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STATUTORY INSTRUMENTS

2005 No. 911

MAGISTRATES COURTS, ENGLAND AND WALES

DAMAGES, ENGLAND AND WALES

DAMAGES, NORTHERN IRELAND

**The Courts Act 2003 (Transitional Provisions, Savings and
Consequential Provisions) Order 2005**

Made - - - - - *23rd March 2005*

Laid before Parliament *24th March 2005*

Coming into force - - *1st April 2005*

The Lord Chancellor in exercise of the powers conferred upon him by sections 108(6), 109(4) and 109(5) of the Courts Act 2003^(a) makes the following Order:

Citation and commencement

1. This Order may be cited as the Courts Act 2003 (Transitional Provisions, Savings and Consequential Provisions) Order 2005 and shall come into force on 1st April 2005.

Transitional provisions and savings

Continuity

2. Anything which before 1st April 2005, is in the process of being done by, to or in relation to a justices' chief executive, in the exercise of, or in connection with his statutory functions and powers as a justices' chief executive may continue to be done by, to or in relation to a designated officer for a justice of the peace, magistrates' court or local justice area, as the case may be, including any legal proceedings being taken by or against a justices' chief executive.

3. Any reference in any document or instrument to a petty sessions area in existence on 31st March 2005 shall in relation to any time on or after 1st April 2005 be construed as a reference to the corresponding local justice area as set out in the Local Justice Areas Order 2005^(b).

(a) 2003 c. 39.
(b) S.I. 2005/554.

4. Any reference in any document or instrument to a justices' chief executive shall have effect, in relation to any time on or after 1st April 2005, as a reference to a designated officer for a justice of the peace, magistrates' court or local justice area, as the case may be.

5. Any order made on or before 31st March 2005 by a magistrates' court directing the payment of money to the justices' chief executive or any other officer of a magistrates' court acting for a petty sessions area shall have effect from 1st April 2005 as if it had directed payment to be made to the designated officer for the corresponding local justice area specified in the first order made under section 8 of the Act.

Justices, justices' clerks and assistant clerks

6. Notwithstanding the repeal of the Justices of the Peace Act 1997(a) by section 6(4) of the Courts Act 2003—

- (a) the Justices' Clerks (Qualification of Assistants) Rules 1979(b) shall continue in force and shall have effect as if made under section 27(6) of the Courts Act 2003 and may be varied or revoked accordingly; and
- (b) the Justices and Justices' Clerks (Costs) Regulations 2001(c) shall continue in force and shall have effect as if made under section 34(4) of the Courts Act 2003 and may be varied or revoked accordingly.

7. Any appointment of a magistrate as a member of a police authority which has effect on or before the date when paragraphs 373 and 374 of Schedule 8 to the Courts Act 2003 come into force shall continue to have effect as if those paragraphs had not come into force.

Family proceedings courts

8.—(1) The Family Proceedings Courts (Constitution) Rules 1991(d) and the Family Proceedings Courts (Constitution)(Greater London) Rules 2003(e) shall continue to have effect as if made under section 67 of the 1980 Act(f).

(2) Any justice of the peace who on 31st March 2005 was a member of a family panel shall remain on that panel until the next elections in accordance with the Family Proceedings Courts (Constitution) Rules 1991 or the Family Proceedings Courts (Constitution)(Greater London) Rules 2003, as the case may be, are held.

(3) Any justice of the peace who immediately following such elections is qualified to sit as a member of a family proceedings court shall be treated as having been authorised to do so by the Lord Chancellor under section 67 of the 1980 Act.

Youth courts

9. The Youth Courts Constitution Rules 1954(g) shall continue to have effect as if made under section 45 of the 1933 Act(h).

Court security officers

10. Any person who on 31 March 2005 was employed to act as a court security officer within the meaning of section 92 of the Criminal Justice Act 1991(i) shall from 1st April 2005 be treated

(a) 1997 c. 25.

(b) S.I. 1979/570 as amended by S.I. 1980/1891, S.I.1992/1834, S.I. 1998/3107, S.I. 1999/2814 and S.I. 2001/2269.

(c) S.I. 2001/1296.

(d) S.I. 1991/1405.

(e) S.I. 2003/2960.

(f) 1980 c. 43; section 67 was substituted by section 49 of the Courts Act 2003.

(g) S.I. 1954/1711.

(h) 1933 c. 12; section 45 was substituted by section 50 of the Courts Act 2003.

(i) 1991 c. 53.

as having been designated as a court security officer under section 51(1)(b) of the Courts Act 2003.

Damages Act 1996

11. The powers conferred by section 2(1) and (2) of the Damages Act 1996(a) shall be exercisable in proceedings whenever begun.

Periodical payments: Income and Corporation Taxes Act 1988

12. Section 329AA of the Income and Corporation Taxes Act 1988(b) applies to orders made by a court before 24th September 1996 under which damages for personal injury are to consist wholly or partly of periodical payments as it applies to orders made in reliance on section 2 of the Damages Act 1996.

Periodical payments: Financial Services and Markets Act 2000

13. Where Article 9(1)(a) of the Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings) (Financial Services Compensation Scheme) Order 2001(c) applies in relation to an Article 9 default (as defined in Article 2(2) of that Order) occurring on or after 24th September 1996 and before 1st December 2001, sections 4(1) to (3), (3C) and (4) and 5 of the Damages Act 1996 continue to apply, as if a new section 4 of that Act had not been substituted for those provisions by section 101 of the Courts Act 2003.

14. Where a requirement under a long term insurance provision (as defined in section 4(3C) of the Damages Act 1996) arises on or after 1st December 2001 and before 1st April 2005, sections 4(3A) to (3D) and 5 of that Act continue to apply in respect of the authorised insurer, as if a new section 4 of that Act had not been substituted for those provisions by section 101 of the Courts Act 2003.

Consequential Provisions

Railway Administration Order Rules 2001(d)

15. In rule 9.14 of the Railway Administration Order Rules 2001 for “section 130 of the Supreme Court Act 1981,” substitute “section 92 of the Courts Act 2003,”.

Signed by the authority of the Lord Chancellor

23rd March 2005

Christopher Leslie
Parliamentary Under Secretary of State
Department for Constitutional Affairs

(a) 1996 c.48; section 2(1) and (2) was substituted by section 100 of the Courts Act 2003.
(b) 1988 c. 1.
(c) S.I. 2001/2967, as amended by S.I. 2003/2134.
(d) S.I. 2001/3352.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional, savings and consequential provisions as a result of the commencement of various sections of the Courts Act 2003 by the Courts Act 2003 (Commencement No.10) Order (S.I. 2005/910 (C. 39)) and earlier commencement orders. This order replaces the transitional, savings and consequential provisions contained in the Courts Act 2003 (Commencement No. 9, Savings, Consequential and Transitional Provisions) Order 2005 (S.I. 2005/547) which was revoked before it came into force.

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