer of the court where the offender was convicted”.
- (3) After that subsection insert—
- “(2) In subsection (1) “proper officer” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and

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- (b) in relation to any other court, the clerk of the court or other officer having the custody of the records of the court, or the deputy of such clerk or other officer.”

*The Prevention of Crimes Act 1871 (c. 112)*

- 4 (1) Section 18 of the Prevention of Crimes Act 1871 (evidence of previous conviction by record signed by clerk) is amended as follows.
- (2) For the words from “clerk of the court” to “such clerk or officer;” substitute “proper officer of the court by which such conviction was made;”.
- (3) For “clerk or other officer” substitute “proper officer”.
- (4) At the end of that section insert—
  - “In this section “proper officer” means—
  - (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
  - (b) in relation to any other court, the clerk of the court or other officer having the custody of the records of the court, or the deputy of such clerk or other officer.”

*The Fairs Act 1873 (c. 37)*

- 5 In section 6 of the Fairs Act 1873 (alteration of fair day on representation of justices), for “clerk to the justices acting in and for” substitute “justices' chief executive for”.

*The Public Health Acts Amendment Act 1907 (c. 53)*

- 6 In section 94(7) of the Public Health Acts Amendment Act 1907 (licensing of pleasure boats), for “clerk” substitute “justices' chief executive for the court”.

*The Maintenance Orders (Facilities for Enforcement) Act 1920 (c. 33)*

- 7 (1) Section 4 of the Maintenance Orders (Facilities for Enforcement) Act 1920 (power of magistrates' courts to confirm maintenance orders made in certain Commonwealth countries) is amended as follows (but that section as modified in relation to Northern Ireland by section 11 of that Act is not so amended).
- (2) In subsection (5B) (powers of court), for—
  - (a) “the clerk of the court or the clerk of any other magistrates' court”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates' court,”,
 substitute “a justices' chief executive”.
- (3) In subsection (6A) (application of section 60 of the Magistrates' Courts Act 1980)—
  - (a) in paragraph (b), in the paragraph to be regarded as substituted for subsection (4)(b) of that section, for “the clerk of the court, or to the clerk of any other magistrates' court,” substitute “a justices' chief executive”, and
  - (b) in paragraph (c) (words to be regarded as replaced in subsection (5) of that section), for “clerk” substitute “justices' chief executive for the court”.



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*The Children and Young Persons Act 1933 (c. 12)*

- 8 The Children and Young Persons Act 1933 has effect subject to the following amendments.
- 9 In section 42(2)(b) (transmission of deposition of child), for “clerk” substitute “proper officer”.
- 10 In section 45 (constitution of youth courts), number the existing provision as subsection (1) and insert—
- “(2) The justices' chief executive appointed by a magistrates' courts committee is the justices' chief executive for every youth court for their area.”
11. In—
- (a) section 46(1A) (notification of guilty plea),
  - (b) section 56(3) (remission of case to youth court), and
  - (c) section 106(2) (certification of copy of order),
- for “clerk of” substitute “justices' chief executive for”.

*The Maintenance Orders Act 1950 (c. 37)*

- 12 Part II of the Maintenance Orders Act 1950 (enforcement of certain maintenance orders made in another part of the United Kingdom) has effect subject to the following amendments.
- 13 (1) Section 18 (enforcement of registered orders) is amended as follows.
- (2) In subsection (2ZA) (application of section 76 of the Magistrates' Courts Act 1980), in the subsection to be regarded as substituted as subsection (5) of that section, for—
- (a) “the clerk of the court or the clerk of any other magistrates' court”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates' court,”,
- substitute “a justices' chief executive”.
- (3) In subsection (2A) (requirement of person liable under order to notify change of address to clerk of the court), for “clerk” substitute “proper officer”.
- (4) After that subsection insert—
- “(2B) In subsection (2A) of this section “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the justices' chief executive for the court; and
  - (b) in relation to a court of summary jurisdiction in Northern Ireland, the clerk of the court.”
- 14 (1) Section 22 (discharge and variation of registered orders) is amended as follows.
- (2) In subsection (1B) (powers of court), for—
- (a) “the clerk of the court or the clerk of any other magistrates' court in England and Wales”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates' court in England and Wales,”,
- substitute “a justices' chief executive”.
- (3) In subsection (1E) (application of section 60 of the Magistrates' Courts Act 1980)—

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- (a) in paragraph (a), in the paragraph to be regarded as substituted for subsection (4)(b) of that section, for “the clerk of the court, or to the clerk of any other magistrates' court,” substitute “a justices' chief executive”, and
- (b) in paragraph (b) (words to be regarded as replaced in subsection (5) of that section), for “clerk” substitute “justices' chief executive for the court”.

15 In section 24(5A)(b) (order requiring payment to the clerk of a magistrates' court to cease to have effect on cancellation of registration of order), for “the clerk of a magistrates' court in England and Wales” substitute “a justices' chief executive”.

*The Army Act 1955 (c. 18)*

16 The Army Act 1955 has effect subject to the following amendments.

17 (1) Section 189 (delivery into military custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.

(2) In subsection (1) (fee payable to clerk of the court), for “clerk” substitute “proper officer”.

(3) After subsection (3) insert—

“(3A) In subsection (1) of this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the justices' chief executive for the court; and
- (b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.”

18 (1) Section 199 (proof of outcome of civil trial) is amended as follows.

(2) In subsections (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “proper officer”.

(3) For subsection (4) substitute—

“(4) In this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the justices' chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

*The Air Force Act 1955 (c. 19)*

19 The Air Force Act 1955 has effect subject to the following amendments.

20 (1) Section 189 (delivery into air-force custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.

(2) In subsection (1) (fee payable to clerk of the court), for “clerk” substitute “proper officer”.

(3) After subsection (3) insert—

“(3A) In subsection (1) of this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the justices' chief executive for the court; and

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(b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.”

21 (1) Section 199 (proof of outcome of civil trial) is amended as follows.

(2) In subsections (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “proper officer”.

(3) For subsection (4) substitute—

“(4) In this section “proper officer” means—

(a) in relation to a court of summary jurisdiction in England and Wales, the justices' chief executive for the court; and

(b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

*The Naval Discipline Act 1957 (c. 53)*

22 The Naval Discipline Act 1957 has effect subject to the following amendments.

23 (1) Section 110 (delivery into naval custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.

(2) In subsection (2) (fee payable to clerk of the court), for “clerk” substitute “proper officer”.

(3) After subsection (2) insert—

“(2A) In subsection (2) of this section “proper officer” means—

(a) in relation to a court of summary jurisdiction in England and Wales, the justices' chief executive for the court; and

(b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.”

24 (1) Section 129B (proof of outcome of civil trial) is amended as follows.

(2) In subsections (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “proper officer”.

(3) For subsection (4) substitute—

“(4) In this section “proper officer” means—

(a) in relation to a court of summary jurisdiction in England and Wales, the justices' chief executive for the court; and

(b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

*The Maintenance Orders Act 1958 (c. 39)*

25 The Maintenance Orders Act 1958 has effect subject to the following amendments.

26 (1) Section 2 (registration of orders) is amended as follows.

(2) In subsection (2)(b) (procedure on application for registration of order), for “clerk of” substitute “justices' chief executive for”.

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- (3) In subsection (5) (registration of orders), for “or clerk of” substitute “of, or justices' chief executive for”.
- (4) In subsection (6) (effect on magistrates' court order of registration in the High Court), for “the clerk of a magistrates' court” (in both places) substitute “a justices' chief executive”.
- (5) In subsection (6ZA)(b) (effect on High Court order or county court order of registration in magistrates' court), for “the clerk of the court or the clerk of any other magistrates' court” substitute “a justices' chief executive”.
- (6) In subsection (6ZC) (payments under order becoming or ceasing to be payable to clerk of a magistrates' court), for “the clerk of a magistrates' court” substitute “a justices' chief executive”.
- 27        In section 3(3A) (requirement of person liable under order to notify change of address to clerk of the court), for “clerk of” substitute “justices' chief executive for”.
- 28        (1) Section 4(5B) (application of section 60 of the Magistrates' Courts Act 1980) is amended as follows.
- (2) In paragraph (a), in the paragraph to be regarded as substituted for subsection (4)(b) of that section, for “the clerk of the court, or to the clerk of any other magistrates' court,” substitute “a justices' chief executive”.
- (3) In paragraph (b) (words to be regarded as replaced in subsection (5) of that section), for “clerk” substitute “justices' chief executive for the court”.
- (4) In paragraph (e), in the subsection (9) to be regarded as substituted for subsections (9) and (10) of that section, for—
- (a) “the clerk of the court or the clerk of any other magistrates' court”, and
- (b) “the clerk of the court, or to the clerk of any other magistrates' court,” substitute “a justices' chief executive”.
- 29        (1) Section 5 (cancellation of registration) is amended as follows.
- (2) In subsection (5) (cancellation of registration of High Court or county court order), for “the clerk of a magistrates' court” (in both places) substitute “a justices' chief executive”.
- (3) In subsection (6)(b) (cancellation of registration of magistrates' court order), for “clerk of” substitute “justices' chief executive for”.
- 30        In section 18 (powers of magistrates to review committals), for “clerk of” (in each place) substitute “justices' chief executive for”.
- 31        In section 20(1) (clerk of magistrates' court entitled to receive payments for transmission to another)—
- (a) for “the clerk of a magistrates' court” substitute “a justices' chief executive”, and
- (b) for “the clerk is” substitute “a justices' chief executive is”.

*The Betting, Gaming and Lotteries Act 1963 (c. 2)*

- 32        The Betting, Gaming and Lotteries Act 1963 has effect subject to the following amendments.

- 33 (1) Section 10A (cancellation of betting office licence) is amended as follows.
- (2) In subsection (4) (notification of cancellation)—
- (a) for “clerk of” substitute “proper officer of”, and
  - (b) for “clerk to” (in both places) substitute “proper officer of”.
- (3) After that subsection insert—
- “(5) In subsection (4)—
- “the proper officer of the authority” has the same meaning as in Schedule 1; and
  - “the proper officer of the court” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
  - (b) in relation to a court of summary jurisdiction in Scotland, the clerk of the court.”
- 34 (1) Section 11 (cancellation of and disqualification for bookmaker’s permit or betting agency permit) is amended as follows.
- (2) In subsection (5) (notification of cancellation)—
- (a) for “clerk of” substitute “proper officer of”, and
  - (b) for “clerk to” (in both places) substitute “proper officer of”.
- (3) After that subsection insert—
- “(6) In subsection (5)—
- “the proper officer of the authority” has the same meaning as in Schedule 1; and
  - “the proper officer of the court” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
  - (b) in relation to any other court, the clerk of the court.”
- 35 (1) Schedule 1 (bookmaker’s permits, betting agency permits and betting offices licences) is amended as follows.
- (2) In paragraph 2 (interpretation), for the definition of “clerk to the appropriate authority” substitute—
- ““the proper officer of the appropriate authority” means—
- (a) in England, the chief executive to the justices comprising the committee referred to in paragraph 1 of this Schedule; and
  - (b) in Scotland, the clerk to the licensing court;”.
- (3) In paragraphs 5 and 6 (applications for grant of permit or licence), for “clerk to” substitute “proper officer of”.
- (4) In paragraph 7 (notification of meeting to consider application)—
- (a) for “clerk to”, in both places, substitute “proper officer of”, and
  - (b) for “clerk”, in the remaining four places, substitute “proper officer”.
- (5) In paragraph 8 (applications for renewal of permit or licence), for “clerk to” (in each place) substitute “proper officer of”.

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- (6) In paragraph 9 (person to whom application to be made)—
  - (a) for “clerk to” (in both places) substitute “proper officer of”, and
  - (b) in paragraph (a), for “clerk” substitute “proper officer”.
- (7) In paragraph 11(b) (receipt of objections), for “clerk to” substitute “proper officer of”.
- (8) In paragraph 12 (procedure where objection received), for “clerk” substitute “proper officer”.
- (9) In paragraph 20 (grant or renewal of permit or licence)—
  - (a) in sub-paragraph (1), for “clerk to” substitute “proper officer of”, and
  - (b) in sub-paragraph (2), for “clerk to” substitute “proper officer of”.
- (10) In paragraph 20A (clerk to act on unopposed applications for renewal)—
  - (a) in sub-paragraph (1), for “clerk to” substitute “proper officer of” and for “clerk may” substitute “clerk to the authority may”, and
  - (b) after sub-paragraph (4) insert—
    - “(5) For the purposes of this paragraph, the clerk to the appropriate authority, where the authority is a committee of the justices acting for a petty sessions area, is the clerk to those justices or, if there are two or more clerks to those justices—
      - (a) such one of those clerks as the magistrates' courts committee having power over the appointment of clerks to justices for that area may direct; or
      - (b) in default of any such direction, any of those clerks.”
- (11) In—
  - (a) paragraph 21(1), (2) and (4)(b) (appeals),
  - (b) paragraph 25 (notification of change in directors),
  - (c) paragraphs 26 (in both places) and 27(1) (cancellation of bookmaker's permit),
  - (d) paragraphs 28A(1)(a) and (2), 28B(2) and (3) and 28C(1) and (2) (cancellation of betting office licence),
  - (e) paragraph 34 (registers), and
  - (f) paragraphs 36 and 37(1) (provision of information),
 for “clerk to” substitute “proper officer of”.

*The Licensing Act 1964 (c. 26)*

- 36 The Licensing Act 1964 has effect subject to the following amendments.
- 37. In—
  - (a) section 8A(2) (approval of prospective licensee),
  - (b) section 9A(2) (grant of interim authority), and
  - (c) section 19(1) and (2) (requirement for structural alterations),
 for “clerk” substitute “chief executive”.
- 38 (1) Section 20 (consent for alteration of premises) is amended as follows.

