



# Courts Act 2003

## 2003 CHAPTER 39

VALID FROM 01/09/2004

### PART 1

#### MAINTAINING THE COURT SYSTEM

VALID FROM 01/04/2005

#### *The general duty*

#### **1 The general duty**

- (1) The Lord Chancellor is under a duty to ensure that there is an efficient and effective system to support the carrying on of the business of—
  - (a) the Supreme Court,
  - (b) county courts, and
  - (c) magistrates' courts,and that appropriate services are provided for those courts.
- (2) In this Part—
  - (a) “the Supreme Court” includes the district probate registries, and
  - (b) “magistrates' court” includes a committee of justices.
- (3) In this Part references to the Lord Chancellor’s general duty in relation to the courts are to his duty under this section.
- (4) The Lord Chancellor must, within 18 months of the coming into force of this section, and afterwards annually, prepare and lay before both Houses of Parliament a report as to the way in which he has discharged his general duty in relation to the courts.

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VALID FROM 01/04/2005

### *Court staff and accommodation*

## **2 Court officers, staff and services**

- (1) The Lord Chancellor may appoint such officers and other staff as appear to him appropriate for the purpose of discharging his general duty in relation to the courts.
- (2) The civil service pension arrangements for the time being in force apply (with any necessary adaptations) to persons appointed under subsection (1) as they apply to other persons employed in the civil service of the State.
- (3) “The civil service pension arrangements” means—
  - (a) the principal civil service pension scheme (within the meaning of section 2 of the Superannuation Act 1972 (c. 11)), and
  - (b) any other superannuation benefits for which provision is made under or by virtue of section 1 of the 1972 Act for or in respect of persons in employment in the civil service of the State.
- (4) Subject to subsections (5) and (6), the Lord Chancellor may enter into such contracts with other persons for the provision, by them or their sub-contractors, of officers, staff or services as appear to him appropriate for the purpose of discharging his general duty in relation to the courts.
- (5) The Lord Chancellor may not enter into contracts for the provision of officers and staff to discharge functions which involve making judicial decisions or exercising any judicial discretion.
- (6) The Lord Chancellor may not enter into contracts for the provision of officers and staff to carry out the administrative work of the courts unless an order made by the Lord Chancellor authorises him to do so.
- (7) Before making an order under subsection (6) the Lord Chancellor must consult—
  - (a) the Lord Chief Justice,
  - (b) the Master of the Rolls,
  - (c) the President of the Family Division, and
  - (d) the Vice-Chancellor,
 as to what effect (if any) the order might have on the proper and efficient administration of justice.
- (8) An order under subsection (6) may authorise the Lord Chancellor to enter into contracts for the provision of officers or staff to discharge functions—
  - (a) wholly or to the extent specified in the order,
  - (b) generally or in cases or areas specified in the order, and
  - (c) unconditionally or subject to the fulfilment of conditions specified in the order.

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### **3 Provision of accommodation**

- (1) The Lord Chancellor may provide, equip, maintain and manage such court-houses, offices and other accommodation as appear to him appropriate for the purpose of discharging his general duty in relation to the courts.
- (2) The Lord Chancellor may enter into such arrangements for the provision, equipment, maintenance or management of court-houses, offices or other accommodation as appear to him appropriate for the purpose of discharging his general duty in relation to the courts.
- (3) The powers under—
  - (a) section 2 of the Commissioners of Works Act 1852 (c. 28) (acquisition by agreement), and
  - (b) section 228(1) of the Town and Country Planning Act 1990 (c. 8) (compulsory acquisition),to acquire land necessary for the public service are to be treated as including power to acquire land for the purpose of its provision under arrangements entered into under subsection (2).
- (4) “Court-house” means any place where a court sits, including the precincts of any building in which it sits.

VALID FROM 01/06/2004

#### *Courts boards*

### **4 Establishment of courts boards**

- (1) England and Wales is to be divided into areas for each of which there is to be a courts board.
- (2) The areas are to be those specified by an order made by the Lord Chancellor.
- (3) Each area established by an order under subsection (2) is to be known by such name as is specified in the order (but subject to subsection (4)).
- (4) The Lord Chancellor may make orders altering the areas.
- (5) “Altering”, in relation to an area, includes (as well as changing its boundaries)—
  - (a) combining it with one or more other areas,
  - (b) dividing it between two or more other areas, and
  - (c) changing its name.
- (6) Before making an order under subsection (4), the Lord Chancellor must consult any courts board affected by the proposed order.
- (7) When making an order under subsection (2) the Lord Chancellor must have regard to the desirability of specifying areas which are the same as—
  - (a) the police areas listed in Schedule 1 to the Police Act 1996 (c. 16) (division of England and Wales, except London, into police areas), and

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(b) the area consisting of the Metropolitan Police District and the City of London police area.

(8) Schedule 1 contains provisions about the constitution and procedure of courts boards.

VALID FROM 01/04/2005

## **5 Functions of courts boards**

- (1) Each courts board is under a duty, in accordance with guidance under this section—
- (a) to scrutinise, review and make recommendations about the way in which the Lord Chancellor is discharging his general duty in relation to the courts with which the board is concerned, and
  - (b) for the purposes mentioned in paragraph (a), to consider draft and final business plans relating to those courts.
- (2) In discharging his general duty in relation to the courts, the Lord Chancellor must give due consideration to recommendations made by the boards under subsection (1).
- (3) If the Lord Chancellor rejects a recommendation made by a courts board under subsection (1) as a result of the board's consideration of a final business plan, he must give the board his written reasons for so doing.
- (4) The courts with which a courts board is concerned are—
- (a) the Crown Court,
  - (b) county courts, and
  - (c) magistrates' courts,
- in the board's area.
- (5) The Lord Chancellor must prepare and issue the boards with guidance about how they should carry out their functions under subsection (1).
- (6) The guidance may in particular contain provisions about the procedures to be followed in connection with draft and final business plans.
- (7) The Lord Chancellor may from time to time issue the boards with revised guidance and revoke previous guidance.
- (8) Guidance issued under this section must be laid before both Houses of Parliament.

### *Abolition of magistrates' courts committees*

## **6 Abolition of magistrates' courts committees, etc.**

- (1) The Greater London Magistrates' Courts Authority (the magistrates' courts committee for Greater London) and all the magistrates' courts committees for areas of England and Wales outside Greater London are abolished.

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- (2) In consequence of that—
- (a) England and Wales outside Greater London is no longer divided into magistrates' courts committee areas, and
  - (b) the office of justices' chief executive is abolished.
- (3) Schedule 2 (abolition of magistrates' courts committees: transfers) has effect.
- (4) The Justices of the Peace Act 1997 (c. 25) ceases to have effect.

#### Commencement Information

- II** S. 6 wholly in force at 1.4.2005; s. 6 not in force at Royal Assent see s. 110(1)(2); s. 6(3) in force at 1.9.2004 by S.I. 2004/2066, art. 2(a) (subject to art. 3); s. 6 in force at 1.4.2005 insofar as not already in force by S.I. 2005/910, art. 3(d)

## PART 2

### JUSTICES OF THE PEACE

VALID FROM 01/04/2005

#### *The commission of the peace and local justice areas*

#### **7 The commission of the peace for England and Wales**

There shall be a commission of the peace for England and Wales—

- (a) issued under the Great Seal, and
- (b) addressed generally, and not by name, to all such persons as may from time to time hold office as justices of the peace for England and Wales.

#### **8 Local justice areas**

- (1) England and Wales is to be divided into areas to be known as local justice areas.
- (2) The areas are to be those specified by an order made by the Lord Chancellor.
- (3) Each local justice area established by order under subsection (2) is to be known by such name as is specified in the order (but subject to subsection (4)).
- (4) The Lord Chancellor may make orders altering local justice areas.
- (5) “Altering”, in relation to a local justice area, includes (as well as changing its boundaries)—
  - (a) combining it with one or more other local justice areas,
  - (b) dividing it between two or more other local justice areas, and
  - (c) changing its name.
- (6) Before making an order under subsection (4) in relation to a local justice area the Lord Chancellor must consult—

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- (a) the justices of the peace assigned to the local justice area,
  - (b) any courts board whose area includes the local justice area or a part of the local justice area, and
  - (c) unless the alteration consists only of a change of name, any local authorities whose area includes the local justice area or a part of the local justice area.
- (7) “Local authority” means—
- (a) any council of a county, a county borough, a London borough or a council of a district,
  - (b) the Common Council of the City of London, or
  - (c) a police authority established under section 3 of the Police Act 1996 (c. 16) or the Metropolitan Police Authority.

VALID FROM 01/04/2005

### *Lay justices*

#### **9 Meaning of “lay justice”**

In this Act “lay justice” means a justice of the peace who is not a District Judge (Magistrates' Courts).

#### **10 Appointment of lay justices etc.**

- (1) Lay justices are to be appointed for England and Wales by the Lord Chancellor by instrument on behalf and in the name of Her Majesty.
- (2) The Lord Chancellor—
  - (a) must assign each lay justice to one or more local justice areas, and
  - (b) may change an assignment so as to assign the lay justice to a different local justice area or to different local justice areas.
- (3) Every lay justice is, by virtue of his office, capable of acting as such in any local justice area (whether or not he is assigned to it); but he may do so only in accordance with arrangements made by or on behalf of the Lord Chancellor.
- (4) Rules may make provision about the training courses to be completed before a person may exercise functions as a lay justice in any proceedings or class of proceedings specified in the rules.
- (5) Subsection (3) is subject to section 12 (the supplemental list).

#### **11 Resignation and removal of lay justices**

- (1) A lay justice may resign his office at any time.
- (2) The Lord Chancellor may remove a lay justice from his office by an instrument on behalf and in the name of Her Majesty—
  - (a) on the ground of incapacity or misbehaviour,

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- (b) on the ground of a persistent failure to meet such standards of competence as are prescribed by a direction given by the Lord Chancellor, or
- (c) if he is satisfied that the lay justice is declining or neglecting to take a proper part in the exercise of his functions as a justice of the peace.

## **12 The supplemental list**

- (1) A list, to be known as “the supplemental list”, must be kept in the office of the Clerk of the Crown in Chancery.
- (2) A lay justice whose name is entered in the supplemental list is not qualified as a justice of the peace to do any act or to be a member of a committee or other body.
- (3) No act or appointment is invalidated by reason of the disqualification of a lay justice under subsection (2).

## **13 Entry of names in the supplemental list**

- (1) Subject to subsections (2) and (3), the name of a lay justice who has reached 70 must be entered in the supplemental list.
- (2) The name of a lay justice who, when he reaches 70, is chairman of the lay justices assigned to a local justice area need not be entered in the supplemental list until the term for which he is serving as chairman has ended.
- (3) Where—
  - (a) proceedings are, or are expected to be, in progress on the day on which the lay justice reaches 70, and
  - (b) the lay justice is exercising functions in those proceedings as a justice of the peace,the Lord Chancellor may direct that the name of the lay justice need not be entered in the supplemental list until the proceedings have ended.
- (4) The name of a lay justice must be entered in the supplemental list if—
  - (a) he applies for it to be entered, and
  - (b) the application is approved by the Lord Chancellor.
- (5) The Lord Chancellor may direct that the name of a lay justice is to be entered in the supplemental list on the ground of incapacity.

## **14 Removal of names from the supplemental list**

- (1) A person’s name must be removed from the supplemental list if he ceases to be a justice of the peace.
- (2) A person’s name must be removed from the supplemental list if—
  - (a) his name is in the list as a result of section 13(4) or (5), and
  - (b) the Lord Chancellor directs its removal.

## **15 Lay justices' allowances**

- (1) A lay justice is entitled to payments by way of—
  - (a) travelling allowance,

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- (b) subsistence allowance, and
  - (c) financial loss allowance.
- (2) Allowances under this section are to be paid by the Lord Chancellor at rates determined by him.
- (3) A lay justice's travelling allowance is an allowance in respect of expenditure—
- (a) which is incurred by him on travelling, and
  - (b) which is necessarily incurred for the purpose of enabling him to perform his duties.
- (4) A lay justice's subsistence allowance is an allowance in respect of expenditure—
- (a) which is incurred by him on subsistence, and
  - (b) which is necessarily incurred for the purpose of enabling him to perform his duties.
- (5) A lay justice's financial loss allowance is an allowance in respect of—
- (a) any other expenditure incurred by reason of the performance of his duties, and
  - (b) any loss of earnings or social security benefits suffered by reason of the performance of his duties.
- (6) A lay justice is not entitled to a payment under this section in respect of the performance of his duties if—
- (a) a payment of a similar kind in respect of those duties may be made to him apart from this section, or
  - (b) entitlement to the payment is excluded by regulations made by the Lord Chancellor.
- (7) For the purposes of this section the performance of a lay justice's duties includes taking a training course provided by or on behalf of the Lord Chancellor.
- (8) The Lord Chancellor may by regulations make provision about the way in which this section is to be administered and may in particular make provision—
- (a) prescribing sums (including tax credits) that are to be treated as social security benefits for the purposes of financial loss allowances,
  - (b) prescribing the particulars to be provided for claiming payment of allowances, and
  - (c) for avoiding duplication between payments under this section and under other arrangements where expenditure is incurred for more than one purpose.

## **16 Records of lay justices**

- (1) The Lord Chancellor—
- (a) must appoint a person to be keeper of the rolls for each local justice area, and
  - (b) may appoint the same person to be keeper of the rolls for more than one local justice area.
- (2) The keeper of the rolls for a local justice area must be notified, in such manner as the Lord Chancellor may direct, of—
- (a) any assignment of a lay justice to the area,



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- (b) any change in an assignment of a lay justice as a result of which he ceases to be assigned to the area, and
  - (c) the fact that a lay justice assigned to the area has ceased to be a justice of the peace or that his name has been entered in or removed from the supplemental list.
- (3) The keeper of the rolls for a local justice area must ensure that an accurate record is maintained of all lay justices for the time being assigned to the area.

VALID FROM 01/04/2005

### *Chairman and deputy chairmen and the bench*

#### **17 Chairman and deputy chairmen: selection**

- (1) For each local justice area there is to be—
- (a) a chairman of the lay justices assigned to the area, and
  - (b) one or more deputy chairmen of those lay justices, chosen by them from among their number.
- (2) Rules may make provision—
- (a) subject to subsection (3), as to the term of office of the chairman and deputy chairmen, and
  - (b) as to the number of deputy chairmen to be elected for any area.
- (3) The Lord Chancellor, or a person acting on his behalf, may authorise a lay justice to continue to hold office as chairman or deputy chairman for the purposes of specified proceedings which are, or are expected to be, in progress on the day on which the lay justice's office would otherwise end.
- (4) Any contested election for choosing the chairman or a deputy chairman is to be held by secret ballot.
- (5) Rules may make provision for the purposes of this section and may in particular make provision—
- (a) about the procedure for nominating candidates for election as a chairman or a deputy chairman;
  - (b) about the procedure at such an election.

#### **18 Rights to preside and size of bench**

- (1) If the chairman for a local justice area is present at a sitting or other meeting of lay justices assigned to or acting in the area, he must preside.
- (2) If, in the absence of the chairman, one or more of the deputy chairmen for a local justice area is present at a sitting or other meeting of lay justices assigned to or acting in that area he (or the most senior of them) must preside.
- (3) Neither subsection (1) nor subsection (2) applies if, in accordance with rules, the chairman or (as the case may be) the deputy chairman asks another of the lay justices to preside.

