



# Access to Justice Act 1999

## 1999 CHAPTER 22

An Act to establish the Legal Services Commission, the Community Legal Service and the Criminal Defence Service; to amend the law of legal aid in Scotland; to make further provision about legal services; to make provision about appeals, courts, judges and court proceedings; to amend the law about magistrates and magistrates' courts; and to make provision about immunity from action and costs and indemnities for certain officials exercising judicial functions. [27th July 1999]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1 Act extended (22.5.2000) by [S.I. 2000/1119](#), reg. 14, [Sch. 3 Pt. I](#)

## PART I

### LEGAL SERVICES COMMISSION

### Modifications etc. (not altering text)

- C2 [Pt. I](#) extended (1.9.2001) by 2001 c. 17, s. 6(2)(c) (with ss. 16(5), 78); [S.I. 2001/2161](#), [art. 2](#)
- C3 [Pt. 1](#): functions of the Lord Chancellor transferred (19.8.2003) to the Secretary of State by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 4, [Sch. 1](#) (with art. 6)
- [Pt. 1](#): functions of the Secretary of State transferred (12.1.2006) to the Lord Chancellor by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), [art. 3](#) (with arts. 4, 5)

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## Commission

### 1 Legal Services Commission.

- (1) There shall be a body known as the Legal Services Commission (in this Part referred to as “the Commission”).
- (2) The Commission shall have the functions relating to—
  - (a) the Community Legal Service, and
  - (b) the Criminal Defence Service,
 which are conferred or imposed on it by the provisions of this Act or any other enactment.
- (3) The Commission shall consist of—
  - (a) not fewer than seven members, and
  - (b) not more than twelve members;
 but the [<sup>F1</sup>Lord Chancellor] may by order substitute for either or both of the numbers for the time being specified in paragraphs (a) and (b) such other number or numbers as he thinks appropriate.
- (4) The members of the Commission shall be appointed by the [<sup>F1</sup>Lord Chancellor]; and the [<sup>F1</sup>Lord Chancellor] shall appoint one of the members to chair the Commission.
- (5) In appointing persons to be members of the Commission the [<sup>F1</sup>Lord Chancellor] shall have regard to the desirability of securing that the Commission includes members who (between them) have experience in or knowledge of—
  - (a) the provision of services which the Commission can fund as part of the Community Legal Service or Criminal Defence Service,
  - (b) the work of the courts,
  - (c) consumer affairs,
  - (d) social conditions, and
  - (e) management.
- (6) Schedule 1 (which makes further provision about the Commission) has effect.

#### Textual Amendments

- F1** Words in s. 1 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(a)**

### 2 Power to replace Commission with two bodies.

- (1) The [<sup>F2</sup>Lord Chancellor] may by order establish in place of the Commission two bodies—
  - (a) one to have functions relating to the Community Legal Service, and
  - (b) the other to have functions relating to the Criminal Defence Service.
- (2) The order may make any consequential, incidental, supplementary or transitional provisions, and any savings, which appear to the [<sup>F2</sup>Lord Chancellor] to be appropriate.
- (3) The order shall include amendments of—

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- (a) any provisions of, or amended by, this Part which refer to the Commission, and
  - (b) any other enactments which so refer,
- to replace references to the Commission with references to either or both of the bodies established by the order.

#### Textual Amendments

**F2** Words in s. 2 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(a)**

### 3 Powers of Commission.

- (1) Subject to the provisions of this Part, the Commission may do anything which it considers—
  - (a) is necessary or appropriate for, or for facilitating, the discharge of its functions, or
  - (b) is incidental or conducive to the discharge of its functions.
- (2) In particular, the Commission shall have power—
  - (a) to enter into any contract,
  - (b) to make grants (with or without conditions),
  - (c) to make loans,
  - (d) to invest money,
  - (e) to promote or assist in the promotion of publicity relating to its functions,
  - (f) to undertake any inquiry or investigation which it may consider appropriate in relation to the discharge of any of its functions, and
  - (g) to give the [<sup>F3</sup>Lord Chancellor] any advice which it may consider appropriate in relation to matters concerning any of its functions.
- (3) Subsections (1) and (2) do not confer on the Commission power to borrow money.
- (4) The Commission may make such arrangements as it considers appropriate for the discharge of its functions, including the delegation of any of its functions.
- (5) The [<sup>F3</sup>Lord Chancellor] may by order require the Commission—
  - (a) to delegate any function specified in the order or to delegate any function so specified to a person (or person of a description) so specified,
  - (b) not to delegate any function so specified or not to delegate any function so specified to a person (or person of a description) so specified, or
  - (c) to make arrangements such as are specified in the order in relation to the delegation of any function so specified.

#### Textual Amendments

**F3** Words in s. 3 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(a)**

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## Community Legal Service

### 4 Community Legal Service.

- (1) The Commission shall establish, maintain and develop a service known as the Community Legal Service for the purpose of promoting the availability to individuals of services of the descriptions specified in subsection (2) and, in particular, for securing (within the resources made available, and priorities set, in accordance with this Part) that individuals have access to services that effectively meet their needs.
- (2) The descriptions of services referred to in subsection (1) are—
  - (a) the provision of general information about the law and legal system and the availability of legal services,
  - (b) the provision of help by the giving of advice as to how the law applies in particular circumstances,
  - (c) the provision of help in preventing, or settling or otherwise resolving, disputes about legal rights and duties,
  - (d) the provision of help in enforcing decisions by which such disputes are resolved, and
  - (e) the provision of help in relation to legal proceedings not relating to disputes.
- (3) Services which the Commission is required to fund as part of the Criminal Defence Service do not fall within subsection (2).
- (4) Every person who exercises any function relating to the Community Legal Service shall have regard to the desirability of exercising it, so far as is reasonably practicable, so as to—
  - (a) promote improvements in the range and quality of services provided as part of the Community Legal Service and in the ways in which they are made accessible to those who need them,
  - (b) secure that the services provided in relation to any matter are appropriate having regard to its nature and importance, and
  - (c) achieve the swift and fair resolution of disputes without unnecessary or unduly protracted proceedings in court.
- (5) The Commission shall fund services of the descriptions specified in subsection (2) as part of the Community Legal Service in accordance with the following sections.
- (6) The Commission shall also inform itself about the need for, and the provision of, services of the descriptions specified in subsection (2) and about the quality of the services provided and, in co-operation with such authorities and other bodies and persons as it considers appropriate—
  - (a) plan what can be done towards meeting that need by the performance by the Commission of its functions, and
  - (b) facilitate the planning by other authorities, bodies and persons of what can be done by them to meet that need by the use of any resources available to them;and the Commission shall notify the [<sup>F4</sup>Lord Chancellor] of what it has done under this subsection.
- (7) The Commission may set and monitor standards in relation to services of the descriptions specified in subsection (2).

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- (8) In particular, the Commission may accredit, or authorise others to accredit, persons or bodies providing services of the descriptions specified in subsection (2); and any system of accreditation shall include provision for the monitoring of the services provided by accredited persons and bodies and for the withdrawal of accreditation from any providing services of unsatisfactory quality.
- (9) The Commission may charge—
  - (a) for accreditation,
  - (b) for monitoring the services provided by accredited persons and bodies, and
  - (c) for authorising accreditation by others;and persons or bodies authorised to accredit may charge for accreditation, and for such monitoring, in accordance with the terms of their authorisation.
- (10) The [<sup>F4</sup>Lord Chancellor] may by order require the Commission to discharge the functions in subsections (6) to (9) in accordance with the order.

