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**Changes to legislation:** There are currently no known outstanding effects for the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018, Paragraph 26. (See end of Document for details)

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## SCHEDULE

### AUTHORISED COURT AND TRIBUNAL STAFF: LEGAL ADVICE AND JUDICIAL FUNCTIONS

#### PART 1

#### COURTS

#### *Courts Act 2003*

26 For sections 27 to 29 substitute—

#### *“Legal advice*

#### **28 Function of giving legal advice to justices of the peace**

- (1) The Lord Chief Justice may authorise a person—
  - (a) to give advice to justices of the peace about matters of law (including procedure and practice) on questions arising in connection with the discharge of their functions, including questions arising when the person is not personally attending on them, and
  - (b) to bring to the attention of justices of the peace, at any time when the person thinks appropriate, any point of law (including procedure and practice) that is or may be involved in any question so arising.
- (2) For the purposes of subsection (1), the functions of justices of the peace do not include functions as a judge of the family court or the Crown Court.
- (3) The Lord Chief Justice may authorise a person under subsection (1) only if the person—
  - (a) is appointed under section 2(1) of this Act or section 40(1) of the Tribunals, Courts and Enforcement Act 2007, and
  - (b) has such qualifications as may be prescribed by regulations made by the Lord Chancellor with the agreement of the Lord Chief Justice.
- (4) An authorisation under subsection (1)—
  - (a) may be subject to conditions, and
  - (b) may be varied or revoked by the Lord Chief Justice at any time.
- (5) The Lord Chief Justice may nominate one or more of the following to exercise the Lord Chief Justice's functions under the preceding provisions of this section—
  - (a) a judicial office holder;
  - (b) a person appointed under section 2(1) of the Courts Act 2003 or section 40(1) of the Tribunals, Courts and Enforcement Act 2007.
- (6) A person nominated under subsection (5)(b) to exercise functions of the Lord Chief Justice is not subject to the direction of any person other than—
  - (a) the Lord Chief Justice, or
  - (b) a judicial office holder nominated by the Lord Chief Justice, when exercising the functions.

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- (7) In this section “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.

## **29 Directions and independence**

- (1) The Lord Chief Justice may give directions to a person authorised to exercise functions under section 28(1).
- (2) Apart from such directions, a person authorised to exercise functions under section 28(1) is not subject to the direction of the Lord Chancellor or any other person when exercising the functions.
- (3) The Lord Chief Justice may nominate one or more of the following to exercise the Lord Chief Justice's functions under subsection (1)—
- (a) a judicial office holder;
  - (b) a person appointed under section 2(1) of this Act or section 40(1) of the Tribunals, Courts and Enforcement Act 2007.
- (4) A person nominated under subsection (3)(b) to exercise functions of the Lord Chief Justice is not subject to the direction of any person other than—
- (a) the Lord Chief Justice, or
  - (b) a judicial office holder nominated by the Lord Chief Justice, when exercising the functions.
- (5) In this section “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.”

### **Commencement Information**

- I1** Sch. para. 26 in force at 10.1.2020 for specified purposes by S.I. 2020/24, reg. 2(b)(ii)
- I2** Sch. para. 26 in force at 6.4.2020 in so far as not already in force by S.I. 2020/24, reg. 3(b)

**Changes to legislation:**

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