- (2) In subsection (2) (plans to be deposited with clerk), for “clerk” substitute “chief executive”.
- (3) In subsection (4) (notice of order forfeiting licence or directing restoration of premises)—
- (a) for “clerk of” substitute “justices' chief executive for”, and
  - (b) for “clerk to” (in each place) substitute “chief executive to”.
- 39 In section 20A(3) (revocation of justices' licences), for “clerk” substitute “chief executive”.
- 40 (1) Section 22 (procedural provisions as to appeals) is amended as follows.
- (2) In subsections (1) and (2) (notice to be given to clerk), for “clerk” substitute “chief executive”.
- (3) In subsection (4) (clerk to send notice of appeal to Crown Court), for “clerk to” substitute “chief executive to”.
- (4) In subsection (5) (recording by clerk of persons opposing grant), for “clerk” substitute “chief executive”.
- 41 In section 27(4)(c)(ii) (notice for renewal of licence given to clerk), for “clerk” substitute “chief executive”.
- 42 (1) Section 28 (clerk to licensing justices) is amended as follows.
- (2) In the heading and in the sidenote, after “clerk” insert “and chief executive”.
- (3) After subsection (4) insert—
- “(5) The justices' chief executive for a petty sessions area shall be chief executive to the licensing justices for the licensing district consisting of that area.”
- 43 In section 30 (register of licences), in—
- (a) subsection (1) (clerk to keep register), and
  - (b) subsection (4) (certification of entry by clerk),
- for “clerk” substitute “chief executive”.
- 44 (1) Section 31 (matters to be entered in register) is amended as follows.
- (2) In subsection (1) (notice of conviction to be entered in register)—
- (a) for “clerk”, in the first place, substitute “chief executive”,
  - (b) for “clerk of” substitute “justices' chief executive for”,
  - (c) for “clerk”, in the third place, substitute “chief executive”, and
  - (d) for “that clerk” substitute “him”.
- (3) In subsection (2), for “clerk” substitute “chief executive”.
- 45 In section 32(1) and (2) (persons with interest in property to be registered), for “clerk” substitute “chief executive”.
- 46 In section 33 (notice of conviction of licence holder to be served on registered owner), in—
- (a) subsection (1) (clerk to serve notice), and
  - (b) subsection (2) (provisions about service) (in both places),
- for “clerk” substitute “chief executive”.

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- 47 In section 34(3) (refusal of inspection of register), for “clerk” substitute “chief executive”.
- 48 In section 46(2) (notice to fire authority of application for registration certificate), for “clerk” substitute “chief executive”.
- 49 (1) Section 51 (register of clubs) is amended as follows.
- (2) In subsection (1) (clerk to keep register), for “clerk” substitute “chief executive”.
- (3) In subsection (2) (particulars to be registered), for “clerk” substitute “chief executive”.
- (4) In subsection (4) (notice of change of particulars), for “clerk” substitute “chief executive”.
50. In—
- (a) section 62(3) (permitted hours in clubs),
  - (b) section 75(2) and (3) (application for exemption order) (in each place),
  - (c) section 87A(5) (permitted hours in vineyard premises),
  - (d) sections 133(1) and 142(1) (restoration of suspended licence),
  - (e) sections 150(3) and (4)(a), 151(6), 153A(3) and 154(1)(b) (canteen licences),
  - (f) section 180(3) and (4) (occasional licences) (in each place), and
  - (g) section 199(c) (saving relating to theatres),
- for “clerk” substitute “chief executive”.
- 51 In Schedule 2 (applications for justices' licences), in—
- (a) paragraph 1(a) (notice to clerk),
  - (b) paragraph 3 (deposition of plan), and
  - (c) paragraph 6 (list of applicants),
- for “clerk” substitute “chief executive”.
- 52 (1) Schedule 6 (applications and complaints relating to registration certificates) is amended as follows.
- (2) In paragraphs 1(1) and (3) and 2 (procedure on making of application), for “clerk” substitute “chief executive”.
- (3) In paragraph 4 (copies of application)—
- (a) for “clerk to” substitute “chief executive to”,
  - (b) for “clerk is” substitute “chief executive is”, and
  - (c) for “clerk needs” substitute “chief executive needs”.
- (4) In paragraphs 6(1) and 7 (objections), for “clerk” substitute “chief executive”.
- 53 In Schedule 8A (procedure for making, varying or revoking restriction orders), in—
- (a) paragraph 1(1) (notice of application to licensing justices), and
  - (b) paragraph 4(2) (notice of application to magistrates' court),
- for “clerk” substitute “chief executive”.
- 54 In paragraph 7 of Schedule 11 (clerk to licensing planning committee)—
- (a) for “clerk”, in the first place, substitute “chief executive”, and
  - (b) for “districts, the clerk to the licensing justices”, substitute “districts for which there are different chief executives, the chief executive”.



- 55 In Schedule 12 (canteen licences), in paragraphs 1(1)(a) and 3, for “clerk” substitute “chief executive”.
- 56 In Schedule 12A (children’s certificates), in—
- (a) paragraphs 1(1) and 2(1) (applications), and
  - (b) paragraphs 7(3)(a) and 8(a) (duration),
- for “clerk” substitute “chief executive”.

*The Gaming Act 1968 (c. 65)*

- 57 The Gaming Act 1968 has effect subject to the following amendments.
- 58 (1) Schedule 2 (grant etc. of licences) is amended as follows.
- (2) In paragraph 1(1) (licensing authority), at the end insert “and references to the proper officer of a licensing authority shall be construed accordingly”.
  - (3) In paragraphs 5(2) and 6(2) (procedure for application), for “clerk to” substitute “proper officer of”.
  - (4) In paragraph 7 (public notice of application)—
    - (a) in sub-paragraph (1), for “clerk to” substitute “proper officer of”,
    - (b) in sub-paragraph (2), for “clerk to” substitute “proper officer of” and for “if the clerk” substitute “if the proper officer”, and
    - (c) in sub-paragraphs (3) and (4), for “clerk to” substitute “proper officer of”.
  - (5) In paragraph 12(1) (making of application for renewal), for “clerk to” substitute “proper officer of”.
  - (6) In paragraph 13 (notification of application for renewal)—
    - (a) in sub-paragraphs (2) and (3), for “clerk to” substitute “proper officer of”,
    - (b) in sub-paragraph (4), for “clerk to” substitute “proper officer of” and for “clerk”, in the other two places, substitute “proper officer”, and
    - (c) in sub-paragraph (5), for “clerk to” substitute “proper officer of”.
  - (7) In paragraph 14(2)(a) (proceedings on application for grant or renewal), for “clerk to” substitute “proper officer of”.
  - (8) In paragraph 15 (objections)—
    - (a) for “clerk to” substitute “proper officer of”, and
    - (b) in paragraph (b), for “clerk” substitute “proper officer”.
  - (9) In—
    - (a) paragraph 28 (notification of Board’s advice),
    - (b) paragraph 29(1) (in both places) and (2) (appeal by applicant),
    - (c) paragraph 31(1) and (2) (appeal by Board),
    - (d) paragraph 33(1) (appeal in Scotland),
    - (e) paragraph 35(5) (revocation of certificate of consent), and
    - (f) paragraphs 36(1) and (3) and 37 (cancellation),for “clerk to” substitute “proper officer of”.
  - (10) In paragraph 46(1) (notice of appeal), for “clerk” substitute “proper officer”.
  - (11) In paragraph 48 (cancellation of licence where holder convicted of offence)—

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- (a) in sub-paragraph (4), for “clerk of” and for “clerk to” (in both places) substitute “proper officer of”, and
  - (b) after that sub-paragraph insert—
    - “(5) In sub-paragraph (4) of this paragraph, “the proper officer of the court” means—
      - (a) in relation to a magistrates' court, the justices' chief executive for the court, and
      - (b) in relation to any other court, the clerk of the court.”
- (12) In paragraphs 57(4) and 58(1) (transfer of licence), for “clerk to” substitute “proper officer of”.
- (13) In paragraph 63 (fees)—
- (a) in sub-paragraph (1), for “clerk to” substitute “proper officer of”, and
  - (b) in sub-paragraph (2), for “clerk to” substitute “proper officer of”.
- (14) In paragraphs 64(1) and 65(1) and (2) (notification of corporate changes), for “clerk to” substitute “proper officer of”.
- 59 (1) Schedule 3 (registration of members' clubs in England and Wales) is amended as follows.
- (2) In—
- (a) paragraph 12(1) (appeal by applicant),
  - (b) paragraph 13(1) (appeal by Board), and
  - (c) paragraphs 15(1) (in both places) and 16(1) (cancellation),
- for “clerk” substitute “chief executive”.
- (3) In paragraph 17 (cancellation pursuant to conviction)—
- (a) in sub-paragraph (3), for “clerk of” substitute “proper officer of” and for “clerk to” (in both places) substitute “chief executive to”, and
  - (b) after that sub-paragraph insert—
    - “(4) In sub-paragraph (3) of this paragraph the “proper officer of the court” means—
      - (a) in relation to a magistrates' court, the justices' chief executive for the court, and
      - (b) in relation to the Crown Court, the appropriate officer of the court.”
- (4) In—
- (a) paragraph 23 (fees), and
  - (b) paragraph 24(1) and (2) (relinquishment of registration),
- for “clerk” substitute “chief executive”.
- 60 In Schedule 7 (registration for gaming by means of machines), in—
- (a) paragraph 3(1) (application for registration),
  - (b) paragraph 4(1) (application for renewal of registration),
  - (c) paragraph 11(1) (in both places) and (2) (appeal),
  - (d) paragraphs 13(1), 14 and 20(1) (cancellation of registration),
  - (e) paragraph 24 (fees), and
  - (f) paragraph 25(1) and (2) (relinquishment of registration),

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for “clerk” substitute “chief executive”.

- 61 (1) Schedule 9 (permits under section 34) is amended as follows.
- (2) In paragraph 11(2) and (3) (appeals), for “clerk to” substitute “proper officer of”.
- (3) In paragraph 21 (fees), for “clerk” substitute “proper officer”.
- (4) After paragraph 23 insert—
- “24 For the purposes of this Schedule the proper officer of an appropriate authority is—
- (a) where the appropriate authority is the licensing justices for a licensing district in England and Wales, the chief executive to the justices, and
- (b) in any other case, the clerk to the authority.”

*The Late Night Refreshment Houses Act 1969 (c. 53)*

- 62 In section 6(2) of the Late Night Refreshment Houses Act 1969 (licensing authority to give to clerk to justices a copy of register of late night refreshment houses in the area), for the words from “to the clerk” to the end substitute “a copy of or extract from the list or register to the justices' chief executive for any petty sessions area falling wholly or partly within their area.”

*The Children and Young Persons Act 1969 (c. 54)*

- 63 In the Children and Young Persons Act 1969, in—
- (a) section 18(3) (copies of, or of variation or discharge of, supervision order) (in both places), and
- (b) section 19(5) and (10) (copies of supervision arrangements),
- for “clerk to the justices” substitute “justices' chief executive”.

*The Attachment of Earnings Act 1971 (c. 32)*

- 64 The Attachment of Earnings Act 1971 has effect subject to the following amendments.
- 65 In section 3(1)(c) (persons who may apply for an attachment of earnings order), for “the clerk of a magistrates' court, the clerk of that court” substitute “a justices' chief executive, that justices' chief executive”.
- 66 In section 6(7)(c) (clerk to be collecting officer in case of order made by a magistrates' court), for “clerk either of that court or of” substitute “justices' chief executive for that court or for”.
- 67 In section 17(3)(d) (power to require court officer to deal with payments under consolidated attachment order as directed by court or rules), for “clerk or registrar” substitute “officer”.
- 68 (1) Section 18 (certain action not to be taken by collecting officer except on request) is amended as follows.
- (2) In subsection (1) (clerk of magistrates' court not to make certain applications unless requested by person entitled to receive payments), for “The clerk of a magistrates' court” substitute “A justices' chief executive”.

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- (3) In subsections (2) and (3) (effect of request), for “the clerk” substitute “a justices' chief executive”.
- 69 In section 21(2)(a)(ii) (costs due to clerk of magistrates' court), for “clerk of” substitute “justices' chief executive for”.

*The Immigration Act 1971 (c. 77)*

- 70 (1) Schedule 2 to the Immigration Act 1971 (administrative provisions) is amended as follows.
- (2) In sub-paragraph (1) of paragraph 23, in paragraph (b) (particulars of recognizance to be given to clerk), for “clerk” substitute “proper officer”.
- (3) After that sub-paragraph insert—
- “(1A) In sub-paragraph (1) “proper officer” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
- (b) in relation to a court of summary jurisdiction in Northern Ireland, the clerk of the court.”
- (4) In sub-paragraph (3) of paragraph 31 (particulars of forfeited recognizance to be given to clerk), for “clerk” substitute “proper officer”.
- (5) After that sub-paragraph insert—
- “(3A) In sub-paragraph (3) “proper officer” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
- (b) in relation to a court of summary jurisdiction in Northern Ireland, the clerk of the court.”