#### Textual Amendments

- F4** Words in s. 4 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(a)**

## 5 Funding of services.

- (1) The Commission shall establish and maintain a fund known as the Community Legal Service Fund from which it shall fund services as part of the Community Legal Service.
- (2) The [<sup>F5</sup>Lord Chancellor]—
  - (a) shall pay to the Commission the sums which he determines are appropriate for the funding of services by the Commission as part of the Community Legal Service, and
  - (b) may determine the manner in which and times at which the sums are to be paid to the Commission and may impose conditions on the payment of the sums.
- (3) In making any determination under subsection (2) the [<sup>F5</sup>Lord Chancellor] shall take into account (in addition to such other factors as he considers relevant) the need for services of the descriptions specified in subsection (2) of section 4 as notified to him by the Commission under subsection (6) of that section.
- (4) The [<sup>F5</sup>Lord Chancellor] shall lay before each House of Parliament a copy of every determination under subsection (2)(a).
- (5) The Commission shall pay into the Community Legal Service Fund—
  - (a) sums received from the [<sup>F5</sup>Lord Chancellor] under subsection (2), and
  - (b) sums received by the Commission by virtue of regulations under section 10 or 11.
- (6) The [<sup>F5</sup>Lord Chancellor] may by direction impose requirements on the Commission as to the descriptions of services to be funded from any specified amount paid into the Community Legal Service Fund.

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- (7) In funding services as part of the Community Legal Service the Commission shall aim to obtain the best possible value for money.

#### Textual Amendments

- F5** Words in s. 5 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(a)**

## 6 Services which may be funded.

- (1) The Commission shall set priorities in its funding of services as part of the Community Legal Service and the priorities shall be set—
- (a) in accordance with any directions given by the [<sup>F6</sup>Lord Chancellor] , and
  - (b) after taking into account the need for services of the descriptions specified in section 4(2).
- (2) Subject to that (and to subsection (6)), the services which the Commission may fund as part of the Community Legal Service are those which the Commission considers appropriate.
- (3) The Commission may fund services as part of the Community Legal Service by—
- (a) entering into contracts with persons or bodies for the provision of services by them,
  - (b) making payments to persons or bodies in respect of the provision of services by them,
  - (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, services,
  - (d) establishing and maintaining bodies to provide, or facilitate the provision of, services,
  - (e) making grants or loans to individuals to enable them to obtain services,
  - (f) itself providing services, or
  - (g) doing anything else which it considers appropriate for funding services.
- (4) The [<sup>F6</sup>Lord Chancellor] may by order require the Commission to discharge the function in subsection (3) in accordance with the order.
- (5) The Commission may fund as part of the Community Legal Service different descriptions of services or services provided by different means—
- (a) in relation to different areas or communities in England and Wales, and
  - (b) in relation to different descriptions of cases.
- (6) The Commission may not fund as part of the Community Legal Service any of the services specified in Schedule 2.
- (7) Regulations may amend that Schedule by adding new services or omitting or varying any services.
- (8) The [<sup>F6</sup>Lord Chancellor]—
- (a) may by direction require the Commission to fund the provision of any of the services specified in Schedule 2 in circumstances specified in the direction, and

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- (b) may authorise the Commission to fund the provision of any of those services in specified circumstances or, if the Commission request him to do so, in an individual case.
- (9) The [<sup>F6</sup>Lord Chancellor] shall either—
- (a) publish, or
  - (b) require the Commission to publish,
- any authorisation under subsection (8)(b) unless it relates to an individual case (in which case he or the Commission may publish it if appropriate).

#### Textual Amendments

**F6** Words in s. 6 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(a)**

### 7 Individuals for whom services may be funded.

- (1) The Commission may only fund services for an individual as part of the Community Legal Service if his financial resources are such that, under regulations, he is an individual for whom they may be so funded.
- (2) Regulations may provide that, in prescribed circumstances and subject to any prescribed conditions, services of a prescribed description may be so funded for individuals without reference to their financial resources.
- (3) Regulations under this section may include provision requiring the furnishing of information.

### 8 Code about provision of funded services.

- (1) The Commission shall prepare a code setting out the criteria according to which it is to decide whether to fund (or continue to fund) services as part of the Community Legal Service for an individual for whom they may be so funded and, if so, what services are to be funded for him.
- (2) In settling the criteria to be set out in the code the Commission shall consider the extent to which they ought to reflect the following factors—
  - (a) the likely cost of funding the services and the benefit which may be obtained by their being provided,
  - (b) the availability of sums in the Community Legal Service Fund for funding the services and (having regard to present and likely future demands on that Fund) the appropriateness of applying them to fund the services,
  - (c) the importance of the matters in relation to which the services would be provided for the individual,
  - (d) the availability to the individual of services not funded by the Commission and the likelihood of his being able to avail himself of them,
  - (e) if the services are sought by the individual in relation to a dispute, the prospects of his success in the dispute,
  - (f) the conduct of the individual in connection with services funded as part of the Community Legal Service (or an application for funding) or in, or in connection with, any proceedings,



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- (g) the public interest, and
  - (h) such other factors as the [<sup>F7</sup>Lord Chancellor] may by order require the Commission to consider.
- (3) The criteria set out in the code shall reflect the principle that in many family disputes mediation will be more appropriate than court proceedings.
  - (4) The code shall seek to secure that, where more than one description of service is available, the service funded is that which (in all the circumstances) is the most appropriate having regard to the criteria set out in the code.
  - (5) The code shall also specify procedures for the making of decisions about the funding of services by the Commission as part of the Community Legal Service, including—
    - (a) provision about the form and content of applications for funding,
    - (b) provision imposing conditions which must be satisfied by an individual applying for funding,
    - (c) provision requiring applicants to be informed of the reasons for any decision to refuse an application,
    - (d) provision for the giving of information to individuals whose applications are refused about alternative ways of obtaining or funding services, and
    - (e) provision establishing procedures for appeals against decisions about funding and for the giving of information about those procedures.
  - (6) The code may make different provision for different purposes.
  - (7) The Commission may from time to time prepare a revised version of the code.
  - (8) Before preparing the code the Commission shall undertake such consultation as appears to it to be appropriate; and before revising the code the Commission shall undertake such consultation as appears to it to be appropriate unless it considers that it is desirable for the revised version to come into force without delay.
  - (9) The [<sup>F7</sup>Lord Chancellor] may by order require the Commission to discharge its functions relating to the code in accordance with the order.

#### Textual Amendments

- F7** Words in s. 8 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(a)**

VALID FROM 01/02/2010

#### **[<sup>F8</sup>8A Funding code: pilot provisions**

- (1) The code may contain provisions (“pilot provisions”) which are to have effect for a specified period not exceeding 3 years.
- (2) Pilot provisions may be expressed so as to apply only in relation to—
  - (a) one or more specified areas or localities;
  - (b) one or more specified descriptions of court or tribunal;
  - (c) one or more specified descriptions of service that may be provided as part of the Community Legal Service;



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- (d) one or more specified classes of person;
  - (e) persons selected—
    - (i) by reference to specified criteria; or
    - (ii) on a sampling basis.
- (3) Pilot provisions may disapply any other provision of the code in relation to any of the matters mentioned in paragraphs (a) to (e) of subsection (2).
- (4) The period for the time being specified in relation to pilot provisions may be revised—
- (a) if the period is one of less than 3 years, so that it becomes a longer period not exceeding 3 years;
  - (b) so that it becomes a period which exceeds 3 years by such amount as the Commission thinks necessary for the purpose of securing that the pilot provisions remain in operation until the coming into force of a revised code that contains similar provisions that will have effect—
    - (i) generally, or
    - (ii) for purposes wider than those for which the pilot provisions have effect.
- (5) If the code contains pilot provisions, the code may also contain consequential or transitional provision with respect to the cessation of the pilot provisions on the expiry of the specified period (or that period as revised under subsection (4)).]

#### Textual Amendments

**F8** S. 8A inserted (prosp.) by Coroners and Justice Act 2009 (c. 25), ss. 149(3), 182 (with s. 180)

## 9 Procedure relating to funding code.

- (1) After preparing the code or a revised version of the code the Commission shall send a copy to the [F9Lord Chancellor] .
- (2) If he approves it he shall lay it before each House of Parliament.
- (3) The Commission shall publish—
  - (a) the code as first approved by the [F9Lord Chancellor] , and
  - (b) where he approves a revised version, either the revisions or the revised code as appropriate.
- (4) The code as first approved by the [F9Lord Chancellor] shall not come into force until it has been approved by a resolution of each House of Parliament.
- (5) A revised version of the code which does not contain changes in the criteria set out in the code shall not come into force until it has been laid before each House of Parliament.
- (6) Subject as follows, a revised version of the code which does contain such changes shall not come into force until it has been approved by a resolution of each House of Parliament.
- (7) Where the [F9Lord Chancellor] considers that it is desirable for a revised version of the code containing such changes to come into force without delay, he may (when laying

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the revised version before Parliament) also lay before each House a statement of his reasons for so considering.