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- (4) Subsections (1) and (2) do not confer on the chairman or a deputy chairman a right to preside in court if, under rules, he is ineligible to do so.
- (5) Subsections (1) and (2) do not confer on the chairman or a deputy chairman a right to preside—
  - (a) in a youth court or family proceedings court,
  - (b) at meetings of a committee or other body of justices of the peace which has its own chairman, or
  - (c) at sittings when a District Judge (Magistrates' Courts) is engaged as such in administering justice.
- (6) Rules may make provision for the purposes of subsections (3) and (4) and may in particular make provision—
  - (a) as to training courses to be completed by lay justices before they may preside in court,
  - (b) as to—
    - (i) the approval of lay justices, in accordance with the rules, before they may preside in court,
    - (ii) the lay justices who may be so approved, and
    - (iii) the courts to which the approval relates, and
  - (c) as to circumstances in which a lay justice may preside in court even though requirements imposed under paragraph (a) or (b) are not met in relation to him.
- (7) Rules may also make provision—
  - (a) specifying the maximum number of lay justices who may sit to deal with a case as a magistrates' court, and
  - (b) as to the arrangements to be made for securing the presence on the bench of enough, but not more than enough, lay justices.

VALID FROM 01/04/2005

*Supplementary provisions about the bench*

**19 Training, development and appraisal of lay justices**

- (1) Rules may (in addition to making provision under sections 10(4) and 18(6)) make provision for, or in connection with, the training, development and appraisal of lay justices.
- (2) Such rules may make provision for committees, constituted in accordance with the rules, to have such functions as may be specified in the rules, including, in particular—
  - (a) providing advice and support to lay justices in connection with their functions as lay justices;
  - (b) identifying the training needs of lay justices;
  - (c) appraising lay justices and reporting on the results of appraisals;
  - (d) giving or withholding approval for the purposes of section 18;

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- (e) advising the Lord Chancellor in relation to authorisations of lay justices as members of family proceedings courts or youth courts;
  - (f) granting or revoking such authorisations on behalf of the Lord Chancellor.
- (3) The Lord Chancellor must ensure that appropriate training and training materials are provided for lay justices with a view to enabling them to comply with requirements as to training imposed by rules under section 10 or 18 or this section.

## **20 Rules**

- (1) In sections 10, 17, 18 and 19 “rules” means rules made by the Lord Chancellor.
- (2) Before making any rules for the purposes of section 10, 17, 18 or 19 the Lord Chancellor must consult—
- (a) the Criminal Procedure Rule Committee,
  - (b) the Family Procedure Rule Committee, and
  - (c) the Magistrates' Courts Rule Committee.

## **21 Duty to consult lay justices on matters affecting them etc.**

The Lord Chancellor must take all reasonable and practicable steps—

- (a) for ensuring that lay justices acting in a local justice area are kept informed of matters affecting them in the performance of their duties, and
- (b) for ascertaining their views on such matters.

VALID FROM 01/04/2005

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

## **22 Appointment etc.**

- (1) Her Majesty may, on the recommendation of the Lord Chancellor, appoint a person who has a 7 year general qualification to be a District Judge (Magistrates' Courts).
- (2) A District Judge (Magistrates' Courts) must, before acting as such, take the oath of allegiance and judicial oath in accordance with the Promissory Oaths Act 1868 (c. 72) and the Promissory Oaths Act 1871 (c. 48).
- (3) The Lord Chancellor may pay to a District Judge (Magistrates' Courts) such allowances as he may determine.
- (4) Any such allowances are in addition to the salary charged on and paid out of the Consolidated Fund under section 9 of the Administration of Justice Act 1973 (c. 15).
- (5) The Lord Chancellor may remove a District Judge (Magistrates' Courts) from office on the ground of incapacity or misbehaviour.

## **23 Senior District Judge (Chief Magistrate)**

The Lord Chancellor—

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- (a) may designate one of the District Judges (Magistrates' Courts) to be Senior District Judge (Chief Magistrate), and
- (b) if he does so, may designate another of them to be the deputy of the Senior District Judge (Chief Magistrate).

#### **24 Deputy District Judges (Magistrates' Courts)**

- (1) The Lord Chancellor may appoint a person who has a 7 year general qualification to be a Deputy District Judge (Magistrates' Courts) for such period as the Lord Chancellor considers appropriate (but subject to subsection (4)).
- (2) A Deputy District Judge (Magistrates' Courts) must, before acting as such, take the oath of allegiance and judicial oath in accordance with the Promissory Oaths Act 1868 and the Promissory Oaths Act 1871.
- (3) The Lord Chancellor may pay to a Deputy District Judge (Magistrates' Courts) such remuneration and allowances as he may determine.
- (4) The Lord Chancellor may remove a Deputy District Judge (Magistrates' Courts) from office on the ground of incapacity or misbehaviour.
- (5) During the period of his appointment, a Deputy District Judge (Magistrates' Courts) —
  - (a) is to act as a District Judge (Magistrates' Courts), and
  - (b) is to be treated for all purposes (apart from appointment, tenure, remuneration, allowances and pensions) as if he were a District Judge (Magistrates' Courts).

#### **25 District Judges (Magistrates' Courts) as justices of the peace**

- (1) A District Judge (Magistrates' Courts) is by virtue of his office a justice of the peace for England and Wales.
- (2) It is the duty of a District Judge (Magistrates' Courts) to act as a justice of the peace in any local justice area in accordance with arrangements made by or on behalf of the Lord Chancellor.

#### **26 District Judges (Magistrates' Courts) able to act alone**

- (1) Nothing in the 1980 Act—
  - (a) requiring a magistrates' court to be composed of two or more justices, or
  - (b) limiting the powers of a magistrates' court when composed of a single justice, applies to a District Judge (Magistrates' Courts).
- (2) A District Judge (Magistrates' Courts) may—
  - (a) do any act, and
  - (b) exercise alone any jurisdiction,
 which can be done or exercised by two justices, apart from granting or transferring a licence.
- (3) Any enactment making provision ancillary to the jurisdiction exercisable by two justices of the peace also applies to the jurisdiction of a District Judge (Magistrates' Courts), unless the provision relates to granting or transferring a licence.

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- (4) This section does not apply to the hearing or determination of family proceedings (as defined by section 65 of the 1980 Act).
- (5) “The 1980 Act” means the Magistrates' Courts Act 1980 (c. 43).

VALID FROM 01/04/2005

*Justices' clerks and assistant clerks*

**27 Justices' clerks and assistant clerks**

- (1) A justices' clerk is a person who is—
- (a) appointed by the Lord Chancellor under section 2(1), and
  - (b) designated by the Lord Chancellor as a justices' clerk.
- (2) A person may be designated as a justices' clerk only if he—
- (a) has a 5 year magistrates' court qualification,
  - (b) is a barrister or solicitor who has served for not less than 5 years as an assistant to a justices' clerk, or
  - (c) has previously been a justices' clerk.
- (3) The Lord Chancellor—
- (a) must assign each justices' clerk to one or more local justice areas, and
  - (b) subject to subsection (4), may change an assignment so as to assign the justices' clerk to a different local justice area or to different local justice areas.
- (4) Before changing an assignment of a justices' clerk so that he is no longer assigned to a local justice area, the Lord Chancellor must consult—
- (a) the chairman of the lay justices assigned to that area, or
  - (b) if it is not possible or not practicable to consult the chairman, the deputy chairman or such of the lay justices assigned to or acting in the area as appear to the Lord Chancellor appropriate.
- (5) An assistant to a justices' clerk is a person who is—
- (a) appointed by the Lord Chancellor under section 2(1) or provided under a contract made by virtue of section 2(4), and
  - (b) designated by the Lord Chancellor as an assistant to a justices' clerk.
- (6) The Lord Chancellor may by regulations provide that, subject to such exceptions as may be prescribed by the regulations, a person may be designated as an assistant to a justices' clerk only if he—
- (a) has a 5 year magistrates' court qualification, or
  - (b) has such qualifications as may be prescribed by, or approved by the Lord Chancellor in accordance with, the regulations.
- (7) In this Part “assistant clerk” is short for “assistant to a justices' clerk”.

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## 28 Functions

- (1) Rules may make provision enabling things authorised to be done by, to or before a single justice of the peace to be done instead by, to or before a justices' clerk.
- (2) Rules may also make provision enabling things authorised to be done by, to or before a justices' clerk (whether by virtue of subsection (1) or otherwise) to be done instead by, to or before an assistant clerk.
- (3) An enactment or rule of law which—
  - (a) regulates the exercise of any jurisdiction or powers of justices of the peace, or
  - (b) relates to things done in the exercise or purported exercise of any such jurisdiction or powers,applies in relation to the exercise or purported exercise of any such jurisdiction or powers by a justices' clerk by virtue of subsection (1) as if he were a justice of the peace.
- (4) The functions of a justices' clerk include giving advice to any or all of the justices of the peace to whom he is clerk about matters of law (including procedure and practice) on questions arising in connection with the discharge of their functions, including questions arising when the clerk is not personally attending on them.
- (5) The powers of a justices' clerk include, at any time when he thinks he should do so, bringing to the attention of any or all of the justices of the peace to whom he is clerk any point of law (including procedure and practice) that is or may be involved in any question so arising.
- (6) For the purposes of subsections (4) and (5) the functions of justices of the peace do not include functions as a judge of the Crown Court.
- (7) Subsections (4) and (5) do not limit—
  - (a) the powers and duties of a justices' clerk, or
  - (b) the matters on which justices of the peace may obtain assistance from their clerk.
- (8) In this section “rules” means rules made by the Lord Chancellor.
- (9) Before making any rules for the purposes of this section the Lord Chancellor must consult—
  - (a) the Criminal Procedure Rule Committee,
  - (b) the Family Procedure Rule Committee, and
  - (c) the Magistrates' Courts Rule Committee.

## 29 Independence

- (1) A justices' clerk exercising—
  - (a) a function exercisable by one or more justices of the peace,
  - (b) a function specified in section 28(4) or (5) (advice on matters of law, including procedure and practice), or
  - (c) a function as a member of the Criminal Procedure Rule Committee or the Family Procedure Rule Committee,is not subject to the direction of the Lord Chancellor or any other person.

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- (2) An assistant clerk who is exercising any such function is not subject to the direction of any person other than a justices' clerk.

VALID FROM 01/04/2005

*Places, dates and times of sittings*

**30 Places, dates and times of sittings**

- (1) The Lord Chancellor may give directions as to the places in England and Wales at which magistrates' courts may sit.
- (2) In exercising his powers under subsection (1), the Lord Chancellor shall have regard to the need to ensure that court-houses are accessible to persons resident in each local justice area.
- (3) The Lord Chancellor may, with the concurrence of the Lord Chief Justice, give directions as to the distribution and transfer of the general business of magistrates' courts between the places specified in directions under subsection (1).
- (4) Directions under subsection (3) may, in particular, contain provision that, where a person is charged with an offence and is being required to appear before a magistrates' court, the place where he is required to appear is one of the places described in subsection (5).
- (5) The places are—
  - (a) a place in the local justice area in which the offence is alleged to have been committed;
  - (b) a place in the local justice area in which the person charged with the offence resides;
  - (c) a place in the local justice area in which the witnesses, or the majority of the witnesses, reside;
  - (d) a place where other cases raising similar issues are being dealt with.
- (6) “The general business of magistrates' courts” does not include family proceedings (as defined in section 65 of the 1980 Act).
- (7) The Lord Chancellor may give directions as to the days on which and times at which magistrates' courts may sit.
- (8) Subject to any directions under subsection (7), the business of magistrates' courts may be conducted on any day and at any time.

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VALID FROM 01/04/2005

*Protection and indemnification of justices and justices' clerks*

**31 Immunity for acts within jurisdiction**

- (1) No action lies against a justice of the peace in respect of what he does or omits to do—
  - (a) in the execution of his duty as a justice of the peace, and
  - (b) in relation to a matter within his jurisdiction.
- (2) No action lies against a justices' clerk or an assistant clerk in respect of what he does or omits to do—
  - (a) in the execution of his duty as a justices' clerk or assistant clerk exercising, by virtue of an enactment, a function of a single justice of the peace, and
  - (b) in relation to a matter within his jurisdiction.

**32 Immunity for certain acts beyond jurisdiction**

- (1) An action lies against a justice of the peace in respect of what he does or omits to do—
  - (a) in the purported execution of his duty as a justice of the peace, but
  - (b) in relation to a matter not within his jurisdiction,if, but only if, it is proved that he acted in bad faith.
- (2) An action lies against a justices' clerk or an assistant clerk in respect of what he does or omits to do—
  - (a) in the purported execution of his duty as a justices' clerk or assistant clerk exercising, by virtue of an enactment, a function of a single justice of the peace, but
  - (b) in relation to a matter not within his jurisdiction,if, but only if, it is proved that he acted in bad faith.

**33 Striking out proceedings where action prohibited**

- (1) If an action is brought in circumstances in which section 31 or 32 provides that no action lies, a judge of the court in which the action is brought may, on the application of the defendant, strike out the proceedings in the action.
- (2) If a judge strikes out proceedings under subsection (1), he may if he thinks fit order the person bringing the action to pay costs.

**34 Costs in legal proceedings**

- (1) A court may not order a justice of the peace to pay costs in any proceedings in respect of what he does or omits to do in the execution (or purported execution) of his duty as a justice of the peace.
- (2) A court may not order—
  - (a) a justices' clerk, or
  - (b) an assistant clerk,



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to pay costs in any proceedings in respect of what he does or omits to do in the execution (or purported execution) of his duty as a justices' clerk or assistant clerk exercising, by virtue of an enactment, a function of a single justice of the peace.

- (3) But subsections (1) and (2) do not apply in relation to any proceedings in which a justice of the peace, justices' clerk or assistant clerk—
- (a) is being tried for an offence or is appealing against a conviction, or
  - (b) is proved to have acted in bad faith in respect of the matters giving rise to the proceedings.
- (4) A court which is prevented by subsection (1) or (2) from ordering a justice of the peace, justices' clerk or assistant clerk to pay costs in any proceedings may instead order the Lord Chancellor to make a payment in respect of the costs of a person in the proceedings.
- (5) The Lord Chancellor may make regulations specifying—
- (a) circumstances in which a court must or must not exercise the power conferred on it by subsection (4), and
  - (b) how the amount of any payment ordered under subsection (4) is to be determined.

## 35 Indemnity

- (1) “Indemnifiable amounts”, in relation to a justice of the peace, justices' clerk or assistant clerk, means—
- (a) costs which he reasonably incurs in or in connection with proceedings in respect of anything done or omitted to be done in the exercise (or purported exercise) of his duty as a justice of the peace, justices' clerk or assistant clerk,
  - (b) costs which he reasonably incurs in taking steps to dispute a claim which might be made in such proceedings,
  - (c) damages awarded against him or costs ordered to be paid by him in such proceedings, or
  - (d) sums payable by him in connection with a reasonable settlement of such proceedings or such a claim.
- (2) Indemnifiable amounts relate to criminal matters if the duty mentioned in subsection (1)(a) relates to criminal matters.
- (3) The Lord Chancellor must indemnify a justice of the peace, justices' clerk or assistant clerk in respect of—
- (a) indemnifiable amounts which relate to criminal matters, unless it is proved, in respect of the matters giving rise to the proceedings or claim, that he acted in bad faith, and
  - (b) other indemnifiable amounts if, in respect of the matters giving rise to the proceedings or claim, he acted reasonably and in good faith.
- (4) The Lord Chancellor may indemnify a justice of the peace, justices' clerk or assistant clerk in respect of other indemnifiable amounts unless it is proved, in respect of the matters giving rise to the proceedings or claim, that he acted in bad faith.
- (5) Any question whether, or to what extent, a person is to be indemnified under this section is to be determined by the Lord Chancellor.

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- (6) The Lord Chancellor may, if the person claiming to be indemnified so requests, make a determination for the purposes of this section with respect to—
- (a) costs such as are mentioned in subsection (1)(a) or (b), or
  - (b) sums such as are mentioned in subsection (1)(d),
- before the costs are incurred or the settlement in connection with which the sums are payable is made.
- (7) But a determination under subsection (6) before costs are incurred—
- (a) is subject to such limitations (if any) as the Lord Chancellor thinks proper and to the subsequent determination of the costs reasonably incurred, and
  - (b) does not affect any other determination which may fall to be made in connection with the proceedings or claim in question.