*The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)*

- 71 The Maintenance Orders (Reciprocal Enforcement) Act 1972 has effect subject to the following amendments.
- 72 In section 7(5B) (powers of magistrates' court on confirming provisional order made in reciprocating country), for—
- (a) “the clerk of the court or the clerk of any other magistrates' court in England and Wales”, and
- (b) “the clerk of the court, or to the clerk of any other magistrates' court in England and Wales,”,
- substitute “a justices' chief executive”.
- 73 (1) Section 8 (enforcement of maintenance order registered in United Kingdom court) is amended as follows.
- (2) In subsection (3) (requirement of person liable under order to notify change of address to clerk of the court), for “clerk” substitute “appropriate officer”.
- (3) After that subsection insert—
- “(3A) In subsection (3) above “appropriate officer” means—

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- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
  - (b) in relation to a court elsewhere, the clerk of the court.”
- (4) In subsection (4A) (application of section 76 of the Magistrates' Courts Act 1980), in the subsection to be regarded as substituted as subsection (5) of that section, for—
  - (a) “the clerk of the court or the clerk of any other magistrates' court”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates' court,”,substitute “a justices' chief executive”.
- 74 (1) Section 9(1ZA) (application of section 60 of the Magistrates' Courts Act 1980) is amended as follows.
  - (2) In paragraph (a), in the subsection (3A) to be regarded as inserted in that section, for—
    - (a) “the clerk of the court or the clerk of any other magistrates' court,”, and
    - (b) “the clerk of the court, or to the clerk of any other magistrates' court,”,substitute “a justices' chief executive”.
  - (3) In paragraph (b), in the paragraph to be regarded as substituted for subsection (4)(b) of that section, for “the clerk of the court, or to the clerk of any other magistrates' court,” substitute “a justices' chief executive”.
  - (4) In paragraph (c) (words to be regarded as replaced in subsection (5) of that section), for “clerk” substitute “justices' chief executive for the court”.
- 75 (1) Section 23 (maintenance orders registered in High Court under Maintenance Orders (Facilities for Enforcement) Act 1920) is amended as follows.
  - (2) In subsections (2), (3) and (4) (procedure), for “clerk” substitute “appropriate officer”.
  - (3) After subsection (5) insert—
    - “(6) In this section “appropriate officer” means—
      - (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
      - (b) in relation to a magistrates' court in Northern Ireland, the clerk of the court.”
- 76 In section 26 (application for recovery of maintenance in convention country), for subsections (6) and (7) substitute—
  - “(6) The appropriate officer for the purposes of this section is—
    - (a) where the applicant is residing in England and Wales, the justices' chief executive for the petty sessions area;
    - (b) where the applicant is residing in Northern Ireland, the clerk of the court for the petty sessions district; and
    - (c) where the applicant is residing in Scotland, the sheriff clerk or sheriff clerk depute of the sheriff court within the jurisdiction of which the applicant is residing.”
- 77 In section 27B (sending application to the appropriate magistrates' court), for “clerk of” (in each place) substitute “justices' chief executive for”.

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- 78 (1) Section 27C (application for recovery of maintenance in England and Wales) is amended as follows.
- (2) In subsection (4) (powers of court), for—
- (a) “the clerk of the court or the clerk of any other magistrates' court in England and Wales,”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates' court in England and Wales,”,
- substitute “a justices' chief executive”.
- (3) In subsection (7) (registration of order), for “clerk of” substitute “justices' chief executive for”.
- 79 (1) Section 32 (transfer of orders) is amended as follows.
- (2) In subsection (2) (transmission of copy of order)—
- (a) for “the clerk” (in both places) substitute “the appropriate officer”, and
  - (b) for “that clerk” substitute “the appropriate officer”.
- (3) After that subsection insert—
- “(2A) In subsection (2) above the “appropriate officer” means—
- (a) in relation to a court in England and Wales, the justices' chief executive for the court; and
  - (b) in relation to a court in Northern Ireland, the clerk of the court.”
- 80 In section 34(3) (application from abroad to vary a registered order), for “the clerk of that court” substitute “—
- (a) the justices' chief executive for the court, if the court is in England and Wales; or
  - (b) the clerk of the court, if the court is in Northern Ireland.”
- 81 (1) Section 34A (variation of orders by magistrates' courts) is amended as follows.
- (2) In subsection (3) (powers of magistrates' courts), for—
- (a) “the clerk of the court or the clerk of any other magistrates' court in England and Wales”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates' court in England and Wales,”,
- substitute “a justices' chief executive”.
- (3) In subsection (4)(b) (application for variation), for “the clerk of the court, or to the clerk of any other magistrates' court in England and Wales,” substitute “a justices' chief executive”.

*The Matrimonial Causes Act 1973 (c. 18)*

- 82 (1) Section 38 of the Matrimonial Causes Act 1973 (orders for repayment of sums paid after cessation of order by reason of marriage) is amended as follows.
- (2) In subsection (6) (protection for clerk)—
- (a) for “The clerk of a magistrates' court” substitute “A justices' chief executive”, and
  - (b) for “the clerk” substitute “the justices' chief executive”.

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- (3) In subsection (7) (definition of “collecting officer”), for “the clerk of a magistrates' court” substitute “a justices' chief executive”.

*The Powers of Criminal Courts Act 1973 (c. 62)*

- 83 The Powers of Criminal Courts Act 1973 has effect subject to the following amendments.
- 84 In section 1B(5)(b) (memorandum of conviction in magistrates' court), for “clerk of the court” substitute “justices' chief executive”.
- 85 In section 26(5) and (7) (suspended sentence supervision orders), for “clerk to the justices” substitute “justices' chief executive”.

*The Salmon and Freshwater Fisheries Act 1975 (c. 51)*

- 86 (1) Schedule 4 to the Salmon and Freshwater Fisheries Act 1975 (procedure relating to offences) is amended as follows.
- (2) In paragraphs 10 and 12 (delivery of licence and certificate of conviction), for “clerk” substitute “proper officer”.
- (3) After paragraph 13 insert—
- “14 In paragraphs 10 and 12 above “proper officer” means—
- (a) in relation to a magistrates' court, the justices' chief executive for the court; and
- (b) in relation to the Crown Court, the appropriate officer.”

*The Lotteries and Amusements Act 1976 (c. 32)*

- 87 (1) Schedule 3 to the Lotteries and Amusements Act 1976 (permits for commercial provision of amusements with prizes) is amended as follows.
- (2) In paragraph 1(2) (interpretation), at the end insert “and
- “the proper officer of the appropriate authority” means—
- (a) where the appropriate authority is the licensing justices for a licensing district in England and Wales, the chief executive to the justices; and
- (b) in any other case, the clerk to the authority.”
- (3) In paragraph 8(2) and (3) (appeals), for “clerk to” substitute “proper officer of”.
- (4) In paragraph 18 (fees), for “clerk” substitute “proper officer”.

*The Adoption Act 1976 (c. 36)*

- 88 In section 58A(3) of the Adoption Act 1976 (duty of clerk of a magistrates' court to send to Secretary of State particulars about proceedings relating to children), for “clerk of” substitute “justices' chief executive for”.

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*The Bail Act 1976 (c. 63)*

- 89 In section 6(9)(c)(i) of the Bail Act 1976 (certification of copy of court record by justices' clerk), for the words from “clerk” to the end substitute “chief executive”.

*The Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)*

- 90 The Domestic Proceedings and Magistrates' Courts Act 1978 has effect subject to the following amendments.

- 91 In section 20ZA(3) (variation of orders for periodical payments to provide that payments shall be made to the court clerk), for “to the clerk” substitute “to the justices' chief executive for the court”.

- 92 In section 32(2) (enforcement of orders for payment of money), for “the clerk of a magistrates' court” substitute “a justices' chief executive”.

- 93 (1) Section 35 (orders for repayment of sums paid after cessation of order by reason of marriage) is amended as follows.

- (2) In subsection (7) (protection for clerk)—

- (a) for “The clerk of a magistrates' court” substitute “A justices' chief executive”, and  
 (b) for “the clerk” substitute “the justices' chief executive”.

- (3) In subsection (8) (definition of “collecting officer”), for “clerk of a magistrates' court” substitute “justices' chief executive”.

*The Licensed Premises (Exclusion of Certain Persons) Act 1980 (c. 32)*

- 94 (1) Section 4 of the Licensed Premises (Exclusion of Certain Persons) Act 1980 (supplemental) is amended as follows.

- (2) In subsection (3) (copy of exclusion order to be sent to licensee of relevant premises), for the words from “clerk” to “may be,” substitute “proper officer of the court”.

- (3) After that subsection insert—

“(4) For the purposes of subsection (3) above—

- (a) the proper officer of a magistrates' court in England and Wales is the justices' chief executive for the court;  
 (b) the proper officer of the Crown Court is the appropriate officer; and  
 (c) the proper officer of a court in Scotland is the clerk of the court.”

*The Magistrates' Courts Act 1980 (c. 43)*

- 95 The Magistrates' Courts Act 1980 has effect subject to the following amendments.

- 96 In section 6(5) (clerk to display details of cases committed for trial), for “clerk of” substitute “justices' chief executive for”.

- 97 In section 12 (non-appearance of accused: plea of guilty), in subsections (1)(b), (4) (in both places) and (6) (in both places), for “clerk of” substitute “justices' chief executive for”.

- 98 (1) Section 14 (avoidance of certain proceedings) is amended as follows.



- (2) In subsection (1)(b) (service of declaration), for “clerk to the justices” substitute “justices' chief executive for the court”.
- (3) In subsection (2) (deemed service), for “clerk to the justices” substitute “justices' chief executive”.
- 99 (1) Section 59 (orders for periodical payment: means of payment) is amended as follows.
- (2) In subsection (3)(b) (power of the court to order payment to clerk), for “the clerk of the court or to the clerk of any other magistrates' court” substitute “a justices' chief executive”.
- (3) In subsection (8) (power to specify method of payment to a clerk), for “the clerk of a magistrates' court” substitute “a justices' chief executive”.
- 100 (1) Section 59A (orders for periodical payments: proceedings by clerk) is amended as follows.
- (2) In subsection (1) (proceedings by clerk where payment not made)—
- (a) for “the clerk of a magistrates' court” substitute “a justices' chief executive”,
  - (b) for “the clerk of the relevant court” substitute “the relevant justices' chief executive”, and
  - (c) for “to the clerk” substitute “to that justices' chief executive”.
- (3) In subsection (2) (authority to clerk to act under subsection (3))—
- (a) for “the clerk of a magistrates' court” substitute “a justices' chief executive”, and
  - (b) for “the clerk of the relevant court for the clerk” substitute “the relevant justices' chief executive for him”.
- (4) In subsection (3) (proceedings by clerk), for “the clerk of the relevant court, the clerk” substitute “the relevant justices' chief executive, he”.
- (5) In subsection (4) (cessation of authority)—
- (a) for “the clerk of a relevant court” substitute “a justices' chief executive”,
  - (b) for “clerk cancelling” substitute “justices' chief executive cancelling”, and
  - (c) for “clerk shall” substitute “justices' chief executive shall”.
- (6) In subsection (7) (interpretation), for the definition of “the relevant court” substitute—
- ““the relevant justices' chief executive”, in relation to an order, means—
- (a) in a case where payments under the order are required to be made to or through a justices' chief executive, that justices' chief executive;
  - (b) in a case where such payments are required to be made by any method of payment falling within section 59(6) above and the order was made by a magistrates' court, the justices' chief executive for that magistrates' court; and
  - (c) in a case where such payments are required to be made by any method of payment falling within section 59(6) above and the order was not made by a magistrates' court, the justices' chief executive for the magistrates' court in which the order is registered;”.

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- (7) In the sidenote, for “clerk” substitute “justices' chief executive”.
- 101 In section 60(5) (variation of order to provide that payments be made to magistrates' clerk), for “to the clerk” substitute “to the justices' chief executive for the court”.
- 102 In section 61(1)(b) (rules about apportionment of sums paid to clerk between two or more orders)—
- (a) for “clerk to a magistrates' court” substitute “justices' chief executive”, and
  - (b) for “that clerk” substitute “that justices' chief executive”.
- 103 In section 62(1)(ii) (proceedings by clerk for sums payable to child), for “clerk of” substitute “justices' chief executive for”.
- 104 In section 82(5A) (clerk to serve notice of hearing to consider issue of warrant of commitment for default in paying fine), for “clerk of” substitute “justices' chief executive for”.
- 105 (1) Section 87 (enforcement of payment of fines by High Court and county court) is amended as follows.
- (2) In subsection (1) (enforcement as if sum due to magistrates' clerk in pursuance of High Court or county court order), for “clerk of” substitute “justices' chief executive for”.
  - (3) In subsection (3) (clerk not to take proceedings unless authorised by court after inquiry), for “clerk of the magistrates' court” substitute “justices' chief executive”.
  - (4) In subsection (4) (expenses of clerk in recovering sum to be treated as expenses of magistrates' courts committee), for “the clerk of a magistrates' court” substitute “a justices' chief executive”.
- 106 (1) Section 87A (fines imposed on companies) is amended as follows.
- (2) In subsection (1) (power of court to apply for administration order or winding up), for “clerk of” substitute “justices' chief executive for”.
  - (3) In subsection (2) (expenses of clerk to be treated as expenses of magistrates' courts committee), for “the clerk of a magistrates' court” substitute “a justices' chief executive”.
- 107 In section 89(2) (transfer of fine order: functions of clerk exercisable by clerk of court specified in order), for “clerk of” (in both places) substitute “justices' chief executive for”.
- 108 In section 90(3) (functions of clerk in relation to payment of fine to cease to be exercisable on making of order for payment to be enforceable in Scotland or Northern Ireland), for “clerk of” substitute “justices' chief executive for”.
- 109 In section 91(1) (functions of clerk in relation to payment of fine imposed in Scotland or Northern Ireland on making of order for payment to be enforceable in England and Wales), for “clerk of” substitute “justices' chief executive for”.
- 110 In section 95(3) (instalments: powers of the court in relation to non-English maintenance orders), for—
- (a) “the clerk of the court or the clerk of any other magistrates' court”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates' court,”,
- substitute “a justices' chief executive”.

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- 111 In section 97A(9), (10) and (11) (summons or warrant as to committal proceedings),  
for “clerk of” substitute “chief executive to”.
- 112 In section 99 (proof of non-payment of sum adjudged)—  
(a) for “clerk of a magistrates' court” substitute “justices' chief executive”, and  
(b) for “the clerk” (in both places) substitute “the justices' chief executive”.
- 113 In section 114 (payment to clerk of fees and recognizances on case stated), for “him  
the fees payable for the case and for the recognizances” substitute “the fees payable  
for the case and for the recognizances to the justices' chief executive for the court”.
- 114 (1) Section 137 (fees) is amended as follows.  
(2) In subsection (1) (fees chargeable by clerks limited by Part I of Schedule 6), for  
“clerks of magistrates' courts” substitute “justices' chief executives”.  
(3) In subsection (2) (no fee chargeable by clerk in respect of matters specified in  
Part II of Schedule 6), for “clerk of a magistrates' court” substitute “justices' chief  
executive”.
- 115 In section 139 (application by clerk of money received on account of sum adjudged  
to be paid by summary conviction), for “clerk of a magistrates' court” substitute  
“justices' chief executive”.
- 116 In section 144(1) (rules about procedure and practice to be followed in magistrates'  
courts and by justices' clerks), insert at the end “and justices' chief executives.”
- 117 In Schedule 6 (fees), in the heading to Part I (fees to be taken by clerks), for  
“CLERKS TO JUSTICES” substitute “JUSTICES' CHIEF EXECUTIVES”.

