

# **CRIMINAL JUSTICE AND COURT SERVICES ACT 2000**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part I: The New Services**

##### ***Chapter III : General***

##### ***Section 18: Definitions***

72. **Section 18** provides the definitions of the people, property and organisations to whom this Part of the Act, which deals with transfers from existing organisations to new ones, applies.

##### ***Section 19: Property***

73. This Section provides the power for either the Secretary of State or the Lord Chancellor to set up a scheme to transfer to the Crown property and liabilities from probation committees, the Receiver for the Metropolitan Police District (who owns property on behalf of the Inner London Probation Service), local authorities and the Official Solicitor. The property (other than land in the case of probation committees) may then be transferred from the Crown to a new organisation. This provision will make possible the central ownership and management, by the Secretary of State, of the current probation service estate which amounts to approximately 1,100 buildings. It will also allow the transfer of elements of the estate related to Family Court Welfare Officers to CAF/CASS. It will also enable the transfer to CAF/CASS of property currently owned by local authorities, probation committees and the Official Solicitor. Subsections (2) and (3) provide that land transferring to CAF/CASS will be exempted from Stamp Duty.

##### ***Sections 20 and 21: Transfer of staff and effect of transfer***

74. **Sections 20** and **21** allow the Secretary of State and the Lord Chancellor to make schemes for transferring staff into the new Services. These schemes would cover the transfer of staff from a probation committee to a local probation board or to CAF/CASS, and the transfer of relevant local authority staff and staff of the Official Solicitor's office to CAF/CASS. The Sections contain provisions which give staff the right to maintain their terms and conditions of service when they transfer to their new employers. Section 20(2) provides that chief probation officers currently employed by probation committees may be appointed as chief officers of local boards.

##### ***Section 22: Effect of transfer of chief probation officers***

75. **Section 22** makes provision for the effect of the transfer of people currently employed as chief probation officers into post-holders appointed as chief officers of local probation boards. It gives those who are appointed the right to transfer their terms and conditions of employment, so far as they are appropriate to the new post. **Paragraph 3(5)** of

*These notes refer to the Criminal Justice and Court Services Act 2000 (c.43) which received Royal Assent on 30 November 2000*

*Schedule 1* gives the chief officer the same employment rights as he would have under the Employment Rights Act 1996 as if he were in Crown Employment, for instance rights against unfair dismissal. Chief officers of local probation boards will be able to count their previous service as a chief probation officer as a part of their continuous employment for these purposes. Under Section 22(7), chief probation officers who are not appointed as chief officers are deemed to have been dismissed by their probation committee.

***Section 23: Transfer of staff in consequence of arrangements under Part I***

76. *Section 23* allows the ‘appropriate Minister’, i.e. the Secretary of State in the case of the probation service or the Lord Chancellor in relation to CAFCASS, to set up a scheme for the transfer of staff where, at a future date, functions of a local probation board or CAFCASS are contracted out under the provisions in Sections 5, 8 or 13 of the Act. It gives staff the right to transfer to the new service provider and to maintain their terms and conditions of service when they transfer to the new employer.

***Section 24: Provision for the protection of children***

77. *Section 24* ensures that the Protection of Children Act 1999 will apply to CAFCASS and its officers. It further ensures that those organisations which perform functions on behalf of CAFCASS will also be governed by the Protection of Children Act 1999.

***Section 25: Interpretation of Part I***

78. *Section 25* provides definitions of terms used in Part I of the Act.