VALID FROM 01/04/2005

*Fines officers and designated officers*

**36 Fines officers**

Any reference in an enactment to a fines officer is to a person who is—

- (a) appointed by the Lord Chancellor under section 2(1) or provided under a contract made by virtue of section 2(4), and
- (b) designated as a fines officer by the Lord Chancellor.

**37 Designated officers and magistrates' courts**

- (1) Any reference in an enactment to the designated officer, in relation to a magistrates' court, justice of the peace or local justice area, is to a person who is—
- (a) appointed by the Lord Chancellor under section 2(1) or provided under a contract made by virtue of section 2(4), and
  - (b) designated by the Lord Chancellor in relation to that court, justice of the peace or area.
- (2) In this section “magistrates' court” includes—
- (a) a committee of justices, and
  - (b) when exercising a function exercisable by one or more justices of the peace—
    - (i) a justices' clerk, and
    - (ii) an assistant clerk.

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VALID FROM 01/04/2005

*Application of receipts of magistrates' courts etc.*

**38 Application of receipts of designated officers**

- (1) The following are to be paid to the Lord Chancellor—
  - (a) fines imposed by a magistrates' court,
  - (b) sums which—
    - (i) become payable by virtue of an order of a magistrates' court, and
    - (ii) are by an enactment made applicable as fines (or any description of fines) imposed by a magistrates' court, and
  - (c) all other sums received by—
    - (i) a designated officer for a magistrates' court, or
    - (ii) a designated officer for a local justice area, in his capacity as such.
- (2) “Fine” includes—
  - (a) any pecuniary penalty, pecuniary forfeiture or pecuniary compensation payable under a conviction, and
  - (b) any pecuniary forfeiture on conviction by, or under any order of, a magistrates' court so far as the forfeiture is converted into or consists of money.
- (3) For the purposes of this section anything done by the Crown Court on appeal from a magistrates' court is to be treated as done by the magistrates' court.
- (4) Any sums received by the Lord Chancellor under this section are to be paid by him into the Consolidated Fund.

**39 Limits to requirements about application of receipts**

- (1) Section 38(1) is subject to section 139 of the 1980 Act (sums paid on summary conviction applied for payment of compensation and costs).
- (2) Paragraphs (a) and (b) of section 38(1) do not apply to sums which, by or under any enactment, are directed to be paid to—
  - (a) the Commissioners of Customs and Excise, or
  - (b) officers of, or persons appointed by, the Commissioners.
- (3) Those paragraphs also do not apply to sums which, by or under any enactment, are directed—
  - (a) to be paid to or for the benefit of—
    - (i) the party aggrieved or injured or a person described in similar terms, or
    - (ii) the family or relatives of a person described in any such terms or of a person dying in consequence of an act or event which constituted or was the occasion of an offence,
  - (b) to be applied in making good any default or repairing any damage or reimbursing any expenses (other than those of the prosecution), or

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- (c) to be paid to any person, if the enactment refers in terms to awarding or reimbursing a loss or to damages, compensation or satisfaction for loss, damage, injury or wrong.
- (4) Paragraph (c) of section 38(1) does not apply to—
  - (a) sums to which a person other than the Lord Chancellor is by law entitled and which are paid to that person, or
  - (b) sums received by a designated officer on account of his salary or expenses as such.
- (5) Any sum paid to the Lord Chancellor by virtue of paragraph (c) of section 38(1) is to be paid to him subject to being repaid to any person establishing his title to it.

#### **40 Regulations about payments, accounting and banking by designated officers**

- (1) The Lord Chancellor may, with the concurrence of the Treasury, make regulations—
  - (a) as to the times at which, and the manner in which, a designated officer is to pay sums payable by him in his capacity as such to the Lord Chancellor or any other person,
  - (b) requiring the keeping of accounts by designated officers in respect of sums received by them,
  - (c) as to the production, inspection and audit of accounts required to be kept, and
  - (d) requiring designated officers to use—
    - (i) specified banking arrangements or facilities, or
    - (ii) banking arrangements or facilities of a specified description, in relation to sums received by them.
- (2) Regulations under this section may make different provision in relation to different descriptions of designated officer.

#### *Miscellaneous*

VALID FROM 01/04/2005

#### **41 Disqualification of lay justices who are members of local authorities**

- (1) A lay justice who is a member of a local authority may not act as a member of the Crown Court or a magistrates' court in proceedings brought by or against, or by way of an appeal from a decision of—
  - (a) that local authority,
  - (b) a committee or officer of that local authority, or
  - (c) if that local authority is operating executive arrangements (within the meaning of Part 2 of the Local Government Act 2000 (c. 22))—
    - (i) the executive of that local authority (within the meaning of that Part), or
    - (ii) any person acting on behalf of that executive.

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- (2) A lay justice who is a member of the Common Council of the City of London may not act as a member of the Crown Court or a magistrates' court in proceedings brought by or against, or by way of an appeal from a decision of—
- (a) the Corporation of the City,
  - (b) the Common Council, or
  - (c) a committee or officer of the Corporation or the Common Council.
- (3) A joint committee, joint board, joint authority or other combined body—
- (a) of which a local authority, the Corporation or the Common Council is a member, or
  - (b) on which the local authority, the Corporation or the Council is represented,
- is to be regarded for the purposes of this section as a committee of the local authority, Corporation or Common Council.
- (4) Any reference in this section to an officer of—
- (a) a local authority,
  - (b) the Corporation, or
  - (c) the Common Council,
- is to a person employed or appointed by, or by a committee of, the local authority, Corporation or Common Council in the capacity in which he is employed or appointed to act.
- (5) No act is invalidated merely because of the disqualification under this section of the person by whom it is done.
- (6) “Local authority” means—
- (a) a local authority within the meaning of the Local Government Act 1972 (c. 70),
  - (b) a local authority constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),
  - (c) a police authority established under section 3 of the Police Act 1996 (c. 16), the Metropolitan Police Authority, the Service Authority for the National Criminal Intelligence Service or the Service Authority for the National Crime Squad,
  - (d) the London Fire and Emergency Planning Authority,
  - (e) a joint authority established under Part 4 of the Local Government Act 1985 (c. 51),
  - (f) a National Park Authority,
  - (g) the Broads Authority, or
  - (h) a housing action trust established under Part 3 of the Housing Act 1988 (c. 50).

#### 42 Effect of Act of Settlement on existing justices of the peace

Nothing in section 3 of the Act of Settlement (1700 c. 2) (certain persons born outside the United Kingdom) invalidates—

- (a) any appointment, whether made before or after the passing of this Act, of a justice of the peace, or
- (b) any act done by virtue of such an appointment.

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VALID FROM 01/04/2005

## PART 3

### MAGISTRATES' COURTS

#### *Criminal jurisdiction and procedure*

#### **43 Summons or warrant for suspected offender**

(1) For section 1(1) of the 1980 Act (issue of summons to accused or warrant for his arrest), substitute—

“(1) On an information being laid before a justice of the peace that a person has, or is suspected of having, committed an offence, the justice may issue—

- (a) a summons directed to that person requiring him to appear before a magistrates' court to answer the information, or
- (b) a warrant to arrest that person and bring him before a magistrates' court.”

(2) Omit section 1(2), (5) and (8) of the 1980 Act.

#### **44 Trial of summary offences**

For section 2 of the 1980 Act substitute—

##### **“2 Trial of summary offences**

- (1) A magistrates' court has jurisdiction to try any summary offence.
- (2) A magistrates' court has jurisdiction as examining justices over any offence committed by a person who appears or is brought before the court.
- (3) Subject to—
  - (a) sections 18 to 22, and
  - (b) any other enactment (wherever contained) relating to the mode of trial of offences triable either way,
 a magistrates' court has jurisdiction to try summarily any offence which is triable either way.
- (4) A magistrates' court has jurisdiction, in the exercise of its powers under section 24, to try summarily an indictable offence.
- (5) This section does not affect any jurisdiction over offences conferred on a magistrates' court by any enactment not contained in this Act.”

#### **45 Power to make rulings at pre-trial hearings**

(1) Schedule 3 contains amendments of the 1980 Act relating to rulings at pre-trial hearings in magistrates' courts.

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- (2) The amendments made by the Schedule apply in relation to pre-trial hearings beginning on or after the day on which it comes into force.

#### **46 Power to transfer criminal cases**

- (1) After section 27 of the 1980 Act insert—

*“Transfer of criminal proceedings*

##### **27A Power to transfer criminal proceedings**

- (1) Where a person appears or is brought before a magistrates' court—
- (a) to be tried by the court for an offence, or
  - (b) for the court to inquire into the offence as examining justices,
- the court may transfer the matter to another magistrates' court.
- (2) The court may transfer the matter before or after beginning the trial or inquiry.
- (3) But if the court transfers the matter after it has begun to hear the evidence and the parties, the court to which the matter is transferred must begin hearing the evidence and the parties again.
- (4) The power of the court under this section to transfer any matter must be exercised in accordance with any directions given under section 30(3) of the Courts Act 2003.”
- (2) Omit section 3B of the 1980 Act (transfer of trials of summary offences).

*Civil jurisdiction and procedure*

#### **47 Jurisdiction to issue summons and deal with complaints**

- (1) For section 51 of the 1980 Act (issue of summons on complaint) substitute—

##### **“51 Issue of summons on complaint**

Where a complaint relating to a person is made to a justice of the peace, the justice of the peace may issue a summons to the person requiring him to appear before a magistrates' court to answer to the complaint.”

- (2) For section 52 of the 1980 Act (jurisdiction to deal with complaints) substitute—

##### **“52 Jurisdiction to deal with complaints**

- (1) A magistrates' court has jurisdiction to hear any complaint.
- (2) But subsection (1) is subject to provision made by any enactment.”

#### **48 Power to transfer civil proceedings (other than family proceedings)**

After section 57 of the 1980 Act insert—

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*“Transfer of civil proceedings (other than family proceedings)”*

**57A Power to transfer civil proceedings (other than family proceedings)**

- (1) A magistrates' court may at any time, whether before or after beginning to hear a complaint, transfer the hearing to another magistrates' court.
- (2) But if the court transfers the matter after it has begun to hear the evidence and the parties, the court to which the matter is transferred must begin hearing the evidence and the parties again.
- (3) This section does not apply to family proceedings.
- (4) The power of the court under this section to transfer a hearing must be exercised in accordance with any directions given under section 30(3) of the Courts Act 2003.”

*Family proceedings courts and youth courts*

**49 Family proceedings courts**

- (1) For section 67 of the 1980 Act (family proceedings courts and panels) substitute—

**“67 Family proceedings courts**

- (1) Magistrates' courts—
  - (a) constituted in accordance with this section or section 66 of the Courts Act 2003 (judges having powers of District Judges (Magistrates' Courts)), and
  - (b) sitting for the purpose of hearing family proceedings,
 are to be known as family proceedings courts.
- (2) A justice of the peace is not qualified to sit as a member of a family proceedings court to hear family proceedings of any description unless he has an authorisation extending to the proceedings.
- (3) He has an authorisation extending to the proceedings only if he has been authorised by the Lord Chancellor or a person acting on his behalf to sit as a member of a family proceedings court to hear—
  - (a) proceedings of that description, or
  - (b) all family proceedings.
- (4) The Lord Chancellor may by rules make provision about—
  - (a) the grant and revocation of authorisations,
  - (b) the appointment of chairmen of family proceedings courts, and
  - (c) the composition of family proceedings courts.
- (5) Rules under subsection (4) may confer powers on the Lord Chancellor with respect to any of the matters specified in the rules.
- (6) Rules under subsection (4) may be made only after consultation with the Family Procedure Rule Committee.



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(7) Rules under subsection (4) are to be made by statutory instrument.

(8) A statutory instrument containing rules under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.”

(2) Omit section 68 of the 1980 Act (combined family panels for two or more petty sessions areas).

## **50 Youth courts**

(1) For section 45 of the 1933 Act (constitution of youth courts) substitute—

### **“45 Youth courts**

(1) Magistrates' courts—

(a) constituted in accordance with this section or section 66 of the Courts Act 2003 (judges having powers of District Judges (Magistrates' Courts)), and

(b) sitting for the purpose of—

(i) hearing any charge against a child or young person, or

(ii) exercising any other jurisdiction conferred on youth courts by or under this or any other Act,

are to be known as youth courts.

(2) A justice of the peace is not qualified to sit as a member of a youth court for the purpose of dealing with any proceedings unless he has an authorisation extending to the proceedings.

(3) He has an authorisation extending to the proceedings only if he has been authorised by the Lord Chancellor or a person acting on his behalf to sit as a member of a youth court to deal with—

(a) proceedings of that description, or

(b) all proceedings dealt with by youth courts.

(4) The Lord Chancellor may by rules make provision about—

(a) the grant and revocation of authorisations,

(b) the appointment of chairmen of youth courts, and

(c) the composition of youth courts.

(5) Rules under subsection (4) may confer powers on the Lord Chancellor with respect to any of the matters specified in the rules.

(6) Rules under subsection (4) may be made only after consultation with the Criminal Procedure Rule Committee.

(7) Rules under subsection (4) are to be made by statutory instrument.

(8) A statutory instrument containing rules under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.”

(2) Omit Schedule 2 to the 1933 Act (constitution of youth courts).

(3) Omit section 146 of the 1980 Act (rules relating to youth court panels and the composition of youth courts).

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(4) “The 1933 Act” means the Children and Young Persons Act 1933 (c. 12).

#### Commencement Information

**I2** S. 50 fully in force; s. 50 not in force at Royal Assent, see s. 110(1)(2); s. 50(1)(4) in force at 1.4.2005 by S.I. 2005/910, art. 3(r); s. 50(2)(3) in force at 5.9.2007 by S.I. 2007/2706, art. 1

VALID FROM 01/04/2005

## PART 4

### COURT SECURITY

#### Modifications etc. (not altering text)

**C1** Pt. 4 (ss. 51-57): power to apply in part (with modifications) conferred (prosp.) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 148, 182 (with s. 180)

#### 51 Court security officers

- (1) A court security officer is a person who is—
  - (a) appointed by the Lord Chancellor under section 2(1) or provided under a contract made by virtue of section 2(4), and
  - (b) designated by the Lord Chancellor as a court security officer.
- (2) The Lord Chancellor may by regulations make provision as to—
  - (a) training courses to be completed by court security officers;
  - (b) conditions to be met before a person may be designated as a court security officer.
- (3) For the purposes of this Part a court security officer who is not readily identifiable as such (whether by means of his uniform or badge or otherwise), is not to be regarded as acting in the execution of his duty.

#### Modifications etc. (not altering text)

**C2** S. 51(1)(b) extended (1.4.2005) by [The Courts Act 2003 \(Transitional Provisions, Savings and Consequential Provisions\) Order 2005 \(S.I. 2005/911\)](#), art. 10

#### 52 Powers of search

- (1) A court security officer acting in the execution of his duty may search—
  - (a) any person who is in, or seeking to enter, a court building, and
  - (b) any article in the possession of such a person.
- (2) Subsection (1) does not authorise the officer to require a person to remove any of his clothing other than a coat, jacket, headgear, gloves or footwear.

*Status: Point in time view as at 15/03/2004. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: Courts Act 2003 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) In this Part “court building” means any building—
- (a) where the business of any of the courts referred to in section 1 is carried on, and
  - (b) to which the public has access.

### **53 Powers to exclude, remove or restrain persons**

- (1) A court security officer acting in the execution of his duty may exclude or remove from a court building, or a part of a court building, any person who refuses—
- (a) to permit a search under section 52(1), or
  - (b) to surrender an article in his possession when asked to do so under section 54(1).
- (2) A court security officer acting in the execution of his duty may—
- (a) restrain any person who is in a court building, or
  - (b) exclude or remove any person from a court building, or a part of a court building,
- if it is reasonably necessary to do so for one of the purposes given in subsection (3).
- (3) The purposes are—
- (a) enabling court business to be carried on without interference or delay;
  - (b) maintaining order;
  - (c) securing the safety of any person in the court building.
- (4) A court security officer acting in the execution of his duty may remove any person from a courtroom at the request of a judge or a justice of the peace.
- (5) The powers conferred by subsections (1), (2) and (4) include power to use reasonable force, where necessary.