- (8) In that event the revised version of the code—
- (a) shall not come into force until it has been laid before each House of Parliament, and
  - (b) shall cease to have effect at the end of the period of 120 days beginning with the day on which it comes into force unless a resolution approving it has been made by each House (but without that affecting anything previously done in accordance with it).

#### Textual Amendments

- F9** Words in s. 9 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(a)**

## 10 Terms of provision of funded services.

- (1) An individual for whom services are funded by the Commission as part of the Community Legal Service shall not be required to make any payment in respect of the services except where regulations otherwise provide.
- (2) Regulations may provide that, in prescribed circumstances, an individual for whom services are so funded shall—
  - (a) pay a fee of such amount as is fixed by or determined under the regulations,
  - (b) if his financial resources are, or relevant conduct is, such as to make him liable to do so under the regulations, pay the cost of the services or make a contribution in respect of the cost of the services of such amount as is so fixed or determined, or
  - (c) if the services relate to a dispute and he has agreed to make a payment (which may exceed the cost of the services) only in specified circumstances, make in those circumstances a payment of the amount agreed, or determined in the manner agreed, by him;

and in paragraph (b) “relevant conduct” means conduct in connection with the services (or any application for their funding) or in, or in connection with, any proceedings in relation to which they are provided.
- (3) The regulations may include provision for any amount payable in accordance with the regulations to be payable by periodical payments or one or more capital sums, or both.
- (4) The regulations may also include provision for the payment by an individual of interest (on such terms as may be prescribed) in respect of—
  - (a) any loan made to him by the Commission as part of the Community Legal Service,
  - (b) any payment in respect of the cost of services required by the regulations to be made by him later than the time when the services are provided, or
  - (c) so much of any payment required by the regulations to be made by him which remains unpaid after the time when it is required to be paid.
- (5) The regulations shall include provision for the repayment to an individual of any payment made by him in excess of his liability under the regulations.

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- (6) The regulations may—
- (a) include provision requiring the furnishing of information, and
  - (b) make provision for the determination of the cost of services for the purposes of the regulations.
- (7) Except so far as regulations otherwise provide, where services have been funded by the Commission for an individual as part of the Community Legal Service—
- (a) sums expended by the Commission in funding the services (except to the extent that they are recovered under section 11), and
  - (b) other sums payable by the individual by virtue of regulations under this section,
- shall constitute a first charge on any property recovered or preserved by him (whether for himself or any other person) in any proceedings or in any compromise or settlement of any dispute in connection with which the services were provided.
- (8) Regulations may make provision about the charge, including—
- (a) provision as to whether it is in favour of the Commission or the body or person by whom the services were provided, and
  - (b) provision about its enforcement.

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

- C4** S. 10(1) applied (4.4.2005) by [The Community Legal Service \(Asylum and Immigration Appeals\) Regulations 2005 \(S.I. 2005/966\)](#), [reg. 9\(3\)](#) (with [regs. 2, 9\(4\)](#))
- C5** S. 10(7) excluded (1.4.2000) by [S.I. 2000/516](#), [reg. 44](#)  
S. 10(7) applied (1.4.2000) by [S.I. 2000/516](#), [reg. 49](#)

**11 Costs in funded cases.**

- (1) Except in prescribed circumstances, costs ordered against an individual in relation to any proceedings or part of proceedings funded for him shall not exceed the amount (if any) which is a reasonable one for him to pay having regard to all the circumstances including—
- (a) the financial resources of all the parties to the proceedings, and
  - (b) their conduct in connection with the dispute to which the proceedings relate;
- and for this purpose proceedings, or a part of proceedings, are funded for an individual if services relating to the proceedings or part are funded for him by the Commission as part of the Community Legal Service.
- (2) In assessing for the purposes of subsection (1) the financial resources of an individual for whom services are funded by the Commission as part of the Community Legal Service, his clothes and household furniture and the tools and implements of his trade shall not be taken into account, except so far as may be prescribed.
- (3) Subject to subsections (1) and (2), regulations may make provision about costs in relation to proceedings in which services are funded by the Commission for any of the parties as part of the Community Legal Service.
- (4) The regulations may, in particular, make provision—

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- (a) specifying the principles to be applied in determining the amount of any costs which may be awarded against a party for whom services are funded by the Commission as part of the Community Legal Service,
- (b) limiting the circumstances in which, or extent to which, an order for costs may be enforced against such a party,
- (c) as to the cases in which, and extent to which, such a party may be required to give security for costs and the manner in which it is to be given,
- (d) requiring the payment by the Commission of the whole or part of any costs incurred by a party for whom services are not funded by the Commission as part of the Community Legal Service,
- (e) specifying the principles to be applied in determining the amount of any costs which may be awarded to a party for whom services are so funded,
- (f) requiring the payment to the Commission, or the person or body by which the services were provided, of the whole or part of any sum awarded by way of costs to such a party, and
- (g) as to the court, tribunal or other person or body by whom the amount of any costs is to be determined and the extent to which any determination of that amount is to be final.

VALID FROM 01/02/2010

#### **[<sup>F10</sup>11A Pilot schemes**

- (1) This section applies to the following instruments—
  - (a) any order under section 6(4) or 8(9),
  - (b) any regulations under section 6(7), 7, 10 or 11, and
  - (c) any regulations under section 22(5) having effect in relation to the Community Legal Service.
- (2) Any instrument to which this section applies may be made so as to have effect for a specified period not exceeding 3 years.
- (3) In the following provisions of this section—
  - (a) “pilot scheme” means any instrument which, in accordance with subsection (2), is made so as to have effect for a limited period;
  - (b) “connected instrument”, in relation to a pilot scheme, means an instrument made under the same provision as the pilot scheme.
- (4) A pilot scheme may provide that its provisions, or the provisions of a connected instrument, are to apply only in relation to—
  - (a) one or more specified areas or localities;
  - (b) one or more specified descriptions of court or tribunal;
  - (c) one or more specified descriptions of service that may be provided as part of the Community Legal Service;
  - (d) one or more specified classes of person;
  - (e) persons selected—
    - (i) by reference to specified criteria; or
    - (ii) on a sampling basis.
- (5) The period for the time being specified in a pilot scheme may be varied—

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- (a) if the period is one of less than 3 years, so that it becomes a longer period not exceeding 3 years;
- (b) so that it becomes a period which exceeds 3 years by such amount as the Lord Chancellor thinks necessary for the purpose of securing that the pilot scheme remains in operation until the coming into force of a connected instrument that will have effect—
  - (i) generally, or
  - (ii) for purposes wider than those for which the pilot scheme has effect.
- (6) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period (or that period as varied under subsection (5)).]

#### Textual Amendments

**F10** S. 11A inserted (prosp.) by Coroners and Justice Act 2009 (c. 25), ss. 149(5), 182 (with s. 180)

### *Criminal Defence Service*

## 12 Criminal Defence Service.

- (1) The Commission shall establish, maintain and develop a service known as the Criminal Defence Service for the purpose of securing that individuals involved in criminal investigations or criminal proceedings have access to such advice, assistance and representation as the interests of justice require.
- (2) In this Part “criminal proceedings” means—
  - (a) proceedings before any court for dealing with an individual accused of an offence,
  - (b) proceedings before any court for dealing with an individual convicted of an offence (including proceedings in respect of a sentence or order),
  - [<sup>F11</sup>(c) proceedings for dealing with an individual under the Extradition Act 2003,]
  - (d) proceedings for binding an individual over to keep the peace or to be of good behaviour under section 115 of the <sup>M1</sup>Magistrates’ Courts Act 1980 and for dealing with an individual who fails to comply with an order under that section,
  - (e) proceedings on an appeal brought by an individual under section 44A of the <sup>M2</sup>Criminal Appeal Act 1968,
  - (f) proceedings for contempt committed, or alleged to have been committed, by an individual in the face of a court, and
  - (g) such other proceedings concerning an individual, before any such court or other body, as may be prescribed.
- (3) The Commission shall fund services as part of the Criminal Defence Service in accordance with sections 13 to 15.
- (4) The Commission may accredit, or authorise others to accredit, persons or bodies providing services which may be funded by the Commission as part of the Criminal Defence Service; and any system of accreditation shall include provision for the

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monitoring of the services provided by accredited persons and bodies and for the withdrawal of accreditation from any providing services of unsatisfactory quality.