*The Highways Act 1980 (c. 66)*

- 118 In section 47(6) of the Highways Act 1980 (notification by clerk as to decision  
of justices who view allegedly unnecessary highway), for “clerk” substitute “chief  
executive”.

*The Betting and Gaming Duties Act 1981 (c. 63)*

- 119 The Betting and Gaming Duties Act 1981 has effect subject to the following  
amendments.
- 120 (1) Paragraph 15 of Schedule 1 (enforcement of betting duty) is amended as follows.  
(2) In sub-paragraph (4) (notification of forfeiture and cancellation of betting office  
licence)—  
(a) for “clerk of” substitute “proper officer of”, and  
(b) for the words from “clerk to”, in the first place, to “clerk to”, in the second  
place, substitute “proper officer of the appropriate authority who last either  
granted or renewed the licence, send a copy of the order to the proper officer  
of”.
- (3) After that sub-paragraph insert—  
“(4A) In sub-paragraph (4) above—  
“proper officer of the court” means—  
(a) in relation to a magistrates' court in England and Wales, the  
justices' chief executive for the court; and

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*Status: This is the original version (as it was originally enacted).*

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(b) in relation to any other court, the clerk of the court, and  
 “appropriate authority” and “proper officer of the appropriate  
 authority” have the same meaning as in Schedule 1 to the Betting,  
 Gaming and Lotteries Act 1963.”

- 121 (1) Paragraph 15 of Schedule 4 (register of permits) is amended as follows.
- (2) In sub-paragraph (1) (registers of permits etc.), for “clerk to” substitute “proper officer of”.
- (3) After sub-paragraph (2) insert—
- “(3) In sub-paragraph (1) above “proper officer of the appropriate authority” means—
- (a) where the appropriate authority is a committee of the justices acting for a petty sessions area, the chief executive to the justices; and
- (b) in any other case, the clerk to the authority.”

*The Civil Jurisdiction and Judgments Act 1982 (c. 27)*

- 122 (1) Section 5 of the Civil Jurisdiction and Judgments Act 1982 (recognition and enforcement of maintenance orders) is amended as follows.
- (2) In subsection (5B) (application of section 76 of the Magistrates' Courts Act 1980), in the subsection to be regarded as substituted as subsection (5) of that section, for—
- (a) “the clerk of the court or the clerk of any other magistrates' court,”, and
- (b) “the clerk of the court, or to the clerk of any other magistrates' court,”,
- substitute “a justices' chief executive”.
- (3) In subsection (7) (requirement of payer to notify change of address to clerk of the court), for “clerk” substitute “proper officer”.
- (4) After that subsection insert—
- “(8) In subsection (7) “proper officer” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
- (b) in relation to a magistrates' court in Northern Ireland, the clerk of the court.”

*The Criminal Justice Act 1982 (c. 48)*

- 123 (1) Section 18 of the Criminal Justice Act 1982 (order discharging or varying an attendance centre order) is amended as follows.
- (2) In subsection (8) (clerk to deliver copies of order), for “clerk to” substitute “proper officer of”.
- (3) After subsection (9) insert—
- “(10) In subsection (8) above “proper officer” means—
- (a) in relation to a magistrates' court, the justices' chief executive for the court; and
- (b) in relation to the Crown Court, the appropriate officer.”

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*The Licensing (Occasional Permissions) Act 1983 (c. 24)*

- 124 In section 2(2), (3), (4) and (5) of the Licensing (Occasional Permissions) Act 1983 (applications for occasional permissions), for “clerk” substitute “chief executive”.

*The Police and Criminal Evidence Act 1984 (c. 60)*

- 125 The Police and Criminal Evidence Act 1984 has effect subject to the following amendments.
- 126 In section 16(10) and (11) (warrants to be returned to and retained by clerk), for “clerk” substitute “chief executive”.
- 127 In section 47(3A)(b) (date for appearance on granting of bail), for “clerk to the justices” substitute “justices' chief executive.”
- 128 (1) Section 73 (proof of conviction) is amended as follows.
- (2) In subsection (2) (certificate of conviction to be signed by clerk), for “clerk” (in each place) substitute “proper officer”.
- (3) For subsection (3) substitute—

“(3) In subsection (2) above “proper officer” means—

- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having custody of the court record.”

*The Prosecution of Offences Act 1985 (c. 23)*

- 129 The Prosecution of Offences Act 1985 has effect subject to the following amendments.
- 130 In section 7(4) (justices' clerk to send to Director of Public Prosecutions details of certain cases which do not proceed)—
- (a) for “justices' clerk” substitute “justices' chief executive”, and
- (b) for “the magistrates' court to which he is clerk” substitute “a magistrates' court for which he is the justices' chief executive”.
- 131 In section 23(3), (7) and (8) (discontinuance of proceedings by Director of Public Prosecutions), for “clerk of” substitute “justices' chief executive for”.

*The Sporting Events (Control of Alcohol etc.) Act 1985 (c. 57)*

- 132 In section 4(6) of the Sporting Events (Control of Alcohol etc.) Act 1985 (power of justices' clerks to charge fees), for “clerks” substitute “chief executives”.

*The Insolvency Act 1986 (c. 45)*

- 133 In sections 9(1) and 124(1) of the Insolvency Act 1986 (applications for administration order and winding up), for “the clerk of a magistrates' court” substitute “a justices' chief executive”.

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*Status: This is the original version (as it was originally enacted).*

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*The Public Order Act 1986 (c. 64)*

- 134 In section 34(1) and (2) of the Public Order Act 1986 (notification by clerk of making or termination of exclusion order), for “clerk of” substitute “justices' chief executive for”.

*The Coroners Act 1988 (c. 13)*

- 135 In sections 16(1)(a) and 17(1) of the Coroners Act 1988 (coroner to adjourn inquest on being notified by clerk of proceedings relating to the death in question), for “clerk of” substitute “justices' chief executive for”.

*The Criminal Justice Act 1988 (c. 33)*

- 136 The Criminal Justice Act 1988 has effect subject to the following amendments.
- 137 In section 41(10) and (11)(a) (clerk of magistrates' court to be notified about outcome of certain proceedings in Crown Court and Court of Appeal), for “clerk of” substitute “justices' chief executive for”.
- 138 In section 67(1) (clerk to be notified of fine imposed by coroner), for “clerk of” substitute “justices' chief executive for”.
- 139 In section 81(3) to (9) (application of proceeds of realisation and other sums), for “justices' clerk” (in each place) substitute “justices' chief executive”.

*The Road Traffic Offenders Act 1988 (c. 53)*

- 140 The Road Traffic Offenders Act 1988 has effect subject to the following amendments.
- 141 (1) Section 7 (duty of accused to provide licence to clerk of court) is amended as follows.
- (2) Number the existing provision as subsection (1) and, in paragraph (a) of that provision, for “clerk” substitute “proper officer”.
- (3) After that provision insert—
- “(2) In subsection (1) above “proper officer” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”
- 142 In sections 8(a) and 25(2)(a) (notification to clerk of date of birth and sex), for “to the clerk of a court in pursuance of section 12(2)” substitute “to a justices' chief executive in pursuance of section 12(4)”.
- 143 (1) Section 26 (interim disqualification) is amended as follows.
- (2) In subsection (7), in paragraph (b) (licence of person subject to interim disqualification to be sent to clerk), for “clerk” substitute “proper officer”.
- (3) After that subsection insert—
- “(2) In subsection (7) above “proper officer” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”

- 144 (1) Section 27 (production of licence) is amended as follows.
- (2) In subsection (4) (exceptions), for “clerk” (in both places) substitute “proper officer”.
- (3) After that subsection insert—
- “(5) In subsection (4) above “proper officer” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”
- 145 (1) Section 34B (certificate of completion of course) is amended as follows.
- (2) In subsections (1), (2) (in both places), (6) and (7), for “clerk” substitute “proper officer”.
- (3) In subsection (9)—
- (a) for “clerk of a court” substitute “proper officer of a court”, and
- (b) for “clerk or” substitute “officer or”.
- 146 In section 34C(2) (interpretation), after the definition of “petty sessions area” insert—
- ““proper officer” means—
- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court, and
- (b) in relation to a sheriff court in Scotland, the clerk of the court;”.
- 147 In section 52(3)(c) (fixed penalty notice to specify justices' clerk to whom payment to be made), for “justices' clerk” substitute “justices' chief executive”.
- 148 (1) Section 69 (payment of fixed penalty) is amended as follows.
- (2) In subsection (1) (payment to be made to justices' clerk specified in notice), for “justices' clerk” substitute “justices' chief executive”.
- (3) In subsection (4) (definition of “fixed penalty clerk”), after “references to the” insert “justices' chief executive or”.
- 149 In section 70(4)(a) (registration certificate to be sent to clerk to justices where offender resides), for “clerk to the justices” substitute “justices' chief executive”.
- 150 (1) Section 71 (registration of sums payable in default) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) Where, in England and Wales, a justices' chief executive receives a registration certificate issued under section 70 of this Act in respect of any sum payable in default—
- (a) if it appears to him that the defaulter resides in a petty sessions area for which he is the justices' chief executive, he must register that sum for enforcement as a fine in that area by entering it in the register of a magistrates' court acting for that area,
- (b) if it appears to him that the defaulter resides in any other petty sessions area in England and Wales, he must send the certificate to the justices' chief executive for that area, or

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- (c) if it appears to him that the defaulter resides in Scotland, he must send the certificate to the clerk of the court of summary jurisdiction for the area in which the defaulter appears to him to reside.
- (2) Where, in Scotland, the clerk of a court receives a registration certificate issued under section 70 of this Act in respect of any sum payable in default—
  - (a) if it appears to him that the defaulter resides in the area of the court, he must register that sum for enforcement as a fine by that court,
  - (b) if it appears to him that the defaulter resides in the area of any other court of summary jurisdiction in Scotland, he must send the certificate to the clerk of that court, or
  - (c) if it appears to him that the defaulter resides in England and Wales, he must send the certificate to the justices' chief executive for the petty sessions area in which the defaulter appears to him to reside.
- (2A) Subsections (1) and (2) apply to executives and clerks who receive certificates pursuant to the provision they contain as they apply to the original recipients.”
- (3) In subsection (6) (notice to defaulter), for “clerk to the justices” substitute “justices' chief executive”.
- 151 In sections 72(1) and (6) and 73(1)(b) and (7) (invalidity of registration notice), for “clerk” substitute “proper officer”.
- 152 (1) Section 74 (supplementary) is amended as follows.
  - (2) In subsection (4) (service of statutory declaration), for “clerk” substitute “proper officer”.
  - (3) In subsection (5) (interpretation), for paragraph (b) substitute—
    - “(b) references to the proper officer of the relevant court are—
      - (i) in the case of a magistrates' court, references to the justices' chief executive for that court, and
      - (ii) in the case of a court of summary jurisdiction in Scotland, references to the clerk of the court, and”.
- 153 In section 75(6) (definition of “fixed penalty clerk” for purposes of conditional offers)—
  - (a) for “justices' clerk” substitute “justices' chief executive”, and
  - (b) for “that clerk” substitute “he”.
- 154 In section 82(2) (accounting where one clerk acts for another), for “justices' clerk” substitute “justices' chief executive”.
- 155 In section 83(1)(b) (powers where clerk of court deceived), after “Act the” insert “justices' chief executive or”.
- 156 In section 84(c) (power to make regulations prescribing duties of justices' clerks), for “justices' clerks” substitute “justices' chief executives”.

*The Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4)*

- 157 (1) Schedule 4 to the Prevention of Terrorism (Temporary Provisions) Act 1989 (forfeiture orders) is amended as follows.



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- (2) In paragraph 1(5) (meaning of “proper officer”), for “clerk of”, in the first three places, substitute “justices' chief executive for”.
- (3) In paragraph 9(4) (functions of clerk to be exercised by appropriate officer of High Court in case of order made elsewhere in British Islands), for “the clerk of a magistrates' court” substitute “a justices' chief executive”.

*The Football Spectators Act 1989 (c. 37)*

- 158 In sections 7(7)(b) and 18(1) of the Football Spectators Act 1989 (duties of clerk in relation to notices of conviction and restriction orders), for “clerk of” substitute “justices' chief executive for”.

*The Children Act 1989 (c. 41)*

- 159 The Children Act 1989 has effect subject to the following amendments.
- 160 In section 83(5) (clerk to provide particulars of proceedings), for “clerk of” substitute “justices' chief executive for”.
- 161 In paragraph 6A(3) of Schedule 1 (variation of order to provide that payments be made to clerk), for “to the clerk” substitute “to the justices' chief executive for the court”.
- 162 In paragraph 24(6) of Schedule 2 (signature of clerk as evidence of contribution order), for “clerk of” substitute “justices' chief executive for”.

*The Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25)*

- 163 (1) Schedule 2 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (supervision and treatment orders) is amended as follows.
- (2) In paragraph 3(4) (clerk to receive copy of supervision and treatment order), for “clerk to the justices” substitute “justices' chief executive”.
  - (3) In paragraph 10(1) (clerk to send copy of revocation of supervision and treatment order to supervising officer), for “clerk to” substitute “justices' chief executive for”.
  - (4) In paragraph 11 (amendment of orders), in sub-paragraph (1), for “clerk to the justices” (in both places) substitute “justices' chief executive” and after that sub-paragraph insert—
    - “(1A) Where the justices' chief executive for the court making the order is also the justices' chief executive for the new petty sessions area—
      - (a) sub-paragraph (1)(b) above does not apply; but
      - (b) the justices' chief executive shall give copies of the amending order to the supervising officer.”
  - (5) In that paragraph, in sub-paragraph (2), after “(1)” insert “or (1A)”.