### **54 Surrender and seizure of articles**

- (1) If a court security officer acting in the execution of his duty reasonably believes that an article in the possession of a person who is in, or seeking to enter, a court building ought to be surrendered on any of the grounds given in subsection (3), he must ask the person to surrender the article.
- (2) If the person refuses to surrender the article, the officer may seize it.
- (3) The grounds are that the article—
- (a) may jeopardise the maintenance of order in the court building (or a part of it),
  - (b) may put the safety of any person in the court building at risk, or
  - (c) may be evidence of, or in relation to, an offence.

### **55 Powers to retain articles surrendered or seized**

- (1) Subject to subsection (2), a court security officer may retain an article which was—
- (a) surrendered in response to a request under section 54(1), or
  - (b) seized under section 54(2),
- until the time when the person who surrendered it, or from whom it was seized, is leaving the court building.

*Status: Point in time view as at 15/03/2004. This version of this Act contains provisions that are not valid for this point in time.*

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- (2) If a court security officer reasonably believes that the article may be evidence of, or in relation to, an offence, he may retain it until—
  - (a) the time when the person who surrendered it, or from whom it was seized, is leaving the court building, or
  - (b) the end of the permitted period,
 whichever is later.
- (3) “The permitted period” means such period, not exceeding 24 hours from the time the article was surrendered or seized, as will enable the court security officer to draw the article to the attention of a constable.

VALID FROM 06/04/2010

### **[<sup>F1</sup>55A Retention of knives surrendered or seized**

- (1) This section applies where a knife is surrendered to a court security officer in response to a request under section 54(1) or seized by a court security officer under section 54(2).
- (2) Section 55 does not apply.
- (3) The knife must be retained in accordance with regulations under subsection (5), unless returned or disposed of in accordance with those regulations or regulations made under section 56.
- (4) If a court security officer reasonably believes that a retained knife may be evidence of, or in relation to, an offence, nothing in subsection (3) prevents the officer retaining the knife for so long as necessary to enable the court security officer to draw it to the attention of a constable.
- (5) Without prejudice to the generality of section 56, the Lord Chancellor must by regulations make provision as to—
  - (a) the procedure to be followed when a knife is retained under this section;
  - (b) the making of requests by eligible persons for the return of knives so retained;
  - (c) the procedure to be followed when returning a knife pursuant to a request made in accordance with the regulations.
- (6) For the purposes of this section—
 

“ eligible person ”, in relation to a knife retained under this section, means—

  - (a) the person who has surrendered the knife under section 54(1) or from whom the knife has been seized under section 54(2), or
  - (b) any other person specified in regulations made under subsection (5);

“ knife ” includes—

  - (a) a knife-blade, and
  - (b) any other article which—
    - (i) has a blade or is sharply pointed, and
    - (ii) is made or adapted for use for causing injury to the person.]

**Status:** Point in time view as at 15/03/2004. This version of this Act contains provisions that are not valid for this point in time.

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### Textual Amendments

- F1** S. 55A inserted (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 146(3)**, 182 (with s. 180, [Sch. 22 para. 44](#)); S.I. 2010/816, art. 2, Sch. para. 9

## 56 Regulations about retention of articles

- (1) The Lord Chancellor may by regulations make provision as to—
- (a) the provision to persons—
    - (i) by whom articles have been surrendered in response to a request under section 54(1), or
    - (ii) from whom articles have been seized under section 54(2),  
of written information about the powers of retention of court security officers,
  - (b) the keeping of records about articles which have been so surrendered or seized,
  - (c) the period for which unclaimed articles have to be kept, and
  - (d) the disposal of unclaimed articles at the end of that period.
- (2) “Unclaimed article” means an article—
- (a) which has been retained under section 55,
  - (b) which a person is entitled to have returned to him,
  - (c) which has not been returned, and
  - (d) whose return has not been requested by a person entitled to it.

## 57 Assaulting and obstructing court security officers

- (1) Any person who assaults a court security officer acting in the execution of his duty commits an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to—
- (a) a fine not exceeding level 5 on the standard scale, or
  - (b) imprisonment for a term not exceeding 6 months,
- or to both.
- (3) A person who resists or wilfully obstructs a court security officer acting in the execution of his duty commits an offence.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

*Status: Point in time view as at 15/03/2004. This version of this Act contains provisions that are not valid for this point in time.*

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VALID FROM 01/04/2005

## PART 5

### INSPECTORS OF COURT ADMINISTRATION

#### **58 Inspectors of court administration etc.**

- (1) The Lord Chancellor may appoint such number of inspectors of court administration as he considers appropriate.
- (2) They are to be known collectively as “Her Majesty’s Inspectorate of Court Administration”.
- (3) The Lord Chancellor must appoint one of the persons so appointed to be Her Majesty’s Chief Inspector of Court Administration.
- (4) In this Part that person is referred to as “the Chief Inspector”.
- (5) The Lord Chancellor may make to or in respect of inspectors of court administration such payments by way of remuneration, allowances or otherwise as he may determine.
- (6) In this Act—
  - (a) “CAFCASS” means the Children and Family Court Advisory and Support Service, and
  - (b) “CAFCASS functions” means the functions of CAFCASS and its officers.

#### **59 Functions of inspectors**

- (1) It is the duty of inspectors of court administration to—
  - (a) inspect and report to the Lord Chancellor on the system that supports the carrying on of the business of the courts listed in subsection (2) and the services provided for those courts;
  - (b) inspect and report to the Lord Chancellor on the performance of CAFCASS functions;
  - (c) discharge any other particular functions which may be specified in connection with—
    - (i) the courts listed in subsection (2), or
    - (ii) CAFCASS functions or related functions of any other person.
- (2) The courts are—
  - (a) the Crown Court,
  - (b) county courts, and
  - (c) magistrates' courts.
- (3) The Lord Chancellor may by order—
  - (a) add to the list in subsection (2) any court having jurisdiction in the United Kingdom, other than one having jurisdiction only in relation to Scotland or Northern Ireland, and
  - (b) remove any court from the list.

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- (4) “Specified” means specified in a direction given by the Lord Chancellor; but before giving any such direction the Lord Chancellor must consult the Chief Inspector.
- (5) Nothing in this section is to be read as enabling inspectors to inspect persons—
  - (a) making judicial decisions, or
  - (b) exercising any judicial discretion.

## **60 Functions of Chief Inspector**

- (1) The Chief Inspector must make an annual report to the Lord Chancellor as to the discharge of the functions of Her Majesty’s Inspectorate of Court Administration.
- (2) The Lord Chancellor may give directions as to—
  - (a) the information to be included in the report,
  - (b) the form of the report, and
  - (c) the time by which the report is to be made.
- (3) The Lord Chancellor must, within one month of receiving the annual report, lay a copy of it before both Houses of Parliament.
- (4) The Chief Inspector must report to the Lord Chancellor on any matter which the Lord Chancellor refers to him and which is connected with—
  - (a) the courts listed in section 59(2), or
  - (b) CAF/CASS functions or related functions of any other person.
- (5) The Chief Inspector may designate an inspector of court administration to discharge his functions during any period when he is absent or unable to act.

## **61 Rights of entry and inspection**

- (1) An inspector exercising functions under section 59 may enter—
  - (a) any place of work occupied by persons provided under a contract made by the Lord Chancellor by virtue of section 2(4);
  - (b) any premises occupied by CAF/CASS.
- (2) An inspector exercising functions under section 59 may inspect and take copies of—
  - (a) any records kept by persons provided under a contract made by the Lord Chancellor by virtue of section 2(4), or
  - (b) any records kept by CAF/CASS or other documents containing information relating to the performance of CAF/CASS functions,which he considers relevant to the discharge of his functions.
- (3) Subsection (1) does not entitle an inspector—
  - (a) to be present when a court listed in section 59(2) is hearing proceedings in private, or
  - (b) to attend any private deliberations of persons having jurisdiction to hear or determine any proceedings.
- (4) The records referred to in subsection (2) include records kept by means of a computer.
- (5) An inspector exercising the power under subsection (2) to inspect records—

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- (a) is entitled to have access to, and inspect and check the operation of, any computer and associated apparatus or material which is or has been in use in connection with the records in question, and
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been used, or
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,
 to afford him such reasonable assistance as he may require.
- (6) The powers conferred by subsections (1), (2) and (5) may be exercised at reasonable times only.

**Modifications etc. (not altering text)**

- C3** S. 61 applied (1.9.2005) (E.) by [The Children Act 2004 \(Joint Area Reviews\) Regulations 2005](#) (S.I. 2005/1973), reg. 2, [Sch. para. 9\(2\)](#)

VALID FROM 01/04/2007

**[<sup>F2</sup>61A Further provision about the inspectorate**

Schedule 3A (further provision about the inspectorate) has effect.]

**Textual Amendments**

- F2** S. 61A inserted (1.4.2007) by [Police and Justice Act 2006](#) (c. 48), [ss. 32\(1\), 53\(1\)\(a\)](#) (with s. 33); [S.I. 2007/709](#), [art. 3\(m\)](#) (subject to arts. 6, 7)

**PART 6**

**JUDGES**

*Offices, titles, styles etc.*

**62 Head and Deputy Head of Civil Justice**

- (1) The Lord Chancellor must appoint a person to be Head of Civil Justice and may appoint a person to be Deputy Head of Civil Justice.
- (2) No person may be appointed under subsection (1) unless he is—
  - (a) the Master of the Rolls,
  - (b) the Vice-Chancellor, or
  - (c) an ordinary judge of the Court of Appeal.
- (3) A person appointed as Head of Civil Justice or Deputy Head of Civil Justice holds that office in accordance with the terms of his appointment.



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### 63 Ordinary judges of the Court of Appeal

(1) In section 2 of the 1981 Act (the Court of Appeal), for subsection (3) substitute—

“(3) An ordinary judge of the Court of Appeal (including the vice-president, if any, of either division) shall be styled “Lord Justice of Appeal” or “Lady Justice of Appeal”.”

(2) “The 1981 Act” means the Supreme Court Act 1981 (c. 54).

### 64 Power to alter judicial titles

(1) The Lord Chancellor may by order—

- (a) alter the name of an office listed in subsection (2);
- (b) provide for or alter the way in which the holders of any of those offices are to be styled.

(2) The offices are—

Admiralty Registrar  
Assistant Recorder  
Circuit judge  
Deputy Circuit judge  
Deputy district judge appointed under section 102 of the 1981 Act  
Deputy district judge for a county court district  
Deputy judge of the High Court  
District judge for a county court district  
District judge of the High Court  
District judge of the principal registry of the Family Division  
District probate registrar  
Lord Chief Justice  
Master of the Chancery Division  
Master of the Court of Protection  
Master of the Queen’s Bench Division  
Master of the Rolls  
Ordinary judge of the Court of Appeal  
President of the Family Division  
Presiding Judge for a Circuit  
Puisne judge of the High Court  
Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals  
Recorder  
Registrar in Bankruptcy of the High Court  
Senior Presiding Judge for England and Wales  
Taxing Master of the Supreme Court  
Vice-Chancellor  
Vice-president of the Court of Appeal  
Vice-president of the Queen’s Bench Division.

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- (3) The Lord Chancellor may also by order provide for or alter the way in which deputies or temporary additional officers appointed under section 91(1)(a) of the 1981 Act are to be styled.
- (4) Before making an order under this section the Lord Chancellor must 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 this section may make such provision as the Lord Chancellor considers necessary in consequence of any provision made under subsection (1) or (3).
- (6) The provision that may be made under subsection (5) includes provision amending, repealing or revoking any enactment.

*Flexibility in deployment of judicial resources*

VALID FROM 01/04/2005

**65 District Judges (Magistrates' Courts) as Crown Court judges etc.**

- (1) In section 8(1) of the 1981 Act (persons who are judges of the Crown Court), in paragraph (b) for “or Recorder” substitute “, Recorder or District Judge (Magistrates' Courts) ”.
- (2) Schedule 4 contains amendments conferring functions on District Judges (Magistrates' Courts).
- (3) References in any enactment, instrument or other document to a district judge or deputy district judge do not include—
  - (a) a District Judge (Magistrates' Courts), or
  - (b) a Deputy District Judge (Magistrates' Courts).

**66 Judges having powers of District Judges (Magistrates' Courts)**

- (1) Every holder of a judicial office specified in subsection (2) has the powers of a justice of the peace who is a District Judge (Magistrates' Courts) in relation to—
  - (a) criminal causes and matters, and
  - (b) family proceedings as defined by section 65 of the 1980 Act.
- (2) The offices are—
  - (a) judge of the High Court;
  - (b) deputy judge of the High Court;
  - (c) Circuit judge;
  - (d) deputy Circuit judge;
  - (e) recorder.
- (3) For the purposes of section 45 of the 1933 Act, every holder of a judicial office specified in subsection (2) is qualified to sit as a member of a youth court.

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- (4) For the purposes of section 67 of the 1980 Act—
- (a) a judge of the High Court or a deputy judge of the High Court is qualified to sit as a member of a family proceedings court to hear family proceedings of any description, and
  - (b) a Circuit judge, deputy Circuit judge or recorder is qualified to sit as a member of a family proceedings court to hear family proceedings of any description if he has been nominated to do so by the President of the Family Division.

#### Commencement Information

- I3** S. 66 partly in force; s. 66 not in force at Royal Assent see s. 110(1)(2); s. 66(1)(a)(2)(3) in force at 26.1.2004 by S.I. 2003/3345, art. 2(a)(iv)

### 67 Removal of restriction on Circuit judges sitting on certain appeals

Section 56A of the 1981 Act (Circuit judges not to sit on certain appeals) ceases to have effect.

## PART 7

### PROCEDURE RULES AND PRACTICE DIRECTIONS

#### Modifications etc. (not altering text)

- C4** Pt. 7 modified (6.4.2008) by Serious Crime Act 2007 (c. 27), ss. 36(4), 94(1); S.I. 2008/755, art. 15(1)(f)

### *Criminal Procedure Rules and practice directions*

### 68 Meaning of “criminal court”

In this Part “criminal court” means—

- (a) the criminal division of the Court of Appeal;
- (b) when dealing with any criminal cause or matter—
  - (i) the Crown Court;
  - (ii) a magistrates' court.

VALID FROM 01/09/2004

### 69 Criminal Procedure Rules

- (1) There are to be rules of court (to be called “Criminal Procedure Rules”) governing the practice and procedure to be followed in the criminal courts.
- (2) Criminal Procedure Rules are to be made by a committee known as the Criminal Procedure Rule Committee.

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- (3) The power to make Criminal Procedure Rules includes power to make different provision for different cases or different areas, including different provision—
  - (a) for a specified court or description of courts, or
  - (b) for specified descriptions of proceedings or a specified jurisdiction.
- (4) Any power to make or alter Criminal Procedure Rules is to be exercised with a view to securing that—
  - (a) the criminal justice system is accessible, fair and efficient, and
  - (b) the rules are both simple and simply expressed.