(5) The Commission may charge—

- (a) for accreditation,
- (b) for monitoring the services provided by accredited persons and bodies, and
- (c) for authorising accreditation by others;

and persons or bodies authorised to accredit may charge for accreditation, and for such monitoring, in accordance with the terms of their authorisation.

(6) The [<sup>F12</sup>Lord Chancellor] may by order require the Commission to discharge the functions in subsections (4) and (5) in accordance with the order.

#### Textual Amendments

**F11** S. 12(2)(c) substituted (1.1.2004) by Extradition Act 2003 (c. 41), ss. 182, 221; S.I. 2003/3103, art. 2 (subject to arts. 3-5)

**F12** Words in s. 12 substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 4(a)

#### Marginal Citations

**M1** 1980 c.43.

**M2** 1968 c.19.

### 13 Advice and assistance.

(1) The Commission shall fund such advice and assistance as it considers appropriate—

- (a) for individuals who are arrested and held in custody at a police station or other premises, and

[<sup>F13</sup>(b) in prescribed circumstances, for individuals who—

- (i) are not within paragraph (a) but are involved in investigations which may lead to criminal proceedings,
- (ii) are before a court or other body in such proceedings, or
- (iii) have been the subject of such proceedings;

and the assistance which the Commission may consider appropriate includes assistance in the form of advocacy.]

(2) The Commission may comply with the duty imposed by subsection (1) by—

- (a) entering into contracts with persons or bodies for the provision of advice or assistance by them,
- (b) making payments to persons or bodies in respect of the provision of advice or assistance by them,
- (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, advice or assistance,
- (d) establishing and maintaining bodies to provide, or facilitate the provision of, advice or assistance,
- (e) making grants to individuals to enable them to obtain advice or assistance,
- (f) employing persons to provide advice or assistance, or
- (g) doing anything else which it considers appropriate for funding advice and assistance.



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- (3) The [<sup>F14</sup>Lord Chancellor] may by order require the Commission to discharge the function in subsection (2) in accordance with the order.
- (4) The Commission may fund advice and assistance by different means—
  - (a) in different areas in England and Wales, and
  - (b) in relation to different descriptions of cases.

#### Textual Amendments

**F13** S. 13(1)(b) and following words substituted (retrospectively) by 2001 c. 4, s. 1

**F14** Words in s. 13 substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 4(a)

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

**C6** S. 13(2)(b) restricted (2.4.2001) by S.I. 2001/855, art. 7

## 14 Representation.

- (1) Schedule 3 (which makes provision about the grant of a right to representation in criminal proceedings) [<sup>F15</sup>and about the provisional grant of a right to representation in prescribed circumstances] has effect; and the Commission shall fund representation to which an individual has been granted [<sup>F16</sup>, or provisionally granted,] a right in accordance with that Schedule.
- (2) Subject to the following provisions, the Commission may comply with the duty imposed by subsection (1) by—
  - (a) entering into contracts with persons or bodies for the provision of representation by them,
  - (b) making payments to persons or bodies in respect of the provision of representation by them,
  - (c) making grants or loans to persons or bodies to enable them to provide, or facilitate the provision of, representation,
  - (d) establishing and maintaining bodies to provide, or facilitate the provision of, representation,
  - (e) making grants to individuals to enable them to obtain representation,
  - (f) employing persons to provide representation, or
  - (g) doing anything else which it considers appropriate for funding representation.
- (3) The [<sup>F17</sup>Lord Chancellor]—
  - (a) shall by order make provision about the payments which may be made by the Commission in respect of any representation provided by non-contracted private practitioners, and
  - (b) may by order make any other provision requiring the Commission to discharge the function in subsection (2) in accordance with the order.
- (4) For the purposes of subsection (3)(a) representation is provided by a non-contracted private practitioner if it is provided, otherwise than pursuant to a contract entered into by the Commission, by a person or body which is neither—
  - (a) a person or body in receipt of grants or loans made by the Commission as part of the Criminal Defence Service, nor



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- (b) the Commission itself or a body established or maintained by the Commission.
- (5) The provision which the [<sup>F17</sup>Lord Chancellor] is required to make by order under subsection (3)(a) includes provision for reviews of, or appeals against, determinations required for the purposes of the order.
- (6) The Commission may fund representation by different means—
  - (a) in different areas in England and Wales, and
  - (b) in relation to different descriptions of cases.

#### Textual Amendments

- F15** Words in s. 14(1) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(2), 153; S.I. 2008/1586, art. 2, Sch. 1
- F16** Words in s. 14(1) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(2), 153; S.I. 2008/1586, art. 2, Sch. 1
- F17** Words in s. 14 substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 4(a)

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

- C7** S. 14(1) modified (temp. from 2.4.2001 until 4.4.2005) by S.I. 2001/855, art. 3(1)
- C8** S. 14(2)(b) restricted (2.4.2001) by S.I. 2001/855, art. 7

## 15 Selection of representative.

- (1) An individual who has been granted [<sup>F18</sup>, or provisionally granted,] a right to representation in accordance with Schedule 3 may select any representative or representatives willing to act for him; and, where he does so, the Commission is to comply with the duty imposed by section 14(1) by funding representation by the selected representative or representatives.
- (2) Regulations may provide that in prescribed circumstances—
  - (a) the right conferred by subsection (1) is not to apply in cases of prescribed descriptions,
  - (b) an individual who has been provided with advice or assistance funded by the Commission under section 13 by a person whom he chose to provide it for him is to be taken to have selected that person as his representative pursuant to that right,
  - (c) that right is not to include a right to select a representative of a prescribed description,
  - (d) that right is to select only a representative of a prescribed description,
  - (e) that right is to select not more than a prescribed number of representatives to act at any one time, and
  - (f) that right is not to include a right to select a representative in place of a representative previously selected.
- (3) Regulations under subsection (2)(b) may prescribe circumstances in which an individual is to be taken to have chosen a person to provide advice or assistance for him.

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- (4) Regulations under subsection (2) may not provide that only a person employed by the Commission, or by a body established and maintained by the Commission, may be selected.
- (5) Regulations may provide that in prescribed circumstances the Commission is not required to fund, or to continue to fund, representation for an individual by a particular representative (but such provision shall not prejudice any right of the individual to select another representative).
- (6) The circumstances which may be prescribed by regulations under subsection (2) or (5) include that a determination has been made by a prescribed body or person.

#### Textual Amendments

**F18** Words in s. 15(1) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 56\(3\)](#), 153; [S.I. 2008/1586](#), [art. 2](#), Sch. 1

## 16 Code of conduct.

- (1) The Commission shall prepare a code of conduct to be observed by employees of the Commission, and employees of any body established and maintained by the Commission, in the provision of services as part of the Criminal Defence Service.
- (2) The code shall include—
  - (a) duties to avoid discrimination,
  - (b) duties to protect the interests of the individuals for whom services are provided,
  - (c) duties to the court,
  - (d) duties to avoid conflicts of interest, and
  - (e) duties of confidentiality,and duties on employees who are members of a professional body to comply with the rules of the body.
- (3) The Commission may from time to time prepare a revised version of the code.
- (4) Before preparing or revising the code the Commission shall consult the Law Society and the General Council of the Bar and such other bodies or persons as it considers appropriate.
- (5) After preparing the code or a revised version of the code the Commission shall send a copy to the [<sup>F19</sup>Lord Chancellor] .
- (6) If he approves it he shall lay it before each House of Parliament.
- (7) The Commission shall publish—
  - (a) the code as first approved by the [<sup>F19</sup>Lord Chancellor] , and
  - (b) where he approves a revised version, either the revisions or the revised code as appropriate.
- (8) The code, and any revised version of the code, shall not come into force until it has been approved by a resolution of each House of Parliament.

