

## **COURTS ACT 2003**

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### **EXPLANATORY NOTES**

#### **COMMENTARY ON SECTIONS: PART 6**

##### *Offices, titles, styles etc.*

##### ***Section 62: Head and Deputy Head of Civil Justice***

152. This section requires the Lord Chancellor to appoint a Head of Civil Justice, and gives power to appoint a deputy. It has been recognised that there is an ongoing need for a Head of Civil Justice to provide consistency and an overview. Although, it is accepted that the level of work may decrease as the Woolf reforms (the reforms to the civil justice system contained in the Access to Justice Report) continue to settle down. Therefore, the need for support from a deputy may decline.
153. It is intended that the Lord Chancellor should have a choice when appointing the Head of Civil Justice and for that reason those eligible for appointment should be the Master of the Rolls, the Vice-Chancellor and any ordinary judge of the Court of Appeal.
154. The Head of Civil Justice and the Deputy Head of Civil Justice, where there is one, will be ex officio members of the Civil Procedure Rule Committee (Civil PRC) as provided for in section 83. No other specific functions, duties or powers to be attached to these posts are to be provided in statute.
155. If the Master of the Rolls was neither the Head or Deputy Head of Civil Justice, he would still be an ex officio member of the Rule Committee.

##### ***Section 63: Ordinary judges of the Court of Appeal***

156. This section deals with a specific problem: section 2(3) of the SCA 1981 currently requires an ordinary judge of the Court of Appeal to be styled a “Lord” Justice of Appeal whatever his or her gender. This section removes this anomaly.

##### ***Section 64: Power to alter judicial titles***

157. Although section 63 amends one title, Lord Justice of Appeal, section 64 provides the Lord Chancellor with a power to amend the other titles listed (which encompasses all of the judicial titles in the Supreme Court and county courts) in the future to avoid similar problems arising. Some titles may need modernisation, to make them more easily understandable to court users. The acceptance commanded by titles containing a presumption of male gender might also change. Such orders may only be made after consultation with the Lord Chief Justice, Master of the Rolls, President of the Family Division and Vice-Chancellor.

### ***Flexibility in deployment of judicial resources***

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

158. Unification of the administration of the criminal courts should provide scope for rationalising the work of the magistrates' and Crown Courts, enabling both to do some of the work currently reserved to each. For example, District Judges could deal with and make orders in relation both to allocation and to other interlocutory issues in cases reserved to the Crown Court. This will be further eased by the revised allocation of cases provided by the Criminal Justice Act 2003. Revised allocation of cases ensures that cases are dealt with by the court at the appropriate level with regard to the complexity, value and proportionality of the case.

#### ***Schedule 4: Further functions conferred on District Judges (Magistrates' Courts)***

159. **Section 65** has the effect of making District Judges (Magistrates' Courts) judges of the Crown Court. Schedule 4 contains amendments of Acts to confer specific functions on District Judges (Magistrates' Courts).

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

160. Under this section a Crown Court judge will be able to make orders and to sentence in relation to cases normally reserved to magistrates' courts when disposing of related cases in the Crown Court.
161. As part of implementing the policy of greater flexibility in judicial deployment, this section provides that High Court judges, Circuit judges and Recorders should be able to sit as magistrates when exercising their criminal and family jurisdiction. The same is to apply to deputy High Court judges and deputy Circuit judges. It is not expected that extensive use would be made of the provision, but it would be possible for a Circuit judge in the Crown Court to deal with a summary offence without the case having to go back to a magistrates' court. At present, certain summary offences can be included in an indictment. If the person is convicted on the indictment, the Crown Court may sentence him if he pleads guilty to the summary offence, but if he pleads not guilty the powers of the Crown Court cease. It is intended in such cases that the judge of the Crown Court should be able to deal with the summary offences then and there as a magistrate. He would follow magistrates' courts' procedure.

#### ***Section 67: Removal of restriction on Circuit judges sitting on certain appeals***

162. This section provides for the repeal of section 56A of the SCA 1981 (as inserted by section 52(8) of the Criminal Justice and Public Order Act 1994). Repeal will enable the selected Circuit judges who sit in the Criminal Division of the Court of Appeal to hear or determine any appeal against either a conviction before a judge of the High Court or a sentence passed by a judge of the High Court.

### **Part 7: Procedure Rules and Practice Directions**

#### **Summary**

163. **Part 7** of the Act contains provisions about rules, Rules Committees and Practice Directions.