#### Commencement Information

**I4** S. 69 wholly in force at 1.9.2004, see s. 110(1)(2) and S.I. 2004/2066, art. 2(b)(i) (subject to art. 3)

## 70 Criminal Procedure Rule Committee

- (1) The Criminal Procedure Rule Committee is to consist of—
  - (a) the Lord Chief Justice, and
  - (b) the persons currently appointed by the Lord Chancellor under subsection (2).
- (2) The Lord Chancellor must appoint—
  - (a) a person nominated by the Secretary of State,
  - (b) three persons each of whom is either a puisne judge of the High Court or an ordinary judge of the Court of Appeal,
  - (c) two Circuit judges with particular experience of sitting in criminal courts,
  - (d) one District Judge (Magistrates' Courts),
  - (e) one lay justice,
  - (f) one justices' clerk,
  - (g) the Director of Public Prosecutions or a person nominated by the Director,
  - (h) two persons who have a Supreme Court qualification and who have particular experience of practice in criminal courts,
  - (i) two persons who—
    - (i) have been granted by an authorised body, under Part 2 of the 1990 Act, the right to conduct litigation in relation to all proceedings in the Supreme Court, and
    - (ii) have particular experience of practice in criminal courts,
  - (j) one person who appears to represent the Association of Chief Police Officers, and
  - (k) two persons who appear to represent voluntary organisations with a direct interest in the work of criminal courts.
- (3) Before appointing a person under subsection (2)(b) to (f), the Lord Chancellor must consult the Lord Chief Justice.
- (4) The Criminal Procedure Rule Committee is to be chaired by the Lord Chief Justice; and one of the judges appointed under subsection (2)(b) is to be his deputy.
- (5) The Lord Chancellor may reimburse—

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- (a) the travelling and out-of-pocket expenses of the members of the Criminal Procedure Rule Committee, and
  - (b) authorised travelling and out-of-pocket expenses of persons invited to participate in the work of the Committee.
- (6) “The 1990 Act” means the Courts and Legal Services Act 1990 (c. 41).

## **71 Power to change certain requirements relating to Committee**

- (1) The Lord Chancellor may by order—
- (a) amend section 70(2) (persons to be appointed to Committee by Lord Chancellor), and
  - (b) make consequential amendments in any other provision of section 70.
- (2) Before making an order under this section the Lord Chancellor must consult the Lord Chief Justice.

VALID FROM 01/09/2004

## **72 Process for making Criminal Procedure Rules**

- (1) The Criminal Procedure Rule Committee must, before making Criminal Procedure Rules—
- (a) consult such persons as they consider appropriate, and
  - (b) meet (unless it is inexpedient to do so).
- (2) Rules made by the Criminal Procedure Rule Committee must be—
- (a) signed by a majority of the members of the Committee, and
  - (b) submitted to the Lord Chancellor.
- (3) The Lord Chancellor may, with the concurrence of the Secretary of State, allow, disallow or alter rules so made.
- (4) Before altering rules so made the Lord Chancellor must consult the Committee.
- (5) Rules so made, as allowed or altered by the Lord Chancellor—
- (a) come into force on such day as the Lord Chancellor directs, and
  - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 (c. 36) applies as if the instrument contained rules made by a Minister of the Crown.
- (6) Subject to subsection (7), a statutory instrument containing Criminal Procedure Rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A statutory instrument containing rules altered by the Lord Chancellor is of no effect unless approved by a resolution of each House of Parliament before the day referred to in subsection (5)(a).

### **Commencement Information**

**I5** S. 72 wholly in force at 1.9.2004, see s. 110(1)(2) and [S.I. 2004/2066, art. 2\(b\)\(ii\)](#) (subject to [art. 3](#))

*Status: Point in time view as at 15/03/2004. This version of this Act contains provisions that are not valid for this point in time.*

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VALID FROM 03/04/2006

### **[<sup>F3</sup>72A Rules to be made if required by Lord Chancellor**

- (1) This section applies if the Lord Chancellor gives the Criminal Procedure Rules Committee written notice that he thinks it is expedient for Criminal Procedure Rules to include provision that would achieve a purpose specified in the notice.
- (2) The Committee must make such rules as it considers necessary to achieve the specified purpose.
- (3) Those rules must be—
  - (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
  - (b) made in accordance with section 72.
- (4) The Lord Chancellor may not give notice under subsection (1) unless the Secretary of State agrees.]

#### **Textual Amendments**

- F3** S. 72A inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 15, [Sch. 4 para. 336](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 11\(aa\)](#)

VALID FROM 01/09/2004

### **73 Power to amend legislation in connection with the rules**

The Lord Chancellor may, with the concurrence of the Secretary of State, by order amend, repeal or revoke any enactment to the extent that he considers necessary or desirable—

- (a) in order to facilitate the making of Criminal Procedure Rules, or
- (b) in consequence of section 69 or 72 or Criminal Procedure Rules.

#### **Commencement Information**

- I6** S. 73 wholly in force at 1.9.2004, see s. 110(1)(2) and [S.I. 2004/2066](#), [art. 2\(b\)\(iii\)](#) (subject to [art. 3](#))

### **74 Practice directions as to practice and procedure of the criminal courts**

- (1) The Lord Chief Justice may, with the concurrence of the Lord Chancellor, give directions as to the practice and procedure of the criminal courts.
- (2) Directions as to the practice and procedure of the criminal courts may not be given by anyone other than the Lord Chief Justice without the approval of the Lord Chief Justice and the Lord Chancellor.
- (3) The power to give directions under subsection (1) includes power—

**Status:** Point in time view as at 15/03/2004. This version of this Act contains provisions that are not valid for this point in time.

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- (a) to vary or revoke directions as to the practice and procedure of the criminal courts (or any of them), whether given by the Lord Chief Justice or any other person,
  - (b) to give directions containing different provision for different cases (including different areas), and
  - (c) to give directions containing provision for a specific court, for specific proceedings or for a specific jurisdiction.
- (4) Nothing in this section prevents the Lord Chief Justice, without the concurrence of the Lord Chancellor, giving directions which contain guidance as to law or making judicial decisions.

### *Family Procedure Rules and practice directions*

VALID FROM 07/10/2005

#### **75 Family Procedure Rules**

- (1) There are to be rules of court (to be called “Family Procedure Rules”) governing the practice and procedure to be followed in family proceedings in—
- (a) the High Court,
  - (b) county courts, and
  - (c) magistrates' courts.
- (2) Family Procedure Rules are to be made by a committee known as the Family Procedure Rule Committee.
- (3) “Family proceedings”, in relation to a court, means proceedings in that court which are family proceedings as defined by either—
- (a) section 65 of the 1980 Act, or
  - (b) section 32 of the Matrimonial and Family Proceedings Act 1984 (c. 42).
- (4) The power to make Family Procedure Rules includes power to make different provision for different areas, including different provision—
- (a) for a specified court or description of courts, or
  - (b) for specified descriptions of proceedings or a specified jurisdiction.
- (5) Any power to make or alter Family Procedure Rules is to be exercised with a view to securing that—
- (a) the family justice system is accessible, fair and efficient, and
  - (b) the rules are both simple and simply expressed.

#### **Commencement Information**

- I7** S. 75 partly in force; s. 75 not in force at Royal Assent see s. 110(1)(2); s. 75 in force for certain purposes at 7.10.2005 by [S.I. 2005/2744](#), [art. 2\(2\)\(a\)](#) (with [arts. 2\(1\), 3](#))

*Status: Point in time view as at 15/03/2004. This version of this Act contains provisions that are not valid for this point in time.*

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## 76 Further provision about scope of Family Procedure Rules

- (1) Family Procedure Rules may not be made in respect of matters which may be dealt with in probate rules made by the President of the Family Division, with the concurrence of the Lord Chancellor, under section 127 of the 1981 Act.
- (2) Family Procedure Rules may —
  - (a) modify or exclude the application of any provision of the County Courts Act 1984 (c. 28), and
  - (b) provide for the enforcement in the High Court of orders made in a divorce county court.
- (3) Family Procedure Rules may modify the rules of evidence as they apply to family proceedings in any court within the scope of the rules.
- (4) Family Procedure Rules may apply any rules of court (including in particular Civil Procedure Rules) which relate to—
  - (a) courts which are outside the scope of Family Procedure Rules, or
  - (b) proceedings other than family proceedings.
- (5) Any rules of court, not made by the Family Procedure Rule Committee, which apply to proceedings of a particular kind in a court within the scope of Family Procedure Rules may be applied by Family Procedure Rules to family proceedings in such a court.
- (6) In subsections (4) and (5) “rules of court” includes any provision governing the practice and procedure of a court which is made by or under an enactment.
- (7) Where Family Procedure Rules may be made by applying other rules, the other rules may be applied—
  - (a) to any extent,
  - (b) with or without modification, and
  - (c) as amended from time to time.
- (8) Family Procedure Rules may, instead of providing for any matter, refer to provision made or to be made about that matter by directions.

## 77 Family Procedure Rule Committee

- (1) The Family Procedure Rule Committee is to consist of—
  - (a) the President of the Family Division, and
  - (b) the persons currently appointed by the Lord Chancellor under subsection (2).
- (2) The Lord Chancellor must appoint—
  - (a) two judges of the Supreme Court, at least one of whom must be a puisne judge attached to the Family Division,
  - (b) one Circuit judge,
  - (c) one district judge of the principal registry of the Family Division,
  - (d) one district judge appointed under section 6 of the County Courts Act 1984 (c. 28),
  - (e) one District Judge (Magistrates' Courts),
  - (f) one lay justice,
  - (g) one justices' clerk,
  - (h) one person who has—



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- (i) a Supreme Court qualification, and
    - (ii) particular experience of family practice in the High Court,
  - (i) one person who has—
    - (i) a Supreme Court qualification, and
    - (ii) particular experience of family practice in county courts,
  - (j) one person who has—
    - (i) a Supreme Court qualification, and
    - (ii) particular experience of family practice in magistrates' courts,
  - (k) one person who—
    - (i) has been granted by an authorised body, under Part 2 of the 1990 Act, the right to conduct litigation in relation to all proceedings in the Supreme Court, and
    - (ii) has particular experience of family practice in the High Court,
  - (l) one person who—
    - (i) has been so granted that right, and
    - (ii) has particular experience of family practice in county courts,
  - (m) one person who—
    - (i) has been so granted that right, and
    - (ii) has particular experience of family practice in magistrates' courts,
  - (n) one person nominated by CAF/CASS, and
  - (o) one person with experience in and knowledge of the lay advice sector or the system of justice in relation to family proceedings.
- (3) Before appointing a person under subsection (2), the Lord Chancellor must consult the President of the Family Division.
- (4) Before appointing a person under subsection (2)(a), the Lord Chancellor must consult the Lord Chief Justice.
- (5) Before appointing a person under subsection (2)(h) to (m), the Lord Chancellor must consult any body which—
  - (a) has members eligible for appointment under the provision in question, and
  - (b) is an authorised body for the purposes of section 27 or 28 of the 1990 Act.
- (6) The Lord Chancellor may reimburse the members of the Family Procedure Rule Committee their travelling and out-of-pocket expenses.

## **78 Power to change certain requirements relating to Committee**

- (1) The Lord Chancellor may by order—
  - (a) amend section 77(2) (persons to be appointed to Committee by Lord Chancellor), and
  - (b) make consequential amendments in any other provision of section 77.
- (2) Before making an order under this section the Lord Chancellor must consult the President of the Family Division.

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VALID FROM 07/10/2005

## 79 Process for making Family Procedure Rules

- (1) The Family Procedure Rule Committee must, before making Family Procedure Rules—
  - (a) consult such persons as they consider appropriate, and
  - (b) meet (unless it is inexpedient to do so).
- (2) Rules made by the Family Procedure Rule Committee must be—
  - (a) signed by a majority of the members of the Committee, and
  - (b) submitted to the Lord Chancellor.
- (3) The Lord Chancellor may allow, disallow or alter rules so made.
- (4) Before altering rules so made the Lord Chancellor must consult the Committee.
- (5) Rules so made, as allowed or altered by the Lord Chancellor—
  - (a) come into force on such day as the Lord Chancellor directs, and
  - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 (c. 36) applies as if the instrument contained rules made by a Minister of the Crown.
- (6) Subject to subsection (7), a statutory instrument containing Family Procedure Rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A statutory instrument containing rules altered by the Lord Chancellor is of no effect unless approved by a resolution of each House of Parliament before the day referred to in subsection (5)(a).

### Commencement Information

- 18** S. 79 partly in force; s. 79 not in force at Royal Assent see s. 110(1)(2); s. 79 in force for certain purposes at 7.10.2005 by [S.I. 2005/2744](#), [art. 2\(2\)\(c\)](#) (with [arts. 2\(1\), 3](#))

VALID FROM 03/04/2006

## <sup>F4</sup>79A Rules to be made if required by Lord Chancellor

- (1) This section applies if the Lord Chancellor gives the Family Procedure Rules Committee written notice that he thinks it is expedient for Family Procedure Rules to include provision that would achieve a purpose specified in the notice.
- (2) The Committee must make such rules as it considers necessary to achieve the specified purpose.
- (3) Those rules must be—
  - (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
  - (b) made in accordance with section 79.]

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### Textual Amendments

- F4** S. 79A inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15, Sch. 4 para. 342](#); [S.I. 2006/1014, art. 2\(a\), Sch. 4 para. 11\(aa\)](#)

VALID FROM 07/10/2005

### 80 Power to amend legislation in connection with the rules

The Lord Chancellor may by order amend, repeal or revoke any enactment to the extent that he considers necessary or desirable—

- (a) in order to facilitate the making of Family Procedure Rules, or
- (b) in consequence of section 75, 76 or 79 or Family Procedure Rules.

### Commencement Information

- I9** S. 80 partly in force; s. 80 not in force at Royal Assent see s. 110(1)(2); s. 80 in force for certain purposes at 7.10.2005 by [S.I. 2005/2744, art. 2\(2\)\(d\)](#) (with [arts. 2\(1\), 3](#))

### 81 Practice directions relating to family proceedings

- (1) The President of the Family Division may, with the concurrence of the Lord Chancellor, give directions as to the practice and procedure of—
  - (a) county courts, and
  - (b) magistrates' courts,in family proceedings.
- (2) Directions as to the practice and procedure of those courts in family proceedings may not be given by anyone other than the President of the Family Division without the approval of the President of the Family Division and the Lord Chancellor.
- (3) The power to give directions under subsection (1) includes power—
  - (a) to vary or revoke directions as to the practice and procedure of magistrates' courts and county courts (or any of them) in family proceedings, whether given by the President of the Family Division or any other person,
  - (b) to give directions containing different provision for different cases (including different areas), and
  - (c) to give directions containing provision for a specific court, for specific proceedings or for a specific jurisdiction.

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## *Civil Procedure Rules*

PROSPECTIVE

### **82 Civil Procedure Rules**

(1) For section 1(3) of the 1997 Act (general objectives of Civil Procedure Rules) substitute—

“(3) Any power to make or alter Civil Procedure Rules is to be exercised with a view to securing that—

- (a) the system of civil justice is accessible, fair and efficient, and
- (b) the rules are both simple and simply expressed.”

(2) “The 1997 Act” means the Civil Procedure Act 1997 (c. 12).

### **83 Civil Procedure Rule Committee**

(1) For section 2(1)(a) and (b) of the 1997 Act (ex officio members of the Committee) substitute—

- “(aa) the Head of Civil Justice,
- (ab) the Deputy Head of Civil Justice (if there is one),
- (a) the Master of the Rolls (unless he holds an office mentioned in paragraph (aa) or (ab)), and”.

(2) For section 2(2)(a) of the 1997 Act (one judge of the Supreme Court to be appointed to Committee) substitute—

“(a) either two or three judges of the Supreme Court.”.

(3) For section 2(2)(g) and (h) of the 1997 Act (appointment of persons with experience etc. of lay advice sector and consumer affairs) substitute “and

- (g) two persons with experience in and knowledge of the lay advice sector or consumer affairs.”

### **84 Power to change certain requirements relating to Committee**

After section 2 of the 1997 Act insert—

#### **“2A Power to change certain requirements relating to Committee**

(1) The Lord Chancellor may by order—

- (a) amend section 2(2) (persons to be appointed to Committee by Lord Chancellor), and
- (b) make consequential amendments in any other provision of section 2.

(2) Before making an order under this section the Lord Chancellor must consult—

- (a) the Head of Civil Justice,
- (b) the Deputy Head of Civil Justice (if there is one), and
- (c) the Master of the Rolls (unless he holds an office mentioned in paragraph (a) or (b)).