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### Textual Amendments

**F19** Words in s. 16 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, [Sch. para. 4\(a\)](#)

## 17 Terms of provision of funded services.

- (1) An individual for whom services are funded by the Commission as part of the Criminal Defence Service shall not be required to make any payment in respect of the services except where subsection (2) applies [<sup>F20</sup>or regulations under section 17A otherwise provide].
- (2) Where representation for an individual in respect of criminal proceedings in any court other than a magistrates' court is funded by the Commission as part of the Criminal Defence Service, the court may, subject to regulations under subsection (3), make an order requiring him to pay some or all of the cost of any representation so funded for him (in proceedings in that or any other court) [<sup>F21</sup>, except insofar as he has already been ordered under regulations under section 17A to pay that cost].
- (3) Regulations may make provision about—
  - (a) the descriptions of individuals against whom an order under subsection (2) may be made,
  - (b) the circumstances in which such an order may be made and the principles to be applied in deciding whether to make such an order and the amount to be paid,
  - (c) the determination of the cost of representation for the purposes of the making of such an order,
  - (d) the furnishing of information and evidence to the court or the Commission for the purpose of enabling the court to decide whether to make such an order and (if so) the amount to be paid,
  - (e) prohibiting individuals who are required to furnish information or evidence from dealing with property until they have furnished the information or evidence or until a decision whether to make an order, or the amount to be paid, has been made,
  - (f) the person or body to which, and manner in which, payments required by such an order must be made and what that person or body is to do with them, and
  - (g) the enforcement of such an order (including provision for the imposition of charges in respect of unpaid amounts).

### Textual Amendments

**F20** Words in s. 17(1) inserted (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\)](#), [ss. 3\(2\)\(a\)](#), 5(2); [S.I. 2006/2491](#), [art. 2](#)

**F21** Words in s. 17(2) inserted (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\)](#), [ss. 3\(2\)\(b\)](#), 5(2); [S.I. 2006/2491](#), [art. 2](#)

## [<sup>F22</sup>17A Contribution orders

- (1) Regulations may provide that, in prescribed circumstances, where—
  - (a) an individual has been granted a right to representation, and

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- (b) his financial resources are such as to make him liable under the regulations to do so,  
the relevant authority shall order him to pay the cost of his representation or to make a contribution in respect of that cost of such amount as is fixed by or determined under the regulations.
- (2) Regulations under subsection (1) may include—
  - (a) provision requiring the furnishing of information;
  - (b) provision for the determination of the cost of representation for the purposes of liability under a contribution order;
  - (c) provision enabling the relevant authority to require that an amount payable under a contribution order be paid by periodical payments or one or more capital sums, or both;
  - (d) provision for the payment by an individual of interest (on such terms as may be prescribed) in respect of—
    - (i) any payment in respect of the cost of representation required by a contribution order to be made by him later than the time when the representation is provided;
    - (ii) so much of any payment which he is required by a contribution order to make which remains unpaid after the time when it is required to be made;
  - (e) provision about the enforcement of any liability under a contribution order, including provision for the withdrawal of the individual's right to representation in certain circumstances;
  - (f) provision for the variation or revocation of contribution orders;
  - (g) provision for an appeal to lie to such court or other person or body as may be prescribed against a contribution order;
  - (h) such transitional provision as the Lord Chancellor may consider appropriate.
- (3) Regulations under subsection (1) shall include provision for the repayment to an individual of any payment made by him in excess of his liability under a contribution order.
- (4) Regulations under subsection (1) shall provide that an order made under the regulations may not order the payment of costs to the extent that they are already the subject of an order under section 17(2).
- (5) <sup>F23</sup> .....
- (6) In this section, “contribution order” means an order under regulations under subsection (1).]

**Textual Amendments**

**F22** S. 17A inserted (2.10.2006) by Criminal Defence Service Act 2006 (c. 9), ss. 3(3), 5(2); S.I. 2006/2491, art. 2

**F23** S. 17A(5) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 58(2), 149, 153, Sch. 28 Pt. 4; S.I. 2008/1586, art. 2, Sch. 1

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## 18 Funding.

- (1) The [<sup>F24</sup>Lord Chancellor] shall pay to the Commission such sums as are required to meet the costs of any advice, assistance and representation funded by the Commission as part of the Criminal Defence Service.
- (2) The [<sup>F24</sup>Lord Chancellor] may—
  - (a) determine the manner in which and times at which the sums referred to in subsection (1) shall be paid to the Commission, and
  - (b) impose conditions on the payment of the sums.
- (3) In funding services as part of the Criminal Defence Service the Commission shall aim to obtain the best possible value for money.

### Textual Amendments

**F24** Words in s. 18 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, [Sch. para. 4\(a\)](#)

## [<sup>F25</sup>18A Pilot schemes

- (1) This section applies to the following instruments—
  - (a) any order under section 14 or paragraph 5 of Schedule 3,
  - (b) any regulations under section 12, 13, 15, 17 or 17A or any of paragraphs 1A to 5 of Schedule 3, and
  - (c) any regulations under section 22(5) having effect in relation to the Criminal Defence Service.
- (2) Any instrument to which this section applies may be made so as to have effect for a specified period not exceeding 12 months.
- (3) But if the Lord Chancellor thinks that it is necessary or expedient for either of the purposes in subsection (4), the period specified in the instrument—
  - (a) may in the first instance be a period not exceeding 18 months;
  - (b) may be varied so as to become a period not exceeding 18 months.
- (4) The purposes are—
  - (a) ensuring the effective operation of the instrument;
  - (b) co-ordinating the operation of the instrument with the operation of any other provision made under an enactment relating to any aspect of the criminal justice system.
- (5) The period for the time being specified in an instrument to which this section applies may also be varied so that the instrument has effect for such further period as the Lord Chancellor thinks necessary for the purpose of securing that it remains in operation until the coming into force of any order or regulations made under the same provision of this Act that will have effect—
  - (a) generally, or
  - (b) for purposes wider than those for which the instrument has effect.
- (6) In the following provisions of this section “pilot scheme” means any instrument which, in accordance with subsections (2) to (5), is to have effect for a limited period.

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- (7) A pilot scheme may provide that its provisions are to apply only in relation to—
- (a) one or more specified areas or localities;
  - (b) one or more specified descriptions of court;
  - (c) one or more specified offences or descriptions of offence;
  - (d) one or more specified classes of person;
  - (e) persons selected—
    - (i) by reference to specified criteria; or
    - (ii) on a sampling basis.
- (8) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period (or that period as varied under subsection (3)(b) or (5)).
- (9) A pilot scheme may be replaced by a further pilot scheme making the same or similar provision.]

#### Textual Amendments

**F25** S. 18A inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 58\(3\)](#), 153; S.I. 2008/1586, [art. 2](#), [Sch. 1](#)

### Supplementary

## 19 Foreign law.

- (1) The Commission may not fund as part of the Community Legal Service or Criminal Defence Service services relating to any law other than that of England and Wales, unless any such law is relevant for determining any issue relating to the law of England and Wales.
- (2) But the [<sup>F26</sup>Lord Chancellor] may, if it appears to him necessary to do so for the purpose of fulfilling any obligation imposed on the United Kingdom by any international agreement, by order specify that there may be funded as part of the Community Legal Service or Criminal Defence Service (or both) services relating to the application of such other law as may be specified in the order.

#### Textual Amendments

**F26** Words in s. 19 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), [art. 8](#), [Sch. para. 4\(a\)](#)

## 20 Restriction of disclosure of information.

- (1) Subject to the following provisions of this section, information which is furnished—
- (a) to the Commission or any court, tribunal or other person or body on whom functions are imposed or conferred by or under this Part, and
  - (b) in connection with the case of an individual seeking or receiving services funded by the Commission as part of the Community Legal Service or Criminal Defence Service,

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shall not be disclosed except as permitted by subsection (2).