*The Criminal Justice Act 1991 (c. 53)*

- 164 The Criminal Justice Act 1991 has effect subject to the following amendments.
- 165 In section 20A(2) (official request is one made by clerk), for “clerk of” substitute “justices' chief executive for”.

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- 166 (1) Schedule 2 (enforcement etc. of community orders) is amended as follows.
- (2) In paragraph 11, in sub-paragraph (1) (procedure on revocation of order), for “clerk to” substitute “proper officer of” and after that sub-paragraph insert—
- “(1A) In sub-paragraph (1) above “proper officer” means—
- (a) in relation to a magistrates' court, the justices' chief executive for the court, and
- (b) in relation to the Crown Court, the appropriate officer.”
- (3) In paragraph 18, in sub-paragraph (1) (procedure on the making of an amending order)—
- (a) for “clerk to the court” substitute “justices' chief executive for the court”, and
- (b) for “clerk to the justices” (in both places) substitute “chief executive to the justices”.
- (4) In that paragraph, in sub-paragraph (1A) (procedure on making of order amending drug treatment and testing order), for “clerk to the court” substitute “justices' chief executive for the court”.

*The Social Security Administration Act 1992 (c. 5)*

- 167 The Social Security Administration Act 1992 has effect subject to the following amendments.
- 168 In section 107(5) and (11) (recovery of expenditure on income support), for “to the clerk” substitute “to the justices' chief executive for the court”.
- 169 In section 121(1)(b) (receipt of statement by clerk), for “clerk of” substitute “justices' chief executive for”.

*The Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)*

- 170 In section 14(5)(b) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (Secretary of State to send supervised release order to clerk to the justices), for “clerk” substitute “chief executive”.

*The Pension Schemes Act 1993 (c. 48)*

- 171 In section 68(1)(b) of the Pension Schemes Act 1993 (receipt by clerk of statement of failure to pay premiums), for “clerk of” substitute “justices' chief executive for”.

*The Drug Trafficking Act 1994 (c. 37)*

- 172 In section 30(4) to (8) of the Drug Trafficking Act 1994 (application of proceeds of realisation and other sums), for “justices' clerk” (in each place) substitute “justices' chief executive”.

*The Road Traffic (New Drivers) Act 1995 (c. 13)*

- 173 (1) Paragraph 3 of Schedule 1 to the Road Traffic (New Drivers) Act 1995 (duty to provide test certificate) is amended as follows.
- (2) In sub-paragraph (3), in paragraph (b) (certificate not previously supplied to clerk), for “clerk” substitute “proper officer”.

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(3) After that sub-paragraph insert—

“(3A) In sub-paragraph (3) “proper officer” means—

- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”

*The Merchant Shipping Act 1995 (c. 21)*

174 (1) Section 68 of the Merchant Shipping Act 1995 (power to summon witness) is amended as follows.

(2) In subsection (4) (particulars of fine to be given to clerk), for “clerk” substitute “proper officer”.

(3) After that subsection insert—

“(4A) In subsection (1) above “proper officer” means—

- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court, and
- (b) in relation to a magistrates' court in Northern Ireland, the clerk of the court.”

*The Criminal Procedure (Scotland) Act 1995 (c. 46)*

175 In section 234(9) of the Criminal Procedure (Scotland) Act 1995 (copies of probation order relating to person resident in England and Wales to be sent to clerk of relevant area), for “clerk to the justices” substitute “justices' chief executive”.

*The Reserve Forces Act 1996 (c. 14)*

176 The Reserve Forces Act 1996 has effect subject to the following amendments.

177 (1) Paragraph 7 of Schedule 2 (delivery into military, air-force or naval custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.

(2) In sub-paragraph (3) (fee payable to clerk of the court), for “clerk” substitute “proper officer”.

(3) After that sub-paragraph insert—

“(3A) In sub-paragraph (3) “proper officer” means—

- (a) in relation to a magistrates' court in England and Wales, the justices' chief executive for the court; and
- (b) in relation to any other court, the clerk of the court.”

178 (1) Paragraph 9 of Schedule 3 (proof of outcome of civil trial) is amended as follows.

(2) In sub-paragraphs (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “proper officer”.

(3) For sub-paragraph (4) substitute—

“(4) In this paragraph “proper officer” means—

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- (a) in relation to a court of summary jurisdiction in England and Wales, the justices' chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

*The Crime and Disorder Act 1998 (c. 37)*

- 179 (1) Schedule 3 to the Crime and Disorder Act 1998 (procedure where no committal proceedings for indictable-only offence) is amended as follows.
- (2) In paragraph 4(9), (10) and (11) (power of justice to take depositions etc), for “clerk of” substitute “chief executive to”.
- (3) In paragraph 6(7) (Crown Court to inform clerk of magistrates' court of outcome of trial), for “clerk of” substitute “justices' chief executive for”.

SCHEDULE 14

Section 105.

TRANSITIONAL PROVISIONS AND SAVINGS

**PART I**

GENERAL

- 1 (1) The Lord Chancellor may by order made by statutory instrument make such transitional provisions and savings he considers appropriate in connection with the coming into force of any provision of this Act.
- (2) Nothing in the following provisions of this Schedule limits sub-paragraph (1).
- (3) Nothing in this Schedule limits the operation of sections 16 and 17 of the Interpretation Act 1978 (effect of repeals).

**PART II**

LEGAL SERVICES COMMISSION

*Replacement of Legal Aid Board by Legal Services Commission*

- 2 (1) When section 1 of this Act comes into force—
- (a) the functions of the Legal Aid Board, and
  - (b) the property, rights and liabilities of the Board,
- shall by virtue of this paragraph be transferred to the Legal Services Commission.
- (2) Sub-paragraph (1)(b) has effect in relation to any property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would otherwise prevent or restrict their transfer.
- 3 (1) Anything which, immediately before section 1 of this Act comes into force, is in the process of being done by or in relation to the Legal Aid Board may, if it relates to

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anything transferred by paragraph 2(1), be continued by or in relation to the Legal Services Commission.

- (2) Anything done (or having effect as if done) by or in relation to the Legal Aid Board before the time when section 1 of this Act comes into force for the purpose of, or in connection with, anything transferred by paragraph 2(1) shall, so far as is required for continuing its effect after that time, have effect as if done by or in relation to the Legal Services Commission.
  - (3) Any reference to the Legal Aid Board in any document, including any enactment, constituting or relating to anything transferred by paragraph 2(1) shall, so far as is required for giving effect to that paragraph, be construed as a reference to the Legal Services Commission.
- 4       Where rights and liabilities under a contract of employment are transferred under paragraph 2(1)(b)—
- (a) for the purposes of Part XI of the Employment Rights Act 1996 (redundancy payments etc.), the employee shall not be regarded as having been dismissed by virtue of the transfer, and
  - (b) for the purposes of that Act, the employee's period of employment with the Legal Aid Board shall count as a period of employment with the Legal Services Commission and the change of employment shall not break the continuity of the period of employment.
- 5       (1) Any arrangements made by the Legal Aid Board under paragraph 10(2) of Schedule 1 to the Legal Aid Act 1988 (power to provide for pensions) before the time when section 1 of this Act comes into force shall be treated after that time (so far as may be necessary to preserve their effect) as having been made by the Legal Services Commission under paragraph 10(1) of Schedule 1 to this Act.
- (2) For the purposes of any such arrangement as it has effect after section 1 of this Act comes into force, a person's period of employment with the Legal Aid Board shall count as a period of employment with the Legal Services Commission.

#### *Winding-down of Legal Aid Board*

- 6       (1) The Legal Aid Board shall give to the Legal Services Commission all the information, prepare all the documents and do all other things which appear to the Commission appropriate for the purpose of facilitating—
- (a) the carrying into effect of the transfers effected by paragraph 2(1), and
  - (b) the exercise of any functions transferred by paragraph 2(1)(a) or conferred or imposed on the Commission by this Schedule;
- and the Legal Aid Board may do anything else which appears to it appropriate for that purpose.
- (2) The Legal Aid Board shall, as soon as possible after the time when section 1 of this Act comes into force, prepare a report in accordance with section 5(3) of the Legal Aid Act 1988—
- (a) in relation to the last financial year ending before that time (if it has not done so before then), and
  - (b) in relation to the period between the end of that financial year and that time (as if that period were a financial year).

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- (3) The Legal Aid Board shall, as soon as possible after the time when section 1 of this Act comes into force, prepare a statement of accounts in accordance with section 7(1) of the Legal Aid Act 1988—
  - (a) in relation to the last financial year ending before that time (if it has not done so before then), and
  - (b) in relation to the period between the end of that financial year and that time (as if that period were a financial year).
- (4) Subsections (2) to (7) of section 7 to the Legal Aid Act 1988 shall, after section 1 of this Act comes into force, apply in relation to—
  - (a) the preparation of a statement under sub-paragraph (3)(a) or (b), and
  - (b) the auditing of accounts kept under that section for the periods mentioned in sub-paragraph (3)(a) and (b).
- (5) From the time when section 1 of this Act comes into force, the Legal Services Commission shall make available to the Legal Aid Board such facilities as it may reasonably require for exercising its functions under this paragraph.
- (6) The Lord Chancellor may pay to members of the Legal Aid Board—
  - (a) any remuneration which he considers appropriate in respect of the performance of their duties as members of the Board after the time when section 1 of this Act comes into force, and
  - (b) any allowances which he determines should be paid to them in respect of expenses properly incurred by them in the performance of those duties after that time.
- (7) The Lord Chancellor may determine that, as from the coming into force of section 1 of this Act, the number of members of the Legal Aid Board shall be reduced to a number which he considers appropriate (and may, accordingly, remove any such members from office).
- (8) The Lord Chancellor shall meet the costs of remunerating auditors and any other costs incurred by the Legal Aid Board in connection with the exercise of any of its functions under this paragraph.

#### *Abolition of Legal Aid Board*

- 7 (1) The Legal Aid Board shall cease to exist when the Lord Chancellor, being satisfied that its duties under paragraph 6 have been discharged, by order made by statutory instrument so specifies.
- (2) Nothing in this Schedule, and no amendment or repeal made by this Act, affects—
  - (a) the continuance of the Legal Aid Board for the purpose of exercising its functions under paragraph 6, or
  - (b) the continued operation for that purpose of any enactment relating to the Board.

#### *Further provision for Legal Aid Board and Legal Services Commission*

- 8 (1) The Lord Chancellor may by order made by statutory instrument make any consequential, incidental, supplementary or transitional provisions, and any savings, which appear to him to be appropriate in consequence of or otherwise in connection with—

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- (a) the transfers effected by paragraph 2(1), or
  - (b) the abolition of the Legal Aid Board.
- (2) An order under sub-paragraph (1) may include provisions in the form of amendments or repeals of this Part of this Schedule or any other enactment.

*Funding of representation by Lord Chancellor*

- 9 (1) Until such date as the Lord Chancellor may by order made by statutory instrument appoint, the duty of the Commission under section 14(1) of this Act shall have effect as a duty of the Commission or the Lord Chancellor, as the Lord Chancellor may specify.
- (2) To the extent that that duty has effect as a duty of the Lord Chancellor he shall comply with it by making payments to persons or bodies in respect of the provision of representation by them; and, accordingly, references in this Act and any other enactment to representation (or services) funded by the Commission as part of the Criminal Defence Service include representation funded by the Lord Chancellor under this sub-paragraph.
- (3) The Lord Chancellor shall by order made by statutory instrument make provision about such payments (including provision for reviews of, or appeals against, determinations required for the purposes of the order); and subsections (2) and (3) of section 25 of this Act shall apply to it (as if it were a remuneration order as defined by subsection (4) of that section).

**PART III**

LEGAL SERVICES

*Conditional fee agreements*

- 10 Any order made under section 58(4) or (5) of the Courts and Legal Services Act 1990 and in force immediately before the time when section 27 of this Act comes into force shall have effect after that time (until revoked) as if made under section 58(4) as substituted by that section.
- 11 Any regulations made under section 58(1)(c) of the Courts and Legal Services Act 1990 and in force immediately before the time when section 27 of this Act comes into force shall have effect after that time (until revoked) as if made under section 58(3)(c) as substituted by that section.

*Legal aid in Scotland*

- 12 If section 33 of this Act comes into force before section 1 of the Tax Credits Act 1999, the reference in section 33 to disabled person's tax credit shall, until section 1 of the Tax Credits Act 1999 comes into force, have effect as a reference to disability working allowance.

*Abolition of ACLEC*

- 13 The Lord Chancellor may by order made by statutory instrument make provision in connection with the abolition of the Lord Chancellor's Advisory Committee on

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Legal Education and Conduct (including, in particular, provision about its staff and property).

*Regulations and rules for barristers and solicitors*

- 14 (1) For the purposes of section 27 of the Courts and Legal Services Act 1990—
- (a) the qualification regulations and rules of conduct of the General Council of the Bar at the time when section 36 of this Act comes into force shall (so far as relating to rights of audience) be deemed to have been approved in relation to the right specified in section 31(1) of that Act (as substituted by that section), and
  - (b) the qualification regulations and rules of conduct of the Law Society at that time shall (so far as relating to rights of audience) be deemed to have been approved in relation to the right specified in section 31(2)(a) of that Act (as so substituted).
- (2) For the purposes of section 28 of that Act, the qualification regulations and rules of conduct of the Law Society at that time shall (so far as relating to rights to conduct litigation) be deemed to have been approved in relation to the right specified in section 31(2)(b) of that Act (as substituted by section 36 of this Act).
- 15 Where a person was called to the Bar or admitted as a solicitor before the coming into force of section 36 of this Act, he shall be taken for the purposes of determining for how many years he has had one of the qualifications listed in section 71(3) of the Courts and Legal Services Act 1990 as having been granted a right of audience before every court in relation to all proceedings on his call or admission.