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- (3) The power to make an order under this section is exercisable by statutory instrument.
- (4) A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament.”

PROSPECTIVE

## 85 Process for making Civil Procedure Rules

- (1) Omit section 2(6) to (8) of the 1997 Act (process for making Civil Procedure Rules).
- (2) For section 3 of the 1997 Act (section 2: supplementary) substitute—

### “3 Process for making Civil Procedure Rules

- (1) The Civil Procedure Rule Committee must, before making Civil Procedure Rules—
  - (a) consult such persons as they consider appropriate, and
  - (b) meet (unless it is inexpedient to do so).
- (2) Rules made by the Civil Procedure Rule Committee must be—
  - (a) signed by a majority of the members of the Committee, and
  - (b) submitted to the Lord Chancellor.
- (3) The Lord Chancellor may allow, disallow or alter rules so made.
- (4) Before altering rules so made the Lord Chancellor must consult the Committee.
- (5) Rules so made, as allowed or altered by the Lord Chancellor—
  - (a) come into force on such day as the Lord Chancellor directs, and
  - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by a Minister of the Crown.
- (6) Subject to subsection (7), a statutory instrument containing Civil Procedure Rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A statutory instrument containing rules altered by the Lord Chancellor is of no effect unless approved by a resolution of each House of Parliament before the day referred to in subsection (5)(a).”

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## PART 8

### MISCELLANEOUS

VALID FROM 01/05/2004

#### *Provisions relating to criminal procedure and appeals*

#### **86 Alteration of place fixed for Crown Court trial**

An application under section 76(3) of the 1981 Act (application for variation of place fixed for Crown Court trial) is no longer required to be heard in open court by a judge of the High Court; and accordingly section 76(4) of the 1981 Act ceases to have effect.

#### **87 Appeals to Court of Appeal: procedural directions**

- (1) In section 31 of the 1968 Act (powers of the Court of Appeal under Part 1 of that Act exercisable by single judge), in subsection (2), after paragraph (h) insert—
  - “(i) to make orders under section 23(1)(a).”
- (2) In section 31A of the 1968 Act (powers of Court of Appeal under Part 1 of that Act exercisable by registrar), in subsection (2), after paragraph (c) insert—
  - “(d) to make orders under section 23(1)(a).”, and at the end of paragraph (b), omit “and”.
- (3) After section 31A of the 1968 Act insert—

#### **“31B Procedural directions: powers of single judge and registrar**

- (1) The power of the Court of Appeal to determine an application for procedural directions may be exercised by—
  - (a) a single judge, or
  - (b) the registrar.
- (2) “Procedural directions” means directions for the efficient and effective preparation of—
  - (a) an application for leave to appeal, or
  - (b) an appeal,
 to which this section applies.
- (3) A single judge may give such procedural directions as he thinks fit—
  - (a) when acting under subsection (1);
  - (b) on a reference from the registrar;
  - (c) of his own motion, when he is exercising, or considering whether to exercise, any power of his in relation to the application or appeal.
- (4) The registrar may give such procedural directions as he thinks fit—
  - (a) when acting under subsection (1);
  - (b) of his own motion.

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- (5) This section applies to an appeal, and an application to the Court of Appeal for leave to appeal, under—
- (a) this Part,
  - (b) section 9 of the Criminal Justice Act 1987, or
  - (c) section 35 of the Criminal Procedure and Investigations Act 1996.

### **31C Appeals against procedural directions**

- (1) Subsection (2) applies if a single judge gives, or refuses to give, procedural directions.
- (2) The Court of Appeal may, on an application to it under subsection (5)—
- (a) confirm, set aside or vary any procedural directions given by the single judge, and
  - (b) give such procedural directions as it thinks fit.
- (3) Subsection (4) applies if the registrar gives, or refuses to give, procedural directions.
- (4) A single judge may, on an application to him under subsection (5)—
- (a) confirm, set aside or vary any procedural directions given by the registrar, and
  - (b) give such procedural directions as he thinks fit.
- (5) An application under this subsection may be made by—
- (a) an appellant;
  - (b) a respondent, if the directions—
    - (i) relate to an application for leave to appeal and appear to need the respondent’s assistance to give effect to them,
    - (ii) relate to an application for leave to appeal which is to be determined by the Court of Appeal, or
    - (iii) relate to an appeal.
- (6) In this section—
- “appellant” includes a person who has given notice of application for leave to appeal under any of the provisions mentioned in section 31B(5);
- “respondent” includes a person who will be a respondent if leave to appeal is granted.”
- (4) Sections 31B to 31C of the 1968 Act apply to—
- (a) applications for leave to appeal falling to be determined on or after the date on which this section comes into force, and
  - (b) appeals in relation to which—
    - (i) a certificate under Part 1 of the 1968 Act that the case is fit for appeal, or
    - (ii) leave to appeal,is granted on or after that date.
- (5) “The 1968 Act” means the Criminal Appeal Act 1968 (c. 19).

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VALID FROM 01/04/2005

## 88 Extension of time for criminal appeals to House of Lords

- (1) Amend section 2 of the Administration of Justice Act 1960 (c. 65) (applications for leave to appeal to House of Lords) as follows.
- (2) In subsection (1)—
  - (a) for “fourteen” (in both places) substitute “ 28 ”, and
  - (b) for “date of the decision of that court” substitute “ relevant date ”.
- (3) After subsection (1) insert—
 

“(1A) In subsection (1), “the relevant date” means—

  - (a) the date of the decision of the court below, or
  - (b) if later, the date on which that court gives reasons for its decision.”
- (4) Amend section 34 of the 1968 Act (applications for leave to appeal to the House of Lords) as follows.
- (5) In subsection (1)—
  - (a) for “fourteen” (in both places) substitute “ 28 ”, and
  - (b) for “date of the decision of the Court” substitute “ relevant date ”.
- (6) After subsection (1) insert—
 

“(1A) In subsection (1), “the relevant date” means—

  - (a) the date of the Court of Appeal’s decision, or
  - (b) if later, the date on which the Court gives reasons for its decision.”

VALID FROM 01/04/2005

## 89 Retirement age of Registrar of Criminal Appeals

- (1) In section 92 of the 1981 Act (tenure of offices in Supreme Court)—
  - (a) in subsection (2) (offices with retirement age of 70, but with possibility of extensions to not beyond 75), omit “except the office of Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals”,
  - (b) omit subsections (2D) and (2E) (retirement age of 62 for that office), and
  - (c) in subsection (4) (offices to which subsection (1), (2A) or (2D) applies to be held during good behaviour), for “to which subsection (1), (2A) or (2D) applies” substitute “ listed in column 1 of Part 1 or 2 of Schedule 2 ”.
- (2) In Schedule 5 to the Judicial Pensions and Retirement Act 1993 (c. 8) (retirement), after the entry relating to a Deputy or temporary Master, Queen’s Bench Division, insert— “ Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals ”.



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VALID FROM 01/04/2005

## **90 Appeals to Courts-Martial Appeal Court: procedural directions**

- (1) In section 36 of the Courts-Martial (Appeals) Act 1968 (c. 20) (powers of the Appeal Court under Part 2 of that Act exercisable by single judge), in subsection (1), after paragraph (g) insert—
  - “(h) to make orders under section 28(1)(a).”, and at the end of paragraph (f), omit “and”.
- (2) In section 36A of that Act (powers of the Appeal Court under Part 2 of that Act exercisable by registrar), in subsection (1), at the end of paragraph (b) insert “and—
  - (c) to make orders under section 28(1)(a).”, and at the end of paragraph (a), omit “and”.
- (3) After section 36A of that Act insert—

### **“36B Procedural directions: powers of single judge and registrar**

- (1) The power of the Appeal Court to determine an application for procedural directions may be exercised by—
  - (a) a judge of the Appeal Court, or
  - (b) the registrar.
- (2) “Procedural directions” means directions for the efficient and effective preparation of—
  - (a) an application for leave to appeal, or
  - (b) an appeal,under this Part.
- (3) A judge of the Appeal Court may give such procedural directions as he thinks fit—
  - (a) when acting under subsection (1);
  - (b) on a reference from the registrar;
  - (c) of his own motion, when he is exercising, or considering whether to exercise, any power of his in relation to the application or appeal.
- (4) The registrar may give such procedural directions as he thinks fit—
  - (a) when acting under subsection (1);
  - (b) of his own motion.

### **36C Appeals against procedural directions**

- (1) Subsection (2) applies if a judge of the Appeal Court gives, or refuses to give, procedural directions.
- (2) The Appeal Court may, on an application to it under subsection (5)—
  - (a) confirm, set aside or vary any procedural directions given by the judge, and
  - (b) give such procedural directions as it thinks fit.

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(3) Subsection (4) applies if the registrar gives, or refuses to give, procedural directions.

(4) A judge of the Appeal Court may, on an application to him under subsection (5)—

- (a) confirm, set aside or vary any procedural directions given by the registrar, and
- (b) give such procedural directions as he thinks fit.

(5) An application under this subsection may be made by—

- (a) an appellant;
- (b) the Defence Council, if the directions—
  - (i) relate to an application for leave to appeal and appear to need the Defence Council’s assistance to give effect to them,
  - (ii) relate to an application for leave to appeal which is to be determined by the Appeal Court, or
  - (iii) relate to an appeal.”

(4) Sections 36B to 36C of that Act apply to—

- (a) applications for leave to appeal falling to be determined on or after the date on which this section comes into force, and
- (b) appeals in relation to which leave to appeal is granted on or after that date.

VALID FROM 01/04/2005

## **91 Extension of time for appeals from Courts-Martial Appeal Court**

(1) Amend section 40 of the Courts-Martial (Appeals) Act 1968 (c. 20) (applications for leave to appeal to House of Lords) as follows.

(2) In subsection (1)—

- (a) for “fourteen” (in both places) substitute “ 28 ”, and
- (b) for “date of the decision of the Court” substitute “ relevant date ”.

(3) After subsection (1) insert—

“(1A) In subsection (1), “the relevant date” means—

- (a) the date of the Appeal Court’s decision, or
- (b) if later, the date on which the Court gives reasons for its decision.”

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## *Fees and costs*

VALID FROM 04/01/2005

### **92 Fees**

- (1) The Lord Chancellor may with the consent of the Treasury by order prescribe fees payable in respect of anything dealt with by—
  - (a) the Supreme Court,
  - (b) county courts, and
  - (c) magistrates' courts.
- (2) An order under this section may, in particular, contain provision as to—
  - (a) scales or rates of fees;
  - (b) exemptions from or reductions in fees;
  - (c) remission of fees in whole or in part.
- (3) When including any provision in an order under this section, the Lord Chancellor must have regard to the principle that access to the courts must not be denied.
- (4) The Lord Chancellor may not under this section prescribe fees which he or another authority has power to prescribe apart from this section.
- (5) Before making an order under this section, the Lord Chancellor must consult—
  - (a) the Lord Chief Justice;
  - (b) the Master of the Rolls;
  - (c) the President of the Family Division;
  - (d) the Vice Chancellor;
  - (e) the Head of Civil Justice;
  - (f) the Deputy Head of Civil Justice (if there is one).
- (6) Before making an order under this section in relation to civil proceedings, the Lord Chancellor must consult the Civil Justice Council.
- (7) The Lord Chancellor must take such steps as are reasonably practicable to bring information about fees to the attention of persons likely to have to pay them.
- (8) Fees payable under this section are recoverable summarily as a civil debt.
- (9) Subsection (10) applies in relation to an authority which has power to prescribe fees payable in any of the courts referred to in subsection (1).
- (10) Nothing in this section prevents the authority from applying to any extent provisions contained in an order made under this section; and an instrument made in exercise of the power is to be read (unless the contrary intention appears) as applying those provisions as amended from time to time.

### **93 Award of costs against third parties**

After section 19A of the Prosecution of Offences Act 1985 (c. 23) insert—

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### **“19B Provision for award of costs against third parties**

- (1) The Lord Chancellor may by regulations make provision empowering magistrates' courts, the Crown Court and the Court of Appeal to make a third party costs order if the condition in subsection (3) is satisfied.
- (2) A “third party costs order” is an order as to the payment of costs incurred by a party to criminal proceedings by a person who is not a party to those proceedings (“the third party”).
- (3) The condition is that—
  - (a) there has been serious misconduct (whether or not constituting a contempt of court) by the third party, and
  - (b) the court considers it appropriate, having regard to that misconduct, to make a third party costs order against him.
- (4) Regulations made under this section may, in particular—
  - (a) specify types of misconduct in respect of which a third party costs order may not be made;
  - (b) allow the making of a third party costs order at any time;
  - (c) make provision for any other order as to costs which has been made in respect of the proceedings to be varied on, or taken account of in, the making of a third party costs order;
  - (d) make provision for account to be taken of any third party costs order in the making of any other order as to costs in respect of the proceedings.
- (5) Regulations made under this section in relation to magistrates' courts must provide that the third party may appeal to the Crown Court against a third party costs order made by a magistrates' court.
- (6) Regulations made under this section in relation to the Crown Court must provide that the third party may appeal to the Court of Appeal against a third party costs order made by the Crown Court.”

## **94 Award of costs in appeals under Proceeds of Crime Act 2002**

- (1) Amend the Proceeds of Crime Act 2002 (c. 29) as follows.
- (2) In section 89 (procedure on appeal to the Court of Appeal), after subsection (3) insert—
  - “(4) Subject to any rules made under section 91, the costs of and incidental to all proceedings on an appeal to the criminal division of the Court of Appeal under—
    - (a) section 43(1) or (2) (appeals against orders made in restraint proceedings), or
    - (b) section 65 (appeals against, or relating to, the making of receivership orders),
 are in the discretion of the court.
- (5) Such rules may in particular make provision for regulating matters relating to the costs of those proceedings, including prescribing scales of costs to be paid to legal or other representatives.

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- (6) The court shall have full power to determine by whom and to what extent the costs are to be paid.
- (7) In any proceedings mentioned in subsection (4), the court may—
- (a) disallow, or
  - (b) (as the case may be) order the legal or other representative concerned to meet,
- the whole of any wasted costs or such part of them as may be determined in accordance with rules under section 91.
- (8) In subsection (7) “wasted costs” means any costs incurred by a party—
- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative, or
  - (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.
- (9) “Legal or other representative”, in relation to a party to proceedings means any person exercising a right of audience or right to conduct litigation on his behalf.”
- (3) Subsection (2) applies in relation to proceedings on appeals in respect of offences committed or alleged to have been committed on or after 24th March 2003.
- (4) In section 91 (Crown Court Rules) after “Crown Court Rules” insert “ or (as the case may be) Criminal Appeal Rules ”.

### *Fines*

VALID FROM 05/04/2004

#### **95 Fixing of fines: failure to furnish statement of financial circumstances**

- (1) Amend section 20A of the Criminal Justice Act 1991 (c. 53) (false statements as to financial circumstances) as follows.
- (2) After subsection (1) insert—
- “(1A) A person who is charged with an offence who fails to furnish a statement of his financial circumstances in response to an official request shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.”
- (3) In subsection (2)(b), after “may impose” insert “ and how it should be paid ”.
- (4) In section 128(5) of the 2000 Act (fixing of fines: power of court to make determination of financial circumstances where offender has failed to co-operate with court etc.), in paragraph (b) before sub-paragraph (i) insert—
- “(zi) has failed to furnish a statement of his financial circumstances in response to a request which is an official request for the purposes of section 20A of the Criminal

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Justice Act 1991 (offence of making false statements as to financial circumstances),”.

(5) “The 2000 Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

VALID FROM 05/04/2004

**96 Recovery of fines etc. by deductions from income support: failure to provide information**

- (1) Amend section 24 of the Criminal Justice Act 1991 (power to make regulations about recovery of fines etc. by deductions from income support) as follows.
- (2) In subsection (2), after paragraph (a) insert—
  - “(aa) provision that the court may require the offender to provide prescribed information in connection with an application;”.
- (3) After subsection (2) insert—
  - “(2A) An offender who fails to provide information required by the court by virtue of subsection (2)(aa) commits an offence.
  - (2B) An offender commits an offence if, in providing information required by the court by virtue of that subsection, he—
    - (a) makes a statement which he knows to be false in a material particular,
    - (b) recklessly provides a statement which is false in a material particular, or
    - (c) knowingly fails to disclose any material fact.
  - (2C) A person guilty of an offence under subsection (2A) or (2B) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.”