- (2) Such information may be disclosed—
- (a) for the purpose of enabling or assisting the Commission to discharge any functions imposed or conferred on it by or under this Part,
  - (b) for the purpose of enabling or assisting the [<sup>F27</sup>Lord Chancellor] to discharge any functions imposed or conferred on him by or under this Part,
  - (c) for the purpose of enabling or assisting any court, tribunal or other person or body to discharge any functions imposed or conferred on it by or under this Part,
  - (d) except where regulations otherwise provide, for the purpose of the investigation or prosecution of any offence (or suspected offence) under the law of England and Wales or any other jurisdiction,
  - (e) in connection with any proceedings relating to the Community Legal Service or Criminal Defence Service, or
  - (f) for the purpose of facilitating the proper performance by any tribunal of disciplinary functions.
- (3) Subsection (1) does not limit the disclosure of—
- (a) information in the form of a summary or collection of information so framed as not to enable information relating to any individual to be ascertained from it, or
  - (b) information about the amount of any grant, loan or other payment made to any person or body by the Commission.
- (4) Subsection (1) does not prevent the disclosure of information for any purpose with the consent of the individual in connection with whose case it was furnished and, where he did not furnish it himself, with that of the person or body who did.
- [<sup>F28</sup>(4A) Subsection (1) does not prevent the disclosure of information after the end of the restricted period, if—
- (a) the disclosure is by a person who is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and
  - (b) the information is not held by the authority on behalf of another person.
- (4B) The restricted period is the period of one hundred years starting at the end of the calendar year in which a record containing the information was first created.]
- (5) A person who discloses any information in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) Proceedings for an offence under this section shall not be brought without the consent of the Director of Public Prosecutions.
- (7) Nothing in this section applies to information furnished to a person providing services funded as part of the Community Legal Service or the Criminal Defence Service by or on behalf of an individual seeking or receiving such services.

#### Textual Amendments

**F27** Word in s. 20 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, [Sch. para. 4\(a\)](#)



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**F28** S. 20(4A)(4B) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 9**

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

**C9** S. 20(2): Disclosure powers extended (14.12.2001) by [2001 c. 24, ss. 17, 127\(2\)](#), **Sch. 4 Pt. I para. 47**

## 21 Misrepresentation etc.

- (1) Any person who—
  - (a) intentionally fails to comply with any requirement imposed by virtue of this Part as to the information to be furnished by him, or
  - (b) in furnishing any information required by virtue of this Part makes any statement or representation which he knows or believes to be false,shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to—
  - (a) a fine not exceeding level 4 on the standard scale, or
  - (b) imprisonment for a term not exceeding three months,or to both.
- (3) Proceedings in respect of an offence under subsection (1) may (despite anything in the <sup>M3</sup>Magistrates' Courts Act 1980) be brought at any time within the period of six months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify a prosecution comes to his knowledge.
- (4) But subsection (3) does not authorise the commencement of proceedings for an offence at a time more than two years after the date on which the offence was committed.
- (5) A county court shall have jurisdiction to hear and determine any action brought by the Commission to recover loss sustained by reason of—
  - (a) the failure of any person to comply with any requirement imposed by virtue of this Part as to the information to be furnished by him, or
  - (b) a false statement or false representation made by any person in furnishing any information required by virtue of this Part.

**Marginal Citations**

**M3** [1980 c.43.](#)

## 22 Position of service providers and other parties etc.

- (1) Except as expressly provided by regulations, the fact that services provided for an individual are or could be funded by the Commission as part of the Community Legal Service or Criminal Defence Service shall not affect—
  - (a) the relationship between that individual and the person by whom they are provided or any privilege arising out of that relationship, or
  - (b) any right which that individual may have to be indemnified in respect of expenses incurred by him by any other person.

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- (2) A person who provides services funded by the Commission as part of the Community Legal Service or Criminal Defence Service shall not take any payment in respect of the services apart from—
  - (a) that made by way of that funding, and
  - (b) any authorised by the Commission to be taken.
- (3) The withdrawal of a right to representation previously granted to an individual shall not affect the right of any person who has provided to him services funded by the Commission as part of the Criminal Defence Service to remuneration for work done before the date of the withdrawal.
- (4) Except as expressly provided by regulations, any rights conferred by or by virtue of this Part on an individual for whom services are funded by the Commission as part of the Community Legal Service or Criminal Defence Service in relation to any proceedings shall not affect—
  - (a) the rights or liabilities of other parties to the proceedings, or
  - (b) the principles on which the discretion of any court or tribunal is normally exercised.
- (5) Regulations may make provision about the procedure of any court or tribunal in relation to services funded by the Commission as part of the Community Legal Service or Criminal Defence Service.
- (6) Regulations made under subsection (5) may in particular authorise the exercise of the functions of any court or tribunal by any member or officer of that or any other court or tribunal.

## 23 Guidance.

- (1) The [<sup>F29</sup>Lord Chancellor] may give guidance to the Commission as to the manner in which he considers it should discharge its functions.
- (2) The Commission shall take into account any such guidance when considering the manner in which it is to discharge its functions.
- (3) Guidance may not be given under this section in relation to individual cases.
- (4) The [<sup>F29</sup>Lord Chancellor] shall either—
  - (a) publish, or
  - (b) require the Commission to publish,
 any guidance given under this section.

### Textual Amendments

**F29** Words in s. 23 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art 8, **Sch. para. 4(a)**

## 24 Consequential amendments.

Schedule 4 (which makes amendments consequential on this Part) has effect.

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### Commencement Information

- II** S. 24 wholly in force; s. 24 not in force at Royal Assent see s. 108; s. 24 in force for specified purposes at 1.4.2000 by S.I. 2000/774, art. 2(a)(iii) (subject to arts. 3, 4); s. 24 in force insofar as not already in force at 2.4.2001 by S.I. 2001/916, art. 3(a)(ii)

## 25 Orders, regulations and directions.

- (1) Any power of the [<sup>F30</sup>Lord Chancellor] under this Part to make an order or regulations is exercisable by statutory instrument.
  - (2) Before making any remuneration order relating to the payment of remuneration to barristers or solicitors the [<sup>F30</sup>Lord Chancellor] shall consult the General Council of the Bar and the Law Society.
  - (3) When making any remuneration order the [<sup>F30</sup>Lord Chancellor] shall have regard to—
    - (a) the need to secure the provision of services of the description to which the order relates by a sufficient number of competent persons and bodies,
    - (b) the cost to public funds, and
    - (c) the need to secure value for money.
  - (4) In subsections (2) and (3) “remuneration order” means an order under section 6(4), 13(3) or 14(3) which relates to the payment by the Commission of remuneration—
    - (a) for the provision of services by persons or bodies in individual cases, or
    - (b) by reference to the provision of services by persons or bodies in specified numbers of cases.
  - (5) No directions may be given by the [<sup>F30</sup>Lord Chancellor] to the Commission under this Part in relation to individual cases.
  - (6) Any directions given by the [<sup>F30</sup>Lord Chancellor] to the Commission under this Part may be varied or revoked.
  - (7) The [<sup>F30</sup>Lord Chancellor] shall either—
    - (a) publish, or
    - (b) require the Commission to publish,any directions given by him under this Part.
  - (8) Orders, regulations and directions of the [<sup>F30</sup>Lord Chancellor] under this Part may make different provision for different purposes (including different areas).
  - (9) No order shall be made under section 2 or 8 or paragraph 5(3) of Schedule 3, and no regulations shall be made under section 6(7), 11(1) or (4)(b) or (d) or 15(2)(a) or (5) or [<sup>F31</sup>[<sup>F32</sup>paragraph 1A, 2A,]]<sup>F33</sup>4 or 6] of Schedule 3], unless a draft of the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
- [<sup>F34</sup>(9A) The first regulations under [<sup>F35</sup>section 17A or] paragraph 3B of Schedule 3 shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.]

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[<sup>F36</sup>(9B) No order or regulations which, by virtue of section 18A, is or are to have effect for a limited period shall be made unless a draft of the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.]