*Existing rights of solicitors in certain Crown Court centres*

- 16 (1) If section 36 of this Act comes into force before the repeal by this Act of section 83 of the Supreme Court Act 1981, section 83 shall have effect until that repeal comes into force subject to the modifications specified in sub-paragraphs (2) and (3).
- (2) Subsection (1) shall have effect as if for “may have rights of audience in the Crown Court” there were substituted “shall be entitled to exercise their right of audience in the Crown Court even though they do not satisfy the regulations of the Law Society relating to the education and training which solicitors must receive in order to exercise their right of audience in the Crown Court”.
- (3) Subsection (3) shall have effect as if for “with” there were substituted “who may exercise”.

*Authorised bodies*

- 17 (1) An Order in Council made pursuant to a recommendation under section 29 of the Courts and Legal Services Act 1990 and in force immediately before the time when Schedule 5 to this Act comes into force shall have effect after that time (unless revoked) as if made pursuant to a recommendation under Part I of Schedule 4 to that Act as substituted by Schedule 5 to this Act.
- (2) Any approval under Part II of Schedule 4 to the Courts and Legal Services Act 1990 in force immediately before the time when Schedule 5 to this Act comes into force shall have effect after that time as an approval under that Part of that Schedule as substituted by Schedule 5 to this Act.



## PART IV

### REPORTING OF PROCEEDINGS ABOUT CHILDREN

- 18 Section 97(2) of the Children Act 1989 (as amended by section 72 of this Act) shall not apply in relation to proceedings before a county court or the High Court which have begun before the coming into force of that section.

## PART V

### MAGISTRATES AND MAGISTRATES' COURTS

#### *Commission areas*

- 19 The first order under section 1 of the Justices of the Peace Act 1997, as substituted by section 74 of this Act, shall specify each of the areas which was a commission area immediately before the time when that section comes into force; and those areas shall continue to be commission areas from that time until the coming into force of that first order.

#### *Petty sessions areas*

- 20 The first order under section 4 of the Justices of the Peace Act 1997, as substituted by section 75 of this Act, shall specify each of the areas which was a petty sessions area immediately before the time when that section comes into force; and those areas shall continue to be petty sessions areas from that time until the coming into force of that first order.

#### *Lord Mayor and aldermen of City of London*

- 21 The person who is the Lord Mayor of London, and the persons who are aldermen of the City of London, at the end of the period of two months beginning with the day on which this Act is passed shall be treated as having at that time been appointed in accordance with section 5 of the Justices of the Peace Act 1997 as justices of the peace for the commission area which includes the City of London; and, accordingly, subsection (1A) of section 6 of that Act (inserted by paragraph 48 of Schedule 10 to this Act) has effect in relation to them.

#### *District Judges (Magistrates' Courts): appointment*

- 22 Any person who is a stipendiary magistrate or a metropolitan stipendiary magistrate immediately before the time when section 78 of this Act comes into force shall be treated as having been appointed to be a District Judge (Magistrates' Courts) at that time (unless he would have been required by reason of age to vacate his office at that time).
- 23 Any person who, immediately before the time when section 78 of this Act comes into force, is authorised under section 13(1)(a) or 19 of the Justices of the Peace Act 1997 to act as a stipendiary magistrate or metropolitan stipendiary magistrate shall be treated as having been appointed to be a Deputy District Judge (Magistrates' Courts) at that time for the remainder of the period for which he is so authorised.

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*District Judges (Magistrates' Courts): pensions*

- 24 (1) For the purposes specified in sub-paragraph (2), a person who—
- (a) is a stipendiary magistrate or metropolitan stipendiary magistrate immediately before the time when section 78 of this Act comes into force, and
  - (b) is at that time a member of a judicial pension scheme constituted by the Judicial Pensions Act 1981,
- shall not be regarded as having been appointed (by virtue of paragraph 22) to be a District Judge (Magistrates' Courts) but shall instead be regarded as if he continued to be a stipendiary magistrate or metropolitan stipendiary magistrate.
- (2) The purposes referred to in sub-paragraph (1) are those of—
- (a) the Judicial Pensions Act 1981,
  - (b) any scheme constituted by that Act, and
  - (c) any enactment made by or under an Act which applies to such a scheme or to rights arising under such a scheme.

*District Judges (Magistrates' Courts): retirement*

- 25 For the purposes of section 26 of and Schedule 7 to the Judicial Pensions and Retirement Act 1993 (date of retirement for holders of a relevant office immediately before the time when section 26 came into force) a person who held the office of stipendiary magistrate or metropolitan stipendiary magistrate at any time during the period beginning when section 26 came into force and ending when Schedule 11 to this Act comes into force shall be treated as having held a relevant office at that time in spite of the amendment made to Schedule 5 to the Judicial Pensions and Retirement Act 1993 by Schedule 11 to this Act.

*District Judges (Magistrates' Courts): legal aid*

- 26 If paragraph 36 of Schedule 11 to this Act comes into force before the repeal by this Act of section 19(5) of the Legal Aid Act 1988, that provision shall have effect as if, in the definition of “proceedings for dealing with an offender as a fugitive offender”, the reference to a metropolitan stipendiary magistrate were to a District Judge (Magistrates' Courts).

*Committals for sentence*

- 27 Section 79 of, and Part V(4) of Schedule 15 to, this Act do not apply to any hearing of proceedings on committal to the Crown Court if those proceedings have begun before the coming into force of that section and that Part of that Schedule.

*Youth courts*

- 28 (1) Subject to any order under paragraph 6 of the Second Schedule to the Children and Young Persons Act 1933 (as amended by this Act), there shall from the coming into force of section 77 of this Act be a combined youth court panel for the area consisting of the inner London boroughs and the City of London (in spite of paragraph 3 of that Schedule).
- (2) If section 77 of this Act comes into force before section 83 of this Act, then until section 83 comes into force paragraph 9 of the Second Schedule to the Children and

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Young Persons Act (as amended by this Act) shall not prevent there being a combined youth panel for the City of London and any other area.

*Magistrates' courts committee areas*

- 29 The first order under section 27A(2) of the Justices of the Peace Act 1997, as substituted by section 81 of this Act, shall specify each of the areas outside Greater London which was a magistrates' courts committee area immediately before the time when that section comes into force; and those areas shall continue to be magistrates' courts committee areas from that time until the coming into force of that first order.

*Magistrates' courts committees in Greater London*

- 30 (1) From the end of the period of two months beginning with the day on which this Act is passed until the Greater London Magistrates' Courts Authority becomes the magistrates' courts committee for Greater London, the Justices of the Peace Act 1997 shall continue to have effect in relation to magistrates' courts committees in Greater London without—

- (a) the amendments made by sections 81 and 82 of this Act, and
- (b) the repeal of sections 32 and 38(6) of that Act made by Part V(5) of Schedule 15 to this Act,

but subject to the modifications specified in sub-paragraphs (2) to (5).

- (2) Section 28 shall have effect as if—

- (a) in subsection (1), for “to (4)” there were substituted “and (3)”,
- (b) in subsection (2), for “Not more than two other” there were substituted “Other”,
- (c) for subsections (3) and (4) there were substituted—

“(3) The inner London magistrates' courts committee shall include either—

- (a) the Senior District Judge (Chief Magistrate) and two District Judges (Magistrates' Courts) appointed by him; or
- (b) (if he decides not to be a member) three District Judges (Magistrates' Courts) appointed by him.”, and

- (d) in subsection (5), for “subsections (3) and (4)” there were substituted “subsection (3)”.

- (3) Section 29 shall have effect as if—

- (a) in subsection (3), for “, (3) and (4)” there were substituted “and (3)”, and
- (b) after that subsection there were inserted—

“(3A) The regulations may make provision for the payment of remuneration to members of a magistrates' courts committee co-opted or appointed under section 28(2) above.”

- (4) Section 30 shall have effect as if the words “Subject to subsection (2) below,” in subsection (1) and subsection (2) were omitted.

- (5) Section 38(6) shall have effect as if—

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- (a) for the words “chief metropolitan stipendiary magistrate” there were substituted “Senior District Judge (Chief Magistrate) (if he is a member)”, and
  - (b) for “28(3) and (4)” there were substituted “28(3)”.
- (6) This paragraph has effect subject to paragraph 31.
- 31 (1) If section 78 of this Act has not come into force at the end of the period of two months beginning with the day on which this Act is passed, paragraph 30 shall apply as follows until that section comes into force.
- (2) The subsection (3) treated as substituted by sub-paragraph (2)(c) of that paragraph shall have effect as if—
- (a) for “Senior District Judge (Chief Magistrate)” there were substituted “chief metropolitan stipendiary magistrate”, and
  - (b) for “District Judges (Magistrates’ Courts)” (in both places) there were substituted “metropolitan stipendiary magistrates”.
- (3) Sub-paragraph (5) of that paragraph shall have effect as if paragraph (a) read—
- “(a) after the words “chief metropolitan stipendiary magistrate” there were inserted “(if he is a member)”, and”.

*The Greater London Magistrates’ Courts Authority*

- 32 (1) The Lord Chancellor may by order made by statutory instrument make provision in connection with the establishing of the Greater London Magistrates’ Courts Authority, including—
- (a) provision for the Authority to incur liabilities and to exercise any function before the time when it becomes the magistrates’ courts committee for Greater London, and
  - (b) provision for the abolition of the magistrates’ courts committees for areas in Greater London immediately before that time.
- (2) For the purposes of sections 39A and 39B of the Justices of the Peace Act 1997 (inserted by section 86 of this Act) the Authority shall be treated as a magistrates’ courts committee until it actually becomes the magistrates’ courts committee for Greater London.

*Schemes for transfer of property etc. to GLMCA*

- 33 (1) The Lord Chancellor may make one or more schemes for the transfer to the Greater London Magistrates’ Courts Authority of such of the property, rights and liabilities of—
- (a) a magistrates’ courts committee,
  - (b) the Receiver for the Metropolitan Police District,
  - (c) the council of an outer London borough, or
  - (d) the Common Council of the City of London,
- as appear to him to be appropriate to be transferred for the performance of the Authority’s functions.
- (2) In this paragraph references to the “transferor”, in relation to a scheme, are to the person mentioned in sub-paragraph (1) from whom property is transferred under the scheme.

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- (3) A scheme under this paragraph may—
- (a) provide for transfers under the scheme to be on such terms (including terms requiring payment to the transferor) as the Lord Chancellor thinks fit,
  - (b) apportion or create rights and liabilities in relation to any property transferred, and
  - (c) make any appropriate, consequential, incidental or supplementary provisions.
- (4) On the day appointed by a scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this sub-paragraph, and in spite of any provision (of whatever nature) which would otherwise prevent or restrict the transfer, be transferred in accordance with the scheme.
- (5) Anything done (or having effect as if done) by or in relation to the transferor before the time when a scheme comes into effect for the purposes of, or in connection with, anything transferred under the scheme shall, so far as is required for continuing its effect after that time, have effect as if done by or in relation to the Authority.
- (6) Any reference to the transferor in any document, including any enactment, constituting or relating to anything transferred under a scheme shall, so far as is required for giving effect to the scheme, be construed as a reference to the Authority.
- (7) Where rights and liabilities under a contract of employment are transferred under a scheme under this paragraph—
- (a) for the purposes of Part XI of the Employment Rights Act 1996 (redundancy payments etc.), the employee shall not be regarded as having been dismissed by virtue of the transfer, and
  - (b) for the purposes of that Act, the employee's period of employment with the transferor shall count as a period of employment with the Authority, and the change of employment shall not break the continuity of the period of employment.

*Stamp duty on transfer schemes*

- 34 (1) Stamp duty shall not be chargeable—
- (a) on any scheme under paragraph 33, or
  - (b) on any instrument or agreement which is certified to the Commissioners of Inland Revenue by the Lord Chancellor as made in pursuance of such a scheme.
- (2) No such scheme, and no instrument or agreement which is certified as mentioned in sub-paragraph (1)(b), shall be taken to be duly stamped unless—
- (a) it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with that duty or that it is duly stamped, or
  - (b) it is stamped with the duty to which it would be liable, apart from this paragraph.
- (3) Section 12 of the Finance Act 1895 shall not operate to require—
- (a) the delivery to the Inland Revenue of a copy of this Act, or
  - (b) the payment of stamp duty under that section on any copy of this Act,

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and shall not apply in relation to any instrument on which, by virtue of sub-paragraph (1), stamp duty is not chargeable.

*Continuing provision of court-houses, accommodation etc*

- 35 (1) The Lord Chancellor may by regulations provide that any petty sessional court-house or other accommodation specified in the regulations which immediately before the time when paragraph 33 comes into force was provided by—
- (a) the council of an outer London borough, or
  - (b) the Common Council of the City of London,
- pursuant to section 55 of the Justices of the Peace Act 1997 (and is not transferred under a scheme under paragraph 33) shall after that time be provided by that council to the Greater London Magistrates' Courts Authority for the performance of the functions referred to in section 59A(1) of that Act.
- (2) Regulations under sub-paragraph (1) may—
- (a) prescribe terms and conditions, including conditions as to payment, on which any court-house or other accommodation is to be provided, and
  - (b) prohibit a council providing a court-house or other accommodation under sub-paragraph (1) from altering or extending it without the consent of the Lord Chancellor.
- (3) Any duty imposed on a council by regulations under sub-paragraph (1) may at any time be—
- (a) varied or restricted by agreement between the council and the Lord Chancellor, or
  - (b) terminated by the Lord Chancellor after consulting the council.
- (4) Regulations under sub-paragraph (1) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Pensions of inner London court staff*

- 36 (1) The Lord Chancellor may by order made by statutory instrument make provision about the provision of pensions for or in respect of persons who are or have been members of the inner London court staff.
- (2) An order under this paragraph may include provision for, or in connection with—
- (a) enabling persons to participate, or continue to participate, in any pension scheme and requiring their employers to make contributions under that scheme, and
  - (b) the administration or management of pension schemes or pension funds.
- (3) Provision of the kind specified in sub-paragraph (2)(a) may—
- (a) with the consent of the Minister for the Civil Service, include provision for section 1 of the Superannuation Act 1972 (pensions of civil servants etc.) to apply to persons who are or have been members of the inner London court staff, or
  - (b) include provision for persons who have been members of the inner London court staff but who are employees of the Greater London Magistrates' Courts Authority by virtue of a scheme under paragraph 33 to be regarded as

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continuing to be members of the metropolitan civil staffs for the purposes of section 15 of the Superannuation (Miscellaneous Provisions) Act 1967 (pensions of metropolitan civil staffs).