**97 Collection of fines and discharge of fines by unpaid work**

- (1) Schedule 5 contains provisions about the collection of fines.
- (2) Schedule 6 contains provisions about the discharge of fines by means of unpaid work.
- (3) Subsections (4) to (9) apply in relation to each of those Schedules.
- (4) The Schedule is to have effect only in accordance with—
  - (a) subsections (5) and (6) (pilot schemes), or
  - (b) subsections (7) to (9) (power to make pilot schemes, or modified versions of pilot schemes, permanent after completion of pilots).
- (5) The Lord Chancellor may by order provide that the Schedule is to have effect in relation to the local justice area or areas specified in the order for the period specified in the order.
- (6) An order under subsection (5) may make provision modifying the Schedule, or any enactment in connection with the operation of the Schedule, in relation to the specified local justice area or areas and the specified period.

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- (7) The Lord Chancellor may, at the end of the relevant period, by order provide that the Schedule is to have effect—
- (a) in all local justice areas, and
  - (b) indefinitely.
- (8) “The relevant period” means—
- (a) if one order has been made under subsection (5) in relation to the Schedule, the period specified in the order;
  - (b) if more than one order has been made under subsection (5) in relation to the Schedule, the period which, out of the periods so specified, ends at the latest date.
- (9) An order under subsection (7) may make such amendments of—
- (a) the Schedule, and
  - (b) any other enactments,
- as appear to the Lord Chancellor appropriate in the light of the operation of the Schedule in accordance with the order made under subsection (5) (pilot schemes).

#### Commencement Information

**I10** S. 97 wholly in force; s. 97 not in force at Royal Assent see s. 110(1)(2); s. 97 in force for certain purposes at 23.2.2004 by S.I. 2004/174, art. 4(a); s. 97 in force for certain further purposes at 29.3.2004 by S.I. 2004/174, art. 4(b); s. 97 in force for certain further purposes at 5.4.2004 by S.I. 2004/174, art. 4(c); s. 97 in force for certain further purposes at 1.5.2004 by S.I. 2004/1104, art. 3(c); s. 97 in force at 21.9.2004 insofar as not already in force by S.I. 2004/2195, art. 2

### *Register of judgments etc. and execution of writs*

#### **98 Register of judgments and orders etc.**

- (1) A register is to be kept, in accordance with regulations, of—
- (a) judgments entered in the High Court;
  - (b) judgments entered in county courts;
  - (c) administration orders made under section 112 of the County Courts Act 1984 (c. 28) (power of county courts to make administration orders);
  - (d) orders restricting enforcement made under section 112A of that Act (power of county courts to restrict enforcement of debts in lieu of administration order);
  - (e) sums which are, for the purposes of the 1980 Act, sums adjudged to be paid by a conviction or order of a magistrates' court.
- (2) “Regulations” means regulations made by the Lord Chancellor for the purposes of this section.
- (3) The regulations may—
- (a) provide for prescribed classes of judgments, orders or adjudged sums to be exempt from registration;
  - (b) prescribe circumstances in which judgments, orders or adjudged sums (or classes of them) are to be exempt from registration;
  - (c) prescribe circumstances in which an entry in the register is to be cancelled;

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- (d) in the case of sums adjudged to be paid by conviction of a magistrates' court, provide for sums to be registered only in prescribed circumstances or subject to prescribed conditions.
- (4) The Lord Chancellor may fix charges to be made for—
- (a) making information in an entry in the register available for inspection;
  - (b) carrying out an official search of the register;
  - (c) supplying a certified copy of information in an entry in the register.
- (5) The proceeds of those charges are to be applied in paying the expenses incurred in maintaining the register; and any surplus is to be paid into the Consolidated Fund.
- (6) If there is in force an agreement between the Lord Chancellor and a body corporate relating to the keeping by that body corporate of the register the register is to be kept by that body corporate.
- (7) If, under subsection (6), the register is kept by a body corporate—
- (a) the Lord Chancellor may recover from the body corporate any expenses incurred by the Lord Chancellor in connection with the supply of information to that body for the purposes of the register,
  - (b) subsection (4) applies as if it enabled the Lord Chancellor to fix the maximum charges to be made (instead of the charges to be made), and
  - (c) subsection (5) does not apply.
- (8) If subsection (6) ceases to apply to a body corporate as a result of the termination (for any reason) of the agreement, the Lord Chancellor may require the information contained in the entries in the register to be transferred to such person as he may direct.

#### Commencement Information

**I11** S. 98 partly in force at 6.4.2006; s. 98 not in force at Royal Assent see s. 110(1)(2); s. 98(1)(e)(2)(3)(c)(d)(4)-(8) in force at 26.1.2004 by S.I. 2003/3345, art. 2(c)(i); s. 98(1)(a)-(c)(3)(a)(b) in force at 6.4.2006 by S.I. 2005/3518, art. 3(a)

## 99 High Court writs of execution

- (1) Schedule 7 contains provisions about High Court writs of execution.
- (2) Any rule of law requiring a writ of execution issued from the High Court to be directed to a sheriff is abolished.

#### Commencement Information

**I12** S. 99 wholly in force at 15.3.2004; s. 99 not in force at Royal Assent see s. 110(1)(2); s. 99 in force at 15.3.2004 by S.I. 2004/401, art. 2(a) (with art. 3)



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VALID FROM 01/04/2005

## *Damages*

### **100 Periodical payments**

- (1) For section 2 of the Damages Act 1996 (c. 48) (periodical payments by consent) substitute—

#### **“2 Periodical payments**

- (1) A court awarding damages for future pecuniary loss in respect of personal injury—
- (a) may order that the damages are wholly or partly to take the form of periodical payments, and
  - (b) shall consider whether to make that order.
- (2) A court awarding other damages in respect of personal injury may, if the parties consent, order that the damages are wholly or partly to take the form of periodical payments.
- (3) A court may not make an order for periodical payments unless satisfied that the continuity of payment under the order is reasonably secure.
- (4) For the purpose of subsection (3) the continuity of payment under an order is reasonably secure if—
- (a) it is protected by a guarantee given under section 6 of or the Schedule to this Act,
  - (b) it is protected by a scheme under section 213 of the Financial Services and Markets Act 2000 (compensation) (whether or not as modified by section 4 of this Act), or
  - (c) the source of payment is a government or health service body.
- (5) An order for periodical payments may include provision—
- (a) requiring the party responsible for the payments to use a method (selected or to be selected by him) under which the continuity of payment is reasonably secure by virtue of subsection (4);
  - (b) about how the payments are to be made, if not by a method under which the continuity of payment is reasonably secure by virtue of subsection (4);
  - (c) requiring the party responsible for the payments to take specified action to secure continuity of payment, where continuity is not reasonably secure by virtue of subsection (4);
  - (d) enabling a party to apply for a variation of provision included under paragraph (a), (b) or (c).
- (6) Where a person has a right to receive payments under an order for periodical payments, or where an arrangement is entered into in satisfaction of an order which gives a person a right to receive periodical payments, that person’s right under the order or arrangement may not be assigned or charged without the approval of the court which made the order; and—

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- (a) a court shall not approve an assignment or charge unless satisfied that special circumstances make it necessary, and
  - (b) a purported assignment or charge, or agreement to assign or charge, is void unless approved by the court.
- (7) Where an order is made for periodical payments, an alteration of the method by which the payments are made shall be treated as a breach of the order (whether or not the method was specified under subsection (5)(b)) unless—
- (a) the court which made the order declares its satisfaction that the continuity of payment under the new method is reasonably secure,
  - (b) the new method is protected by a guarantee given under section 6 of or the Schedule to this Act,
  - (c) the new method is protected by a scheme under section 213 of the Financial Services and Markets Act 2000 (compensation) (whether or not as modified by section 4 of this Act), or
  - (d) the source of payment under the new method is a government or health service body.
- (8) An order for periodical payments shall be treated as providing for the amount of payments to vary by reference to the retail prices index (within the meaning of section 833(2) of the Income and Corporation Taxes Act 1988) at such times, and in such a manner, as may be determined by or in accordance with Civil Procedure Rules.
- (9) But an order for periodical payments may include provision—
- (a) disapplying subsection (8), or
  - (b) modifying the effect of subsection (8).

## **2A Periodical payments: supplementary**

- (1) Civil Procedure Rules may require a court to take specified matters into account in considering—
- (a) whether to order periodical payments;
  - (b) the security of the continuity of payment;
  - (c) whether to approve an assignment or charge.
- (2) For the purposes of section 2(4)(c) and (7)(d) “government or health service body” means a body designated as a government body or a health service body by order made by the Lord Chancellor.
- (3) An order under subsection (2)—
- (a) shall be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Section 2(6) is without prejudice to a person’s power to assign a right to the scheme manager established under section 212 of the Financial Services and Markets Act 2000.
- (5) In section 2 “damages” includes an interim payment which a court orders a defendant to make to a claimant.
- (6) In the application of this section to Northern Ireland—

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- (a) a reference to Civil Procedure Rules shall be taken as a reference to rules of court, and
  - (b) a reference to a claimant shall be taken as a reference to a plaintiff.
- (7) Section 2 is without prejudice to any power exercisable apart from that section.

## **2B Variation of orders and settlements**

- (1) The Lord Chancellor may by order enable a court which has made an order for periodical payments to vary the order in specified circumstances (otherwise than in accordance with section 2(5)(d)).
- (2) The Lord Chancellor may by order enable a court in specified circumstances to vary the terms on which a claim or action for damages for personal injury is settled by agreement between the parties if the agreement—
  - (a) provides for periodical payments, and
  - (b) expressly permits a party to apply to a court for variation in those circumstances.
- (3) An order under this section may make provision—
  - (a) which operates wholly or partly by reference to a condition or other term of the court's order or of the agreement;
  - (b) about the nature of an order which may be made by a court on a variation;
  - (c) about the matters to be taken into account on considering variation;
  - (d) of a kind that could be made by Civil Procedure Rules or, in relation to Northern Ireland, rules of court (and which may be expressed to be with or without prejudice to the power to make those rules).
- (4) An order under this section may apply (with or without modification) or amend an enactment about provisional or further damages.
- (5) An order under this section shall be subject to any order under section 1 of the Courts and Legal Services Act 1990 (allocation between High Court and county courts).
- (6) An order under this section—
  - (a) shall be made by statutory instrument,
  - (b) may not be made unless the Lord Chancellor has consulted such persons as he thinks appropriate,
  - (c) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament, and
  - (d) may include transitional, consequential or incidental provision.
- (7) In subsection (4)—
  - “provisional damages” means damages awarded by virtue of subsection (2)(a) of section 32A of the Supreme Court Act 1981 or section 51 of the County Courts Act 1984 (or, in relation to Northern Ireland, paragraph 10(2)(a) of Schedule 6 to the Administration of Justice Act 1982), and
  - “further damages” means damages awarded by virtue of subsection (2)(b) of either of those sections (or, in relation to Northern

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Ireland, paragraph 10(2)(b) of Schedule 6 to the Administration of Justice Act 1982.”

(2) In section 329AA of the Income and Corporation Taxes Act 1988 (c. 1) (periodical payments)—

(a) for subsection (1) substitute—

“(1) Periodical payments shall not for the purposes of income tax be regarded as the income of any of the persons mentioned in subsection (2) below (and shall be paid without deduction under section 348(1)(b) or 349(1)).

(1A) In subsection (1) “periodical payments” means periodical payments made pursuant to—

(a) an order of a court in so far as it is made in reliance on section 2 of the Damages Act 1996 (including an order as varied), or

(b) an agreement in so far as it settles a claim or action for damages in respect of personal injury (including an agreement as varied).”,

(b) in subsection (3) for “if the agreement or order mentioned in that subsection or a subsequent agreement so provides,” substitute “ if the order, agreement or undertaking mentioned in subsection (1A), or a varying order, agreement or undertaking, so provides or permits, ”,

(c) in subsection (6) after “claim or action for” insert “ damages in respect of ”,

(d) for subsection (7) substitute—

“(7) For the purposes of subsection (1A) above—

(a) the reference to an order of a court made in reliance on section 2 of the Damages Act 1996 includes an order of a court outside the United Kingdom which is similar to an order made in reliance on that section,

(b) the reference to an agreement settling a claim or action includes a reference to an agreement to make payments on account of damages that may be awarded in a claim or action, and

(c) the reference to an agreement in so far as it settles a claim or action for damages in respect of personal injury also includes a reference to an undertaking given by the Motor Insurers' Bureau (being the company of that name incorporated on 14th June 1946 under the Companies Act 1929), or an Article 75 insurer under the Bureau's Articles of Association, in relation to a claim or action in respect of personal injury.”, and

(e) omit subsection (8).

(3) In section 329AB(1) of that Act (statutory compensation) for “subsection (1)” substitute “ subsection (1A) ”.

(4) In this section—

(a) subsection (1) shall extend only to England and Wales and Northern Ireland, and

(b) the remainder shall extend to the whole of the United Kingdom.

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## **101 Periodical payments: security**

- (1) For sections 4 and 5 of the Damages Act 1996 (c. 48) (enhanced protection for structured settlement annuitant) substitute—

### **“4 Enhanced protection for periodical payments**

- (1) Subsection (2) applies where—
- (a) a person has a right to receive periodical payments, and
  - (b) his right is protected by a scheme under section 213 of the Financial Services and Markets Act 2000 (compensation), but only as to part of the payments.
- (2) The protection provided by the scheme shall extend by virtue of this section to the whole of the payments.
- (3) Subsection (4) applies where—
- (a) one person (“the claimant”) has a right to receive periodical payments from another person (“the defendant”),
  - (b) a third person (“the insurer”) is required by or in pursuance of an arrangement entered into with the defendant (whether or not together with other persons and whether before or after the creation of the claimant’s right) to make payments in satisfaction of the claimant’s right or for the purpose of enabling it to be satisfied, and
  - (c) the claimant’s right to receive the payments would be wholly or partly protected by a scheme under section 213 of the Financial Services and Markets Act 2000 if it arose from an arrangement of the same kind as that mentioned in paragraph (b) but made between the claimant and the insurer.
- (4) For the purposes of the scheme under section 213 of that Act—
- (a) the claimant shall be treated as having a right to receive the payments from the insurer under an arrangement of the same kind as that mentioned in subsection (3)(b),
  - (b) the protection under the scheme in respect of those payments shall extend by virtue of this section to the whole of the payments, and
  - (c) no person other than the claimant shall be entitled to protection under the scheme in respect of the payments.
- (5) In this section “periodical payments” means periodical payments made pursuant to—
- (a) an order of a court in so far as it is made in reliance on section 2 above (including an order as varied), or
  - (b) an agreement in so far as it settles a claim or action for damages in respect of personal injury (including an agreement as varied).
- (6) In subsection (5)(b) the reference to an agreement in so far as it settles a claim or action for damages in respect of personal injury includes a reference to an undertaking given by the Motor Insurers’ Bureau (being the company of that name incorporated on 14th June 1946 under the Companies Act 1929), or an Article 75 insurer under the Bureau’s Articles of Association, in relation to a claim or action in respect of personal injury.”