(10) A statutory instrument containing any other order or regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F30** Words in s. 25 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art 8, **Sch. para. 4(a)**
- F31** Words in s. 25(9) substituted (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\)](#), **ss. 1(8)**, 5(2); [S.I. 2006/2491](#), **art. 2**
- F32** Words in s. 25(9) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 56(4)**, 153; [S.I. 2008/1586](#), **art. 2**, Sch. 1
- F33** Words in s. 25(9) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 57(2)**, 153; [S.I. 2008/1586](#), **art. 2**, Sch. 1
- F34** S. 25(9A) inserted (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\)](#), **ss. 2(5)**, 5(2); [S.I. 2006/2491](#), **art. 2**
- F35** Words in s. 25(9A) inserted (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\)](#), **ss. 3(4)**, 5(2); [S.I. 2006/2491](#), **art. 2**
- F36** S. 25(9B) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 58(4)**, 153; [S.I. 2008/1586](#), **art. 2**, Sch. 1

## 26 Interpretation.

In this Part—

“the Commission” means the Legal Services Commission,

“the Community Legal Service Fund” has the meaning given by section 5(1),

“criminal proceedings” has the meaning given in section 12(2),

“prescribed” means prescribed by regulations and “prescribe” shall be construed accordingly,

“regulations” means regulations made by the [<sup>F37</sup>Lord Chancellor],

[<sup>F38</sup>“relevant authority” means such person or body as may be prescribed,] and

“representation” means representation for the purposes of proceedings and includes the assistance which is usually given by a representative in the steps preliminary or incidental to any proceedings and, subject to any time limits which may be prescribed, advice and assistance as to any appeal.[<sup>F39</sup> and, for the purposes of the definition of “representation”, “proceedings” includes, in the context of a provisional grant of a right to representation, proceedings that may result from the investigation concerned.]

#### Textual Amendments

- F37** Words in s. 26 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art 8, **Sch. para. 4(a)**
- F38** In s. 26 definition of "relevant authority" inserted (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\)](#), **ss. 2(6)**, 5(2); [S.I. 2006/2491](#), **art. 2**

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**F39** S. 26: words relating to definition of "representation" inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 56\(5\)](#), 153; S.I. 2008/1586, [art. 2](#), Sch. 1

## PART II

### OTHER FUNDING OF LEGAL SERVICES

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

- C10** Pt. 2: functions of the Lord Chancellor transferred (19.8.2003) to the Secretary of State by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), [art. 4](#), [Sch. 1](#) (with [art. 6](#))  
Pt. 2: functions of the Secretary of State transferred (12.1.2006) to the Lord Chancellor by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), [art. 3](#) (with [arts. 4, 5](#))

#### *Conditional fee and litigation funding agreements*

### 27 Conditional fee agreements.

(1) For section 58 of the <sup>M4</sup>Courts and Legal Services Act 1990 substitute—

#### “58 Conditional fee agreements.

- (1) A conditional fee agreement which satisfies all of the conditions applicable to it by virtue of this section shall not be unenforceable by reason only of its being a conditional fee agreement; but (subject to subsection (5)) any other conditional fee agreement shall be unenforceable.
- (2) For the purposes of this section and section 58A—
  - (a) a conditional fee agreement is an agreement with a person providing advocacy or litigation services which provides for his fees and expenses, or any part of them, to be payable only in specified circumstances; and
  - (b) a conditional fee agreement provides for a success fee if it provides for the amount of any fees to which it applies to be increased, in specified circumstances, above the amount which would be payable if it were not payable only in specified circumstances.
- (3) The following conditions are applicable to every conditional fee agreement—
  - (a) it must be in writing;
  - (b) it must not relate to proceedings which cannot be the subject of an enforceable conditional fee agreement; and
  - (c) it must comply with such requirements (if any) as may be prescribed by the Lord Chancellor.
- (4) The following further conditions are applicable to a conditional fee agreement which provides for a success fee—
  - (a) it must relate to proceedings of a description specified by order made by the Lord Chancellor;

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- (b) it must state the percentage by which the amount of the fees which would be payable if it were not a conditional fee agreement is to be increased; and
  - (c) that percentage must not exceed the percentage specified in relation to the description of proceedings to which the agreement relates by order made by the Lord Chancellor.
- (5) If a conditional fee agreement is an agreement to which section 57 of the <sup>M5</sup>Solicitors Act 1974 (non-contentious business agreements between solicitor and client) applies, subsection (1) shall not make it unenforceable.

### **58A Conditional fee agreements: supplementary.**

- (1) The proceedings which cannot be the subject of an enforceable conditional fee agreement are—
- (a) criminal proceedings, apart from proceedings under section 82 of the <sup>M6</sup>Environmental Protection Act 1990; and
  - (b) family proceedings.
- (2) In subsection (1) “family proceedings” means proceedings under any one or more of the following—
- (a) the <sup>M7</sup>Matrimonial Causes Act 1973;
  - (b) the <sup>M8</sup>Adoption Act 1976;
  - (c) the <sup>M9</sup>Domestic Proceedings and Magistrates’ Courts Act 1978;
  - (d) Part III of the <sup>M10</sup>Matrimonial and Family Proceedings Act 1984;
  - (e) Parts I, II and IV of the <sup>M11</sup>Children Act 1989;
  - (f) Part IV of the <sup>M12</sup>Family Law Act 1996; and
  - (g) the inherent jurisdiction of the High Court in relation to children.
- (3) The requirements which the Lord Chancellor may prescribe under section 58(3)(c)—
- (a) include requirements for the person providing advocacy or litigation services to have provided prescribed information before the agreement is made; and
  - (b) may be different for different descriptions of conditional fee agreements (and, in particular, may be different for those which provide for a success fee and those which do not).
- (4) In section 58 and this section (and in the definitions of “advocacy services” and “litigation services” as they apply for their purposes) “proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated.
- (5) Before making an order under section 58(4), the Lord Chancellor shall consult—
- (a) the designated judges;
  - (b) the General Council of the Bar;
  - (c) the Law Society; and
  - (d) such other bodies as he considers appropriate.
- (6) A costs order made in any proceedings may, subject in the case of court proceedings to rules of court, include provision requiring the payment of any

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fees payable under a conditional fee agreement which provides for a success fee.

(7) Rules of court may make provision with respect to the assessment of any costs which include fees payable under a conditional fee agreement (including one which provides for a success fee).”

(2) In section 120(4) of the <sup>M13</sup>Courts and Legal Services Act 1990 (orders and regulations subject to affirmative procedure), for “58,” substitute “ 58(4), ”.

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

C11 S. 27 excluded (1.4.2000) by S.I. 2000/900, art. 2(2)

**Marginal Citations**

M4 1990 c.41.

M5 1974 c.47.

M6 1990 c.43.

M7 1973 c.18.

M8 1976 c.36.

M9 1978 c.22.

M10 1984 c.42.

M11 1989 c.41.

M12 1996 c.27.

M13 1990 c.41.

PROSPECTIVE

**28 Litigation funding agreements.**

In the Courts and Legal Services Act 1990, after section 58A (inserted by section 27 above) insert—

**“58B Litigation funding agreements.**

- (1) A litigation funding agreement which satisfies all of the conditions applicable to it by virtue of this section shall not be unenforceable by reason only of its being a litigation funding agreement.
- (2) For the purposes of this section a litigation funding agreement is an agreement under which—
  - (a) a person (“the funder”) agrees to fund (in whole or in part) the provision of advocacy or litigation services (by someone other than the funder) to another person (“the litigant”); and
  - (b) the litigant agrees to pay a sum to the funder in specified circumstances.
- (3) The following conditions are applicable to a litigation funding agreement—
  - (a) the funder must be a person, or person of a description, prescribed by the [<sup>F40</sup>Lord Chancellor];
  - (b) the agreement must be in writing;



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- (c) the agreement must not relate to proceedings which by virtue of section 58A(1) and (2) cannot be the subject of an enforceable conditional fee agreement or to proceedings of any such description as may be prescribed by the [F40Lord Chancellor];
  - (d) the agreement must comply with such requirements (if any) as may be so prescribed;
  - (e) the sum to be paid by the litigant must consist of any costs payable to him in respect of the proceedings to which the agreement relates together with an amount calculated by reference to the funder's anticipated expenditure in funding the provision of the services; and
  - (f) that amount must not exceed such percentage of that anticipated expenditure as may be prescribed by the [F40Lord Chancellor] in relation to proceedings of the description to which the agreement relates.
- (4) Regulations under subsection (3)(a) may require a person to be approved by the [F40Lord Chancellor] or by a prescribed person.
- (5) The requirements which the [F40Lord Chancellor] may prescribe under subsection (3)(d)—
- (a) include requirements for the funder to have provided prescribed information to the litigant before the agreement is made; and
  - (b) may be different for different descriptions of litigation funding agreements.
- (6) In this section (and in the definitions of “advocacy services” and “litigation services” as they apply for its purposes) “proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated.
- (7) Before making regulations under this section, the [F40Lord Chancellor] shall consult—
- (a) the designated judges;
  - (b) the General Council of the Bar;
  - (c) the Law Society; and
  - (d) such other bodies as he considers appropriate.
- (8) A costs order made in any proceedings may, subject in the case of court proceedings to rules of court, include provision requiring the payment of any amount payable under a litigation funding agreement.
- (9) Rules of court may make provision with respect to the assessment of any costs which include fees payable under a litigation funding agreement.”