- (4) An order under this paragraph containing provision of the kind specified in sub-paragraph (3)(a) may also contain provision for such body or person as may be specified in the order to pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to such provision (so far as referable to that body or person) in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.
- (5) Where an order is made under this paragraph containing provision of the kind specified in sub-paragraph (3)(a), the Minister for the Civil Service may, to such extent and subject to such conditions as he thinks fit—
  - (a) delegate to any person the function of administering a scheme made under section 1 of the Superannuation Act 1972, so far as relating to persons who are or have been members of the inner London court staff, or
  - (b) authorise the exercise of that function (so far as so relating) by, or by employees of, any person.
- (6) A person to whom the function of administering a scheme made under section 1 of the Superannuation Act 1972 is delegated under sub-paragraph (5)(a) may, to such extent and subject to such conditions as he may determine, authorise the exercise of that function by, or by employees of, any person.
- (7) Where a person is authorised under sub-paragraph (5)(b) or (6) to exercise the function of administering a scheme made under section 1 of the Superannuation Act 1972, anything done or omitted to be done by or in relation to him (or an employee of his) in, or in connection with, the exercise or purported exercise of the function shall be treated for all purposes as done or omitted to be done by the person who authorised him.
- (8) Sub-paragraph (7) does not apply for the purposes of—
  - (a) any criminal proceedings against the authorised person (or any employee of his), or
  - (b) any contract between him and the person who authorised him, so far as relating to the function.
- (9) An order under this paragraph may provide that any enactment repealed by this Act shall continue to have effect for any purpose specified in the order with such modifications as may be so specified.
- (10) A statutory instrument containing an order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this paragraph the “inner London court staff” means—
  - (a) the justices' chief executive employed by the magistrates' courts committee for the area consisting of the inner London boroughs,
  - (b) any justices' clerk for that area, and
  - (c) staff of the magistrates' courts committee for that area.

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*Justices' chief executives*

- 37 (1) If section 90 of this Act comes into force before the repeal by this Act of Schedule 3 to the Legal Aid Act 1988, that Schedule shall have effect until that repeal comes into force subject to the modifications specified in sub-paragraphs (2) and (3).
- (2) Paragraphs 3(1) and (2) and 4(1) shall have effect as if for “clerk of” there were substituted “justices' chief executive for”.
- (3) Paragraph 4(2) shall have effect—
- (a) as if for “clerk of” there were substituted “justices' chief executive for”, and
  - (b) as if the words from “and section” to the end were omitted.

SCHEDULE 15

Section 106.

REPEALS AND REVOCATIONS

**PART I**

LEGAL SERVICES COMMISSION

<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
1967 c. 13.	The Parliamentary Commissioner Act 1967.	In Schedule 2, the entry relating to the Legal Aid Board.
1971 c. 32.	The Attachment of Earnings Act 1971.	In section 25(1), the definition of “legal aid contribution order”.
1973 c. 62.	The Powers of Criminal Courts Act 1973.	In section 21(2), the words from “, and in subsection” to the end.
1974 c. 47.	The Solicitors Act 1974.	In section 47, in subsection (2C), the words “excluding any person from legal aid work”, in subsection (2D), the words “from such work” and subsection (6).
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part III, the entries relating to the chairman of the Legal Aid Board and a member of the Legal Aid Board.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part III, the entries relating to the chairman of the Legal Aid



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<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
		Board and a member of the Legal Aid Board.
1982 c. 48.	The Criminal Justice Act 1982.	In section 3(2), the words from “, and in subsection” to the end.
1985 c. 61.	The Administration of Justice Act 1985.	Section 41(3). In section 42, in subsection (3), the words “from such work” and subsection (4)(b) and the preceding “and”. Section 43(4). Section 44(4).
1988 c. 34.	The Legal Aid Act 1988.	Sections 1 to 32. Sections 34 to 43. Section 45. Section 46. Schedules 1 to 3. In Schedule 5, paragraphs 2, 3, 4, 5, 6(a), 7(a), 8, 9, 10, 12, 16, 18, 19(b) and the preceding “and”, 20, 21 and 22. Schedules 6 to 8.
1989 c. 41.	The Children Act 1989.	Section 99. In Schedule 12, paragraph 45. In Schedule 14, paragraph 40.
S.I. 1989/549.	The Civil Legal Aid (Matrimonial Proceedings) Regulations 1989.	The whole instrument.
1990 c. 41.	The Courts and Legal Services Act 1990.	Section 59. In Schedule 17, paragraph 19. In Schedule 18, paragraphs 59 to 63.
1991 c. 53.	The Criminal Justice Act 1991.	In Schedule 6, paragraph 9. In Schedule 11, paragraph 40(2)(q).

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<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
S.I. 1991/1924.	The Legal Aid Act 1988 (Children Act 1989) Order 1991.	The whole instrument.
S.I. 1991/1997.	The Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991.	In the Schedule, paragraph 69.
S.I. 1991/2036.	The Civil Legal Aid (General) (Amendment) (No.2) Regulations 1991.	Regulation 3.
1992 c. 6.	The Social Security (Consequential Provisions) Act 1992.	In Schedule 2, paragraph 97.
1992 c. 53.	The Tribunals and Inquiries Act 1992.	In Schedule 3, paragraph 21.
1993 c. 19.	The Trade Union Reform and Employment Rights Act 1993.	In Schedule 8, paragraph 39.
S.I. 1993/1354.	The Civil Legal Aid (Scope) Regulations 1993.	The whole instrument.
S.I. 1994/2768.	The Legal Aid (Scope) Regulations 1994.	Regulation 2.
1995 c. 35.	The Criminal Appeal Act 1995.	In Schedule 2, paragraph 17.
1996 c. 18.	The Employment Rights Act 1996.	In Schedule 1, paragraph 36.
1996 c. 25.	The Criminal Procedure and Investigations Act 1996.	Section 46(2).
1996 c. 27.	The Family Law Act 1996.	Section 23(9). Part III. In Schedule 8, in Part I, paragraph 39 and Part II.
1997 c. 25.	The Justices of the Peace Act 1997.	In Schedule 5, paragraph 24.
1998 c. 37.	The Crime and Disorder Act 1998.	Section 49(1)(j). Section 50(5). In Schedule 8, paragraph 67.
1999 c. 23.	The Youth Justice and Criminal Evidence Act 1999.	Section 40(2).

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## PART II

### PROVISION OF LEGAL SERVICES

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
41 Geo. 3 c. 79.	The Public Notaries Act 1801.	Section 13.
6 & 7 Vict. c. 90.	The Public Notaries Act 1843.	Section 6.
1974 c. 47.	The Solicitors Act 1974.	In section 32(4), the words “to the Director of Public Prosecutions” and the words “, if the Director thinks fit,”.  In section 87(1), in the definition of “building society”, the words “; and a reference to an account with a building society is a reference to a deposit account”.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entry relating to the Lord Chancellor’s Advisory Committee on Legal Education and Conduct.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part II, the entry relating to the Lord Chancellor’s Advisory Committee on Legal Education and Conduct.
1981 c. 54.	The Supreme Court Act 1981.	Section 83.
1985 c. 23.	The Prosecution of Offences Act 1985.	Section 4(1) to (3E).
1985 c. 61.	The Administration of Justice Act 1985.	Section 9(2)(g). Section 65.  In Schedule 2, in paragraph 3, the words “to the Director of Public Prosecutions” and the words “, if the Director thinks fit,” and, in paragraph 11(2), the words from the beginning to “those provisions,”.
1987 c. 38.	The Criminal Justice Act 1987.	Section 1(9) to (11).

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
<a href="#">1990 c. 41.</a>	The Courts and Legal Services Act 1990.	<p>Sections 19 and 20 (and the heading preceding section 19).</p> <p>Section 24(3).</p> <p>Section 27, in subsection (2) (a)(ii), the words “the granting of” and subsections (3) and (6).</p> <p>In section 28, in subsection (2)(a)(ii), the words “the granting of”, subsection (3) and, in subsection (5), in the definition of “authorised body”, the word “and” at the end of paragraph (a).</p> <p>Section 57(11).</p> <p>Section 67.</p> <p>Section 71(7) and (8).</p> <p>In section 113, in subsection (1), in the definition of “general notary”, paragraph (b) and the preceding “or” and, in subsection (10), paragraph (d) and the preceding “and”.</p> <p>Section 123(1)(f) and (2)(e).</p> <p>Schedules 1 and 2.</p> <p>In Schedule 3—</p> <p style="padding-left: 2em;">in paragraph 3, in sub-paragraph (1) the words “with the approval of the Treasury” and, in sub-paragraph (2), the words “, with the consent of the Treasury,”,</p> <p style="padding-left: 2em;">in paragraph 4(2), the words “given with the consent of the Treasury”, and</p> <p style="padding-left: 2em;">in paragraph 9(3), the words “with the approval of the Treasury”.</p>

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In Schedule 18, paragraph 51.
		In Schedule 19, paragraphs 2 and 3.
1996 c. 27.	The Family Law Act 1996.	In Schedule 8, paragraph 61.

### PART III

#### APPEALS, COURTS, JUDGES AND COURT PROCEEDINGS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
23 Geo.5 c. 12.	The Children and Young Persons Act 1933.	In section 36, the proviso.
8 & 9 Eliz.2 c. 65.	The Administration of Justice Act 1960.	In section 13(2)(a), the words “a Divisional Court of”. Section 14(1). Section 15(2). In the Second Schedule, in Part I, paragraph 2.
1981 c. 54.	The Supreme Court Act 1981.	Section 18(1A) and (1B). Section 54(6), (7) and (10). In Schedule 2, in Part II of the list, the entry 10 relating to the Registrar of Civil Appeals.
1984 c. 28.	The County Courts Act 1984.	In section 77, subsections (2) to (4) and, in subsection (8), the definition of “the relevant county court limit” and the preceding “and”.
1985 c. 61.	The Administration of Justice Act 1985.	In section 53, subsection (3) and, in subsection (6), the words “(except subsection (3))”.
1986 c. 45.	The Insolvency Act 1986.	In section 375(2), the words “, with the leave of the judge or of the Court of Appeal,”.
1990 c. 41.	The Courts and Legal Services Act 1990.	Section 7(3) and (4). Section 42(3).
1993 c. 50.	The Statute Law (Repeals) Act 1993.	In Schedule 2, paragraph 9.

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1996 c. 25.	The Criminal Procedure and Investigations Act 1996.	Section 13(1)(cc).
1997 c. 12.	The Civil Procedure Act 1997.	In Schedule 2, paragraph 1(2).
1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 3, in paragraph 1(1), the words “on or before the relevant date”.  In Schedule 8, paragraph 127(a).

#### PART IV

##### ENFORCEMENT OF COMMUNITY ORDERS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1991 c. 53.	The Criminal Justice Act 1991.	In Schedule 2, paragraph 7(6) and, in paragraph 8A— in sub-paragraph (3), the words “and the probation order was made by a magistrates' court”, sub-paragraphs (4) and (5), and in sub-paragraph (6), in the words treated as substituted in section 1A(1) of the Powers of Criminal Courts Act 1973, the words “or (5)”.
1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 4, paragraphs 3 and 7(1).

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## PART V

### MAGISTRATES AND MAGISTRATES' COURTS

#### (1)

#### AREAS

<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
6 & 7 Vict. c. 86.	The London Hackney Carriages Act 1843.	In section 24, the words from “, or, if he shall dwell” to “the said city,” the words “or justice” and the words “, or to some justice as aforesaid.”
16 & 17 Vict. c. 33.	The London Hackney Carriage Act 1853.	In section 18, the words from “or if the offence,” in the second place, to the end.
31 & 32 Vict. c. 72.	The Promissory Oaths Act 1868.	In the Second Part of the Schedule, the words “for counties and boroughs”.
50 & 51 Vict. c. 55.	The Sheriffs Act 1887.	In section 38, the words from “(within” to “1997”.
60 & 61 Vict. c. 26.	The Metropolitan Police Courts Act 1897.	Section 7(1).
10 & 11 Geo.5 c. 33.	The Maintenance Orders (Facilities for Enforcement) Act 1920.	In section 3(4), the words from “(within” to “1997”.
23 Geo.5 c. 12.	The Children and Young Persons Act 1933.	Section 48(5). In the Second Schedule, in Part I, paragraph 8A.
2 & 3 Geo.6 c. xcvi.	The London Building Acts (Amendment) Act 1939.	In section 151(1)(bb), the word “the” immediately preceding “magistrates' courts”, the words from “in the inner” to “London” and the words “in that area”.
11 & 12 Geo.6 c. 29.	The National Assistance Act 1948.	In section 43(4), the words from “(within” to “1997”.
12, 13 & 14 Geo.6 c. 76.	The Marriage Act 1949.	In section 3(5), the words from “(within” to “1997”.
14 & 15 Geo.6 c. 65.	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In Part II of Schedule 2, paragraph 5(b) and, in paragraph 6(b), in the third column, the words from “and where” to the end.