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- (2) In section 6(1) of the Damages Act 1996 (c. 48) (guarantee for public sector settlement) for the words “on terms corresponding to those of a structured settlement as defined in section 5 above except that the person to whom the payments are to be made is not to receive them as mentioned in subsection (1)(b) of that section” substitute “ on terms whereby the damages are to consist wholly or partly of periodical payments ”.
- (3) In paragraph 1(a) of the Schedule to that Act (guarantee by Northern Ireland Department for public sector settlement) for the words “on terms corresponding to those of a structured settlement as defined in section 5 of this Act except that the person to whom the payments are to be made is not to receive them as mentioned in subsection (1)(b) of that section” substitute “ on terms whereby the damages are to consist wholly or partly of periodical payments ”.
- (4) Where an individual who has a right to receive periodical payments becomes bankrupt—
- (a) the payments shall be treated for the purposes of the bankruptcy as income of the bankrupt (but without prejudice to [F<sup>5</sup>section 731 of the Income Tax (Trading and Other Income) Act 2005](c. 1)),
  - (b) neither the right to receive periodical payments, nor any property or arrangement designed to protect continuity of the periodical payments, shall form part of the bankrupt’s estate for the purposes of the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
  - (c) an income payments order may not be made in respect of any part of the periodical payments identified (in the order or agreement under which the payments are made) as relating wholly to expenditure likely to be incurred by or for the individual as a result of the personal injury concerned,
  - (d) nothing in section 2 of the Damages Act 1996 (c. 48) shall prevent a court from making an income payments order (subject to paragraph (c)), and
  - (e) nothing in section 2 of that Act shall prevent entry into an income payments agreement.
- (5) In subsection (4)—
- “bankrupt” has the meaning given by section 381 of the Insolvency Act 1986 or Article 9 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
- “income payments agreement” means an agreement under section 310A of that Act or equivalent legislation for Northern Ireland,
- “income payments order” means an order under section 310 of that Act or equivalent legislation for Northern Ireland, and
- “periodical payments” means periodical payments awarded or agreed, or in so far as awarded or agreed, as damages for future pecuniary loss by—
- (a) an order of a court made in reliance on section 2 of the Damages Act 1996 (including an order as varied), or
  - (b) an agreement settling a claim or action for damages in respect of personal injury (including an agreement as varied).
- (6) In this section—
- (a) subsections (1) to (3) shall extend to the whole of the United Kingdom, and

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- (b) subsections (4) and (5) shall extend only to England and Wales and Northern Ireland.

**Textual Amendments**

- F5** Words in s. 101(4)(a) substituted (6.4.2005 with effect as mentioned in s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 882\(1\), Sch. 1 para. 627](#) (with [Sch. 2](#))

*Provisions relating to Northern Ireland*

**102 Power to alter judicial titles: Northern Ireland**

- (1) The Lord Chancellor may by order—
- (a) alter the name of any of the offices of the Supreme Court of Judicature of Northern Ireland or of the county courts in Northern Ireland which are listed in subsection (2);
  - (b) provide for or alter the way in which the holders of any of those offices are to be styled.
- (2) The offices are—
- County court judge
  - Deputy judge of the county court
  - District Judge
  - Judge of the Court of Appeal
  - Lord Chief Justice
  - Master (Bankruptcy)
  - Master (Care and Protection)
  - Master (Chancery)
  - Master (Enforcement of Judgments)
  - Master (High Court)
  - Master (Probate and Matrimonial)
  - Master (Queen’s Bench and Appeals)
  - Master (Taxing Office)
  - Presiding judge for the county courts
  - Puisne judge of the High Court.
- (3) The Lord Chancellor may also by order provide for or alter the way in which deputies or temporary additional officers appointed under section 74(1) of the 1978 Act are to be styled.
- (4) Before making an order under this section the Lord Chancellor must consult the Lord Chief Justice.
- (5) An order under this section may make such provision as the Lord Chancellor considers necessary in consequence of any provision made under subsection (1) or (3).
- (6) The provision that may be made under subsection (5) includes provision amending, repealing or revoking any enactment.

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- (7) The power to make an order under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (8) An order under this section is subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and section 5 of the Statutory Instruments Act 1946 (c. 36) applies accordingly.
- (9) “The 1978 Act” means the Judicature (Northern Ireland) Act 1978 (c. 23).

VALID FROM 01/05/2004

### 103 Official Solicitor of Northern Ireland

- (1) In Schedule 3 to the 1978 Act (statutory offices) the entry relating to the Official Solicitor ceases to have effect.
- (2) Amend section 75 of the 1978 Act (Official Solicitor) as follows.
- (3) For subsection (1) substitute—
  - “(1) The Lord Chancellor, after consultation with the Lord Chief Justice, may appoint as Official Solicitor to the Supreme Court a person who is—
    - (a) a solicitor of the Supreme Court of at least 7 years' standing, or
    - (b) a member of the Bar of Northern Ireland of at least 7 years' standing.”
- (4) After subsection (5) insert—
  - “(6) The Official Solicitor shall hold and vacate office in accordance with the terms of his appointment (which may include provision about retirement, dismissal or resignation).
  - (7) The Lord Chancellor may pay to the Official Solicitor such remuneration and allowances as the Lord Chancellor may determine with the consent of the Treasury.
  - (8) Service as the Official Solicitor is employment in the civil service of the State for the purposes of section 1 of the Superannuation Act 1972 (Principal Civil Service Pension Scheme).
  - (9) While the office of Official Solicitor is vacant or the Official Solicitor is unable or unwilling to act, the Lord Chancellor may, after consultation with the Lord Chief Justice, appoint a person as temporary Official Solicitor; and the temporary Official Solicitor—
    - (a) may be appointed only if qualified for appointment as Official Solicitor,
    - (b) shall have all the powers and duties of the Official Solicitor, and
    - (c) may be paid remuneration and allowances by the Lord Chancellor with the consent of the Treasury.”
- (5) In section 68 of the 1978 Act (Supreme Court: departments)—
  - (a) in subsection (2)(b) for “statutory officer” substitute “ officer ”, and



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(b) for subsection (4) substitute—

“(4) The officer supervising a department shall discharge his functions in accordance with directions given by the Lord Chancellor.”

- (6) In section 73 of the 1978 Act (restrictions on practice) subsection (2) (and the words “Subject to subsection (2),”) cease to have effect.
- (7) In section 76 of the 1978 Act (property) paragraph (c) (which referred to the Official Solicitor and which ceased to have effect by virtue of the Supreme Court (Departments and Officers) (Northern Ireland) Order 1982 (S.R. 1982/ 300)) shall again have effect.
- (8) Nothing in this section has any effect in relation to the person who on the commencement of this section holds the office in Northern Ireland of Official Solicitor to the Supreme Court.

VALID FROM 01/05/2004

#### **104 Alteration of place fixed for Crown Court trial: Northern Ireland**

An application under section 48(3) of the 1978 Act (application for variation of place fixed for Crown Court trial) is no longer required to be heard in open court; and accordingly section 48(4) of the 1978 Act ceases to have effect.

VALID FROM 01/04/2005

#### **105 Extension of time for criminal appeals to House of Lords: Northern Ireland**

- (1) Amend paragraph 1 of Schedule 1 to the 1978 Act (applications for leave to appeal to House of Lords in certain criminal matters) as follows.
- (2) In sub-paragraph (1)—
- (a) for “fourteen” (in both places) substitute “ 28 ”, and
  - (b) for “date of the decision of that court” substitute “ relevant date ”.
- (3) After sub-paragraph (1) insert—
- “(1A) In sub-paragraph (1), “the relevant date” means—
- (a) the date of the decision of the court below, or
  - (b) if later, the date on which that court gives reasons for its decision.”
- (4) Amend section 32 of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (applications for leave to appeal to the House of Lords) as follows.
- (5) In subsection (1)—
- (a) for “fourteen” (in both places) substitute “ 28 ”, and
  - (b) for “date of the decision of the Court” substitute “ relevant date ”.
- (6) After subsection (1) insert—
- “(1A) In subsection (1), “the relevant date” means—

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- (a) the date of the Court of Appeal’s decision, or  
 (b) if later, the date on which the Court gives reasons for its decision.”

VALID FROM 01/05/2004

**106 Fees: Northern Ireland**

In section 116 of the 1978 Act (fees) after subsection (1) insert—

“(1A) Without prejudice to the generality of subsection (1), an order under that subsection may make provision for exemptions from fees and remission of fees (in whole or in part).”

**PART 9**

FINAL PROVISIONS

**107 Interpretation**

(1) In this Act—

- “the 1933 Act” means the Children and Young Persons Act 1933 (c. 12);
- “the 1968 Act” means the Criminal Appeal Act 1968 (c. 19);
- “the 1978 Act” means the Judicature (Northern Ireland) Act 1978 (c. 23);
- “the 1980 Act” means the Magistrates' Courts Act 1980 (c. 43);
- “the 1981 Act” means the Supreme Court Act 1981 (c. 54);
- “the 1990 Act” means the Courts and Legal Services Act 1990 (c. 41);
- “the 1997 Act” means the Civil Procedure Act 1997 (c. 12).

(2) In this Act the following have the meaning given by section 71 of the 1990 Act—

- “5 year magistrates' court qualification”;
- “7 year general qualification”;
- “Supreme Court qualification”.

(3) In this Act “criminal court” has the meaning given by section 68.

(4) In this Act “judge”, except where the context otherwise requires, means a person holding an office listed in subsection (2) of section 64 (power to alter judicial titles).

(5) In this Act “lay justice” has the meaning given by section 9.

(6) In this Act “Magistrates' Courts Rule Committee” means the committee appointed by the Lord Chancellor under section 144 of the 1980 Act.

(7) In this Act “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26).

(8) In this Act “enactment” includes subordinate legislation and, except where otherwise provided, any reference to an enactment is to an enactment whenever passed or made; and “subordinate legislation” here has the same meaning as in the Interpretation Act 1978 (c. 30).

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- (9) In sections 102(6) and 109(5)(b) “enactment” also includes Northern Ireland legislation (whenever passed or made); and “Northern Ireland legislation” here has the same meaning as in the Interpretation Act 1978.

## **108 Rules, regulations and orders**

- (1) Any power of the Lord Chancellor to make rules, regulations or orders under this Act is exercisable by statutory instrument.
- (2) None of the orders and regulations mentioned in subsection (3) may be made unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (3) The orders and regulations are—
- (a) the first order to be made under section 4 (areas of courts boards);
  - (b) regulations under section 34(5) (costs in legal proceedings);
  - (c) an order under—
    - (i) section 73 or 80 (powers to amend enactments in connection with Criminal Procedure Rules and Family Procedure Rules), or
    - (ii) section 109 (power to make consequential provision etc.),which contains any provision (whether alone or with other provisions) amending or repealing any Act or provision of an Act;
  - (d) an order under section 97(7) to (9) (power to make permanent provision about collection of fines and discharge of fines by unpaid work);
  - (e) regulations under Schedule 1;
  - (f) regulations under Schedule 6 relating to the prescribed hourly sum.
- (4) A statutory instrument containing—
- (a) the first order to be made under section 8 (local justice areas), or
  - (b) regulations under section 40 (payments, accounting and banking by designated officers),
- is to be laid before Parliament after being made.
- (5) Any other statutory instrument, apart from one containing an order under section 110 (commencement), is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Any power of the Lord Chancellor to make rules, regulations or orders under this Act includes power to make—
- (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,
- which he considers necessary or expedient.
- (7) Nothing in this section applies to—
- (a) rules made under Part 7 (Criminal Procedure and Family Procedure Rules), or
  - (b) an order made under section 102 (power to alter judicial titles: Northern Ireland).

## **109 Minor and consequential amendments, repeals, etc.**

- (1) Schedule 8 contains minor and consequential amendments.

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- (2) Schedule 9 contains transitional provisions and savings.
- (3) Schedule 10 contains repeals.
- (4) The Lord Chancellor may by order make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,
 which he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act.
- (5) An order under subsection (4) may, in particular—
  - (a) provide for any provision of this Act which comes into force before another such provision has come into force to have effect, until that other provision has come into force, with such modifications as are specified in the order, and
  - (b) amend, repeal or revoke any enactment other than one contained in an Act passed in a Session after that in which this Act is passed.
- (6) The amendments that may be made under subsection (5)(b) are in addition to those made by or under any other provision of this Act.

#### Commencement Information

- I13** S. 109 partly in force; s. 109(4)-(6) in force at Royal Assent see s. 110(1)(2); s. 109(3) in force for certain purposes at 26.1.2004 by S.I. 2003/3345, **art. 2(c)(iv)**; s. 109(1) in force for certain further purposes at 1.2.2004 by S.I. 2004/174, **art. 2(b)**; s. 109(2) in force for certain further purposes at 23.2.2004 by S.I. 2004/174, **art. 4(a)**; s. 109(2) in force for certain further purposes at 29.3.2004 by S.I. 2004/174, **art. 4(b)**; s. 109(2) in force for certain purposes at 5.4.2004 by S.I. 2004/174, **art. 4(c)**; s. 109(1)(3) in force for certain further purposes at 15.3.2004 by S.I. 2004/401, **art. 2(d)**; s. 109(3) in force for certain further purposes at 1.5.2004 by S.I. 2004/1104, **art. 3(i)**; s. 109(1)(3) in force for certain further purposes at 1.9.2004 by S.I. 2004/2066, **art. 2(e)**; s. 109(1)(3) in force for certain further purposes at 4.1.2005 by S.I. 2004/3123, **art. 2(d)**; s. 109(1)-(3) in force for certain further purposes at 1.4.2005 by S.I. 2005/910, **art. 3(bb)**; s. 109(1)(3) in force for certain further purposes at 10.1.2006 by S.I. 2005/3518, **art. 2(c)** (with art. 4); s. 109(2)(3) in force for certain further purposes at 6.4.2006 by S.I. 2005/3518, **art. 3(d)** (with art. 4)

## 110 Commencement

- (1) Subject to subsection (2), this Act comes into force in accordance with provision made by order by the Lord Chancellor.
- (2) Subsection (1) does not apply to section 42, 94, 107, 108, 109(4) to (6), this section or section 111 or 112.
- (3) An order under this section may appoint different days for different provisions and different purposes.

#### Subordinate Legislation Made

- P1** S. 110(1)(2) power partly exercised: 26.1.2004 appointed for specified provisions by {S.I. 2003/3345}, art. 2; 1.2.2004, 23.2.2004, 29.3.2004, and 5.4.2004 appointed for specified provisions by {S.I. 2004/174}, arts. 2-4; 15.3.2004 appointed for specified provisions by {S.I. 2004/401}, art. 2 (with transitional provisions in art. 3); 1.5.2004 appointed for specified provisions by {S.I. 2004/1104},

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art. 3; 1.6.2004 appointed for specified provisions by {S.I. 2004/798}, art. 2; 1.9.2004 appointed for specified provisions by {S.I. 2004/2066}, art. 2 (with savings in art. 3); 21.9.2004 appointed for specified provisions by {S.I. 2004/2195}, art. 2; 4.1.2005 appointed for specified provisions by {S.I. 2004/3123}, art. 2 (with savings in art. 3); 1.4.2005 appointed for specified provisions by {S.I. 2005/547}, art. 2 (with transitional provisions and savings in arts. 3-16) (which S.I. was revoked by S.I. 2005/910, art. 2); 1.4.2005 appointed for specified provisions by {S.I. 2005/910}, art. 3 (with transitional provisions in S.I. 2005/911, arts. 2-14); 7.10.2005 appointed for specified provisions by {S.I. 2005/2744}, art. 2 (with transitional provisions in art. 3); 10.1.2006 and 6.4.2006 appointed for specified provisions by {S.I. 2005/3518}, arts. 2, 3 (with transitional provisions in art. 4); 5.9.2007 appointed for s. 50(2)(3) by {S.I. 2007/2706}, art. 1

## 111 Extent

- (1) Subject to subsections (2) and (3), this Act extends only to England and Wales.
- (2) Subsection (1) does not apply to section 59(3), 90, 91, 100, 101, 102, 103, 104, 105, 106 or 109.
- (3) Subject to any provision made in Schedule 8, the amendments and repeals made by Schedules 4, 8 and 10 have the same extent as the enactments to which they relate.

## 112 Short title

This Act may be cited as the Courts Act 2003.

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