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<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
<a href="#">7 &amp; 8 Eliz.2 c. 7.</a>	The Manœuvres Act 1958.	In section 9, the definition of “petty sessions area”.
<a href="#">1964 c. 26.</a>	The Licensing Act 1964.	In section 2, in subsection (1), the words from “, within” to the end and subsection (2A).
<a href="#">1964 c. 42.</a>	The Administration of Justice Act 1964.	In section 12(1), the words from the beginning to “reference to the inner London area,”.  In section 38(1), the definition beginning “London commission areas”.  In Schedule 3, paragraph 29.
<a href="#">1969 c. 54.</a>	The Children and Young Persons Act 1969.	In section 70(1), in the definition of “petty sessions area”, the words “has the same meaning as in the Magistrates' Courts Act 1980, except that” and the word “it”.
<a href="#">1973 c. 18.</a>	The Matrimonial Causes Act 1973.	In section 35(3), the words from “(within” to “1997”.
<a href="#">1974 c. 47.</a>	The Solicitors Act 1974.	Section 38(4).
<a href="#">1978 c. 22.</a>	The Domestic Proceedings and Magistrates' Courts Act 1978.	In section 88(1), the definitions of “commission area” and “petty sessions area”.
<a href="#">1980 c. 43.</a>	The Magistrates' Court Act 1980.	In section 52, the second sentence.  In section 67, in subsection (4), the second sentence and subsection (8).  In section 150(1), the definitions of “commission area”, “London commission area” and “petty sessions area”.  In Schedule 7, paragraphs 27 and 85.
<a href="#">1980 c. 66.</a>	The Highways Act 1980.	In section 329(1), the definition of “petty sessions area”.



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<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
1984 c. 37.	The Child Abduction Act 1984.	In the Schedule, in paragraph 5(b), the words from “(within” to “1997”.
S.I. 1985/1383.	The Local Government (Magistrates' Courts etc.) Order 1985.	In the Schedule, paragraphs 1 and 2.
1988 c. 52.	The Road Traffic Act 1988.	In section 192(1), the definition of “petty sessions area”.
1988 c. 53.	The Road Traffic Offenders Act 1988.	In section 34C(2), the definition of “petty sessions area”.  In section 89(1), the definition of “petty sessions area”, apart from the word “and” at the end.
1989 c. 41.	The Children Act 1989.	In Schedule 1, in paragraph 10(6), the words from “(within” to “1997”.  In Schedule 11, in paragraph 8(d), the words “and (8)”.
1990 c. 18.	The Computer Misuse Act 1990.	Section 11(6).
1992 c. 19.	The Local Government Act 1992.	In section 19(2)(d)(i), the words from “(within” to “1997”.
1993 c. 47.	The Probation Service Act 1993.	In Schedule 1, paragraph 6(4).
1994 c. 19.	The Local Government (Wales) Act 1994.	In section 55(2)(a), the words from “(within” to “1997”.
1994 c. 29.	The Police and Magistrates' Courts Act 1994.	In Schedule 8, paragraph 35.
S.I. 1996/674.	The Local Government Changes for England (Magistrates' Courts) Regulations 1996.	In the Schedule, paragraphs 2(1), (3) and (7) and 5.
S.I. 1996/675.	The Magistrates' Courts (Wales) (Consequences of Local Government Changes) Order 1996.	In Part II of the Schedule, paragraph 7.
1997 c. 25.	The Justices of the Peace Act 1997.	Section 5(2)(b) and the preceding “and”.

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<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
		<p>In section 7(3), the words from “(whether” to “acting Chief Magistrate”.</p> <p>Section 21 (and the preceding heading).</p> <p>Section 23.</p> <p>In section 25, in subsection (1), the words “, other than the City of London,” and subsection (3).</p> <p>In section 34(1)(a)(ii) and (3) (c), the words “any existing petty sessional division in”.</p> <p>Sections 35 and 36.</p> <p>Section 68(2).</p> <p>In section 70, in subsection (1), the words from the beginning to “above,” the words “or to county justices” and the words “or justices for the City” and, in subsection (2), the words “or to justices or magistrates for a county or non-metropolitan county” and the words “or to justices or magistrates for the City”.</p> <p>Section 71.</p> <p>In section 72, in subsection (1), the definition of “commission area”, the definition of “London commission areas”, “inner London area” and “outer London areas” and the definitions of “petty sessions areas”, “preserved county” and “retained county”, and subsection (2).</p> <p>Schedules 1 and 2.</p> <p>In Schedule 4, paragraph 6.</p> <p>In Schedule 5, paragraphs 1 to 8, 14, 16(b) and the preceding “and”, 18, 19(3)(a)</p>

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<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
		and (b) and (5), 20, 27, 28, 30, 31, 34 and 35.

(2)

### CONSTITUTION OF YOUTH COURTS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
23 Geo.5 c. 12.	The Children and Young Persons Act 1933.	In the Second Schedule, in Part I, the headings “Outside Metropolitan Area” and “Youth court panels”, paragraph 1 and, in paragraph 10(a), the words “(except where the committee’s area is a borough)” and Part II.
1964 c. 42.	The Administration of Justice Act 1964.	Section 12.
1969 c. 54.	The Children and Young Persons Act 1969.	In section 70(1), the definition of “petty sessions area”.
1980 c. 54.	The Magistrates' Courts Act 1980.	In section 146, in subsection (4), the words from “with respect to the making” to the end and subsection (5).
1985 c. 61.	The Administration of Justice Act 1985.	Section 61.
1991 c. 53.	The Criminal Justice Act 1991.	In Schedule 11, paragraph 40(2)(f) and (p).
1998 c. 37.	The Crime and Disorder Act 1998.	Section 48.
1999 c. 22.	The Access to Justice Act 1999.	In Schedule 10, paragraphs 16(2) and (4) and 35.

(3)

### UNIFICATION AND RENAMING OF STIPENDIARY BENCH

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
3 & 4 Vict. c. 84.	The Metropolitan Courts Act 1840.	Section 6.
16 & 17 Vict. c. 33.	The London Hackney Carriage Act 1853.	In section 18, the words from “or if the offence,”, in the

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		second place, to “for the county;”.
33 & 34 Vict. c. 78.	The Tramways Act 1870.	In section 3, the words from “The term “two justices”” to the end.
34 & 35 Vict. c. 78.	The Regulation of Railways Act 1871.	In section 2, the words “metropolitan police magistrate;”.
35 & 36 Vict. c. 50.	The Railway Rolling Stock Protection Act 1872.	In section 2, the words “metropolitan police magistrate;”.
46 & 47 Vict. c. 3.	The Explosive Substances Act 1883.	In section 6(1), the words “police court, or”.
57 & 58 Vict. c. 2.	The Behring Sea Award Act 1894.	Section 519 of the Merchant Shipping Act 1854 set out in the Second Schedule.
8 Edw.7 c. 53.	The Law of Distress Amendment Act 1908.	In section 4, in the proviso, the words from “a stipendiary magistrate” to “magistrate for”.
1964 c. 42.	The Administration of Justice Act 1964.	In section 38(1), the definition of “stipendiary magistrates”.  In Schedule 3, in Part I, paragraphs 2 to 4.
1980 c. 43.	The Magistrates' Courts Act 1980.	Section 67(7).  Section 137(6).
1985 c. 23.	The Prosecution of Offences Act 1985.	In section 21(6)(a), the words “for any area”.
1989 c. 33.	The Extradition Act 1989.	Section 8(1)(b)(i) and (2).  In section 9(1), the words from “consisting” to the end.  In section 35(1), the definitions of “designated metropolitan magistrate” and “metropolitan magistrate”.
1989 c. 41.	The Children Act 1989.	In Schedule 1, in paragraph 5(1)(b), the words “a metropolitan magistrate or” and paragraph 13(2).  In Schedule 11, in paragraph 8, in sub-paragraph (c), the words “66(1) and (2),” and,

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1994 c. 19.	The Local Government (Wales) Act 1994.	in sub-paragraph (d), the words “66(2),” and “and (7)”.
1997 c. 25.	The Justices of the Peace Act 1997.	In section 55(2)(a), the words “stipendiary magistrate,”. Section 22(5). In section 24(1), the words “(other than metropolitan stipendiary magistrates)”. In section 55(8), the words “Subject to section 14(1) above,”. In section 72(1), the definition of “stipendiary magistrate”. In Schedule 4, in Part II, paragraphs 9 and 12. In Schedule 5, paragraphs 13(3) and 17.
1997 c. 50.	The Police Act 1997.	In section 6(5), the words “appointed for an area”. In section 52(5), the words “appointed for an area”.

(4)

#### JUSTICES NOT TO SIT ON COMMITTAL FOR SENTENCE

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1981 c. 54.	The Supreme Court Act 1981.	In section 74, in subsection (1), paragraph (b) and the preceding “or” and, in subsection (7), paragraph (b) and, in paragraph (c), the words “or on committal to the Crown Court for sentence”.

(5)

#### MAGISTRATES' COURTS COMMITTEES

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1972 c. 70.	The Local Government Act 1972.	In Schedule 12A, in Part I, in paragraph 2(a), the words “, within the meaning of the

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		Justices of the Peace Act 1997”.
1997 c. 25.	The Justices of the Peace Act 1997.	Section 32. Section 38(6). Section 49. In section 72(1), the definition of “magistrates' courts committee areas”. In Schedule 5, paragraph 11.

(6)

## GREATER LONDON MAGISTRATES' COURTS AUTHORITY

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
60 & 61 Vict. c. 26.	The Metropolitan Police Courts Act 1897.	Sections 3 and 4.
2 & 3 Geo.6 c. xcvi.	The London Building Acts (Amendment) Act 1939.	In section 151(1)(bb), the words “magistrates' courts”.
1965 c. 63.	The Public Works Loans Act 1965.	In section 2(1)(a), the word “and” at the end of sub-paragraph (iii).
1967 c. 28.	The Superannuation (Miscellaneous Provisions) Act 1967.	Section 15(1)(a)(ii) and (9).
1968 c. 13.	The National Loans Act 1968.	In Schedule 4, in paragraph 1(a), the word “and” at the end of sub-paragraph (iii).
1971 c. 56.	The Pensions (Increase) Act 1971.	In Schedule 6, paragraph (d).
1991 c. 53.	The Criminal Justice Act 1991.	Section 76(5).
1994 c. 29.	The Police and Magistrates' Courts Act 1994.	In Schedule 8, paragraphs 24, 25 and 33(5).
1997 c. 25.	The Justices of the Peace Act 1997.	In section 10(8), the words “the City of London, a London borough,” and the words from “and for” to the end. In section 54(9), the definition of “local funds”. In section 55, subsection (8) and, in subsection (10), in

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		the definition of “responsible authority”, paragraph (d) and the words from “or the” to the end.
		Section 56(4).
		In section 72(1), the definition of “inner London area”.
		Schedule 3.
		In Schedule 4, paragraphs 7, 8, 10 and 11.
1999 c. 22.	The Access to Justice Act 1999.	In Schedule 10, paragraphs 39, 40(2)(a), 51, 52(2) and 53.
		In Schedule 11, paragraph 10.
		In Schedule 14, paragraph 28(2).

(7)

#### JUSTICES' CHIEF EXECUTIVES

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
10 & 11 Geo.5 c. 33.	The Maintenance Orders (Facilities for Enforcement) Act 1920.	In section 4(6A)(b), the words from “and as if” to the end.
14 Geo.6 c. 37.	The Maintenance Orders Act 1950.	In section 22(1E)(a), the words from “and as if” to the end.
		In section 28(1), in the definition of “collecting officer”, the words from “in”, in the first place, to “and”.
6 & 7 Eliz.2 c. 39.	The Maintenance Orders Act 1958.	In section 4(5B)(a), the words from “and as if” to the end.
		In section 21(1), the definition of “proper officer”.
1964 c. 26.	The Licensing Act 1964.	In section 22(4), the words from ““as in” to “magistrates' court”.
		Section 30(2).
1968 c. 65.	The Gaming Act 1968.	In Schedule 2, in paragraph 2(2), the definition of

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<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		“the clerk to the licensing authority”.
1971 c. 32.	The Attachment of Earnings Act 1971.	In section 25(1), the words from “and, in relation to” to the end.
1972 c. 18.	The Maintenance Orders (Reciprocal Enforcement) Act 1972.	In section 9(1ZA)(b), the words from “and as if” to the end.
1986 c. 64.	The Public Order Act 1986.	Section 34(3).
1988 c. 33.	The Criminal Justice Act 1988.	Section 41(13). Section 81(10).
1988 c. 53.	The Road Traffic Offenders Act 1988.	In section 34C(2), the words from “and any reference” to the end. Section 71(4) and (5). In section 89(1), the definition of “justices' clerk”.
1989 c. 4.	The Prevention of Terrorism (Temporary Provisions) Act 1989.	In Schedule 4, in paragraph 1(5), the words from “and in this sub-paragraph” to the end.
1994 c. 37.	The Drug Trafficking Act 1994.	Section 30(9).
1997 c. 25.	The Justices of the Peace Act 1997.	Section 31(2). Section 40(5). Section 46. In section 60, in subsection (1), paragraph (b) (ii) and the preceding “and” and subsection (4). In Schedule 4, in Part II, paragraphs 15 and 18. In Schedule 5, in paragraph 23, paragraph (b) and the preceding “and” and, in paragraph 36, paragraph (b) and the preceding “and”.
1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 3, paragraph 6(11).



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(8)

## WARRANTS

<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
6 & 7 Eliz.2 c. 39.	The Maintenance Orders Act 1958.	In section 2(4), paragraph (b), apart from the word “and” at the end.  In section 5(4), paragraph (b), apart from the word “and” at the end.
1980 c. 43.	The Magistrates' Courts Act 1980.	Section 83(4).  In section 125, in subsection (2), the second paragraph and subsections (3) and (4).
1984 c. 60.	The Police and Criminal Evidence Act 1984.	Section 33.
1988 c. 33.	The Criminal Justice Act 1988.	Section 65.
1990 c. 41.	The Courts and Legal Services Act 1990.	In Schedule 17, paragraph 11.
1996 c. 14.	The Reserve Forces Act 1996.	In Schedule 10, paragraph 18.
S.I.1997/1898.	The Family Law Act 1996 (Modification of Enactments) Order 1997.	Article 3.
1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 8, paragraph 44.
1999 c. 23.	The Youth Justice and Criminal Evidence Act 1999.	In Schedule 4, paragraph 8.

## PART VI

### IMMUNITY AND INDEMNITY

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1997 c. 25.	The Justices of the Peace Act 1997.	In section 54(1)(a)(i), the words “against him”.