#### Textual Amendments

**F40** Words in s. 28 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art 8, **Sch. para. 4(b)**

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## Costs

### 29 Recovery of insurance premiums by way of costs.

Where in any proceedings a costs order is made in favour of any party who has taken out an insurance policy against the risk of incurring a liability in those proceedings, the costs payable to him may, subject in the case of court proceedings to rules of court, include costs in respect of the premium of the policy.

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

C12 S. 29 restricted (1.4.2000) by S.I. 2000/900, arts. 1, 3

### 30 Recovery where body undertakes to meet costs liabilities.

- (1) This section applies where a body of a prescribed description undertakes to meet (in accordance with arrangements satisfying prescribed conditions) liabilities which members of the body or other persons who are parties to proceedings may incur to pay the costs of other parties to the proceedings.
- (2) If in any of the proceedings a costs order is made in favour of any of the members or other persons, the costs payable to him may, subject to subsection (3) and (in the case of court proceedings) to rules of court, include an additional amount in respect of any provision made by or on behalf of the body in connection with the proceedings against the risk of having to meet such liabilities.
- (3) But the additional amount shall not exceed a sum determined in a prescribed manner; and there may, in particular, be prescribed as a manner of determination one which takes into account the likely cost to the member or other person of the premium of an insurance policy against the risk of incurring a liability to pay the costs of other parties to the proceedings.
- (4) In this section “prescribed” means prescribed by regulations made by the [<sup>F41</sup>Lord Chancellor] by statutory instrument; and a statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations under subsection (1) may, in particular, prescribe as a description of body one which is for the time being approved by the [<sup>F41</sup>Lord Chancellor] or by a prescribed person.

#### Textual Amendments

F41 Words in s. 30 substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art 8, Sch. para. 4(c)

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

C13 S. 30 restricted (1.4.2000) by S.I. 2000/900, art. 4

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### 31 Rules as to costs.

In section 51 of the <sup>M14</sup>Supreme Court Act 1981 (costs), in subsection (2) (rules regulating matters relating to costs), insert at the end “ or for securing that the amount awarded to a party in respect of the costs to be paid by him to such representatives is not limited to what would have been payable by him to them if he had not been awarded costs. ”

#### Marginal Citations

M14 1981 c.54.

#### *Legal aid in Scotland*

### 32 Regulations about financial limits in certain proceedings.

In section 9(2) of the <sup>M15</sup>Legal Aid (Scotland) Act 1986 (application by regulations of Part II to assistance by way of representation), after paragraph (d) insert—

- “(dd) provide that assistance by way of representation shall be available in relation to such proceedings as may be prescribed, without reference to the financial limits under section 8 of this Act;
- (de) provide that section 11(2) of this Act shall not apply as respects assistance by way of representation received in relation to such proceedings as may be prescribed;”.

#### Marginal Citations

M15 1986 c.47.

### 33 Recipients of disabled person’s tax credit.

F42 .....

#### Textual Amendments

F42 S. 33 repealed (6.4.2003) by Tax Credits Act 2002 (c. 21), ss. 60, 61, Sch. 6; S.I. 2003/962, art. 2(1)(3)(e), Sch. 1 (subject to arts. 3, 4 and with art. 5)

### 34 References by Scottish Criminal Cases Review Commission.

In section 25(7) of the Legal Aid (Scotland) Act 1986 (legal aid in appeals), for “Secretary of State under section 124” substitute “ Scottish Criminal Cases Review Commission under section 194B ”.

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## PART III

### PROVISION OF LEGAL SERVICES

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

- C14** Pt. 3: functions of the Lord Chancellor transferred (19.8.2003) to the Secretary of State by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 4, [Sch. 1](#) (with art. 6)

#### *Legal Services Consultative Panel*

### 35 Replacement of ACLEC by Consultative Panel.

- (1) <sup>F43</sup>.....
- (2) In the <sup>M16</sup>Courts and Legal Services Act 1990, after section 18 insert—

#### *“ The Legal Services Consultative Panel*

#### **18A The Consultative Panel.**

- (1) The Lord Chancellor shall appoint persons to form a panel to be known as the Legal Services Consultative Panel.
- (2) In appointing persons to the Consultative Panel the Lord Chancellor shall have regard to the desirability of securing that the Consultative Panel includes persons who (between them) have experience in or knowledge of—
- (a) the provision of legal services;
  - (b) the lay advice sector;
  - (c) civil or criminal proceedings and the working of the courts;
  - (d) legal education and training;
  - (e) the maintenance of the professional standards of persons who provide legal services;
  - (f) the maintenance of standards in professions other than the legal profession;
  - (g) consumer affairs;
  - (h) commercial affairs; and
  - (i) social conditions.
- (3) The Consultative Panel shall have—
- (a) the duty of assisting in the maintenance and development of standards in the education, training and conduct of persons offering legal services by considering relevant issues in accordance with a programme of work approved by the Lord Chancellor and, where the Consultative Panel considers it appropriate to do so, making recommendations to him;
  - (b) the duty of providing to the Lord Chancellor, at his request, advice about particular matters relating to any aspect of the provision of legal services (including the education, training and conduct of persons offering legal services); and

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- (c) the functions conferred or imposed on it by other provisions of this Act or any other enactment.
- (4) The Consultative Panel may, in performance of the duty in subsection (3)(a), seek information from or give advice to any body or person.
- (5) The Lord Chancellor shall publish—
  - (a) any recommendations made to him by the Consultative Panel in performance of the duty in paragraph (a) of subsection (3); and
  - (b) any advice provided to him by the Consultative Panel in performance of the duty in paragraph (b) of that subsection.
- (6) The Lord Chancellor shall consider any recommendations made to him by the Consultative Panel in performance of the duty in subsection (3)(a).
- (7) The Lord Chancellor—
  - (a) shall make available to the Consultative Panel appropriate administrative support; and
  - (b) may pay to any of the persons forming it any such allowances, and make any such reimbursement of expenses, as he considers appropriate.
- (8) For the purposes of the law of defamation the publication of any advice by the Consultative Panel in the exercise of any of its functions shall be absolutely privileged.”
- (3) In section 119(1) of that Act (interpretation), after the definition of “authorised practitioner” insert—
 

““Consultative Panel” means the Legal Services Consultative Panel;”.
- (4) In Schedule 9 to that Act (exemption from prohibition on preparation of probate papers: approval)—
  - (a) for “Advisory Committee” (in each place) substitute “ Consultative Panel ”,
  - (b) in paragraph 2(1), for “Advisory Committee’s” substitute “ Consultative Panel’s ”, and
  - (c) in paragraphs 2(3) and 8(3), for “Committee” (in each place) substitute “ Consultative Panel ”.
- (5) In the First Schedule to the <sup>M17</sup>Public Records Act 1958 (definition of public records), in Part II of the Table set out at the end of paragraph 3, insert at the appropriate place—
 

“The Legal Services Consultative Panel.”

#### Textual Amendments

**F43** S. 35(1) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), {Sch. 1 Pt. 1 Group 4}

#### Marginal Citations

**M16** 1990 c.41.

**M17** 1958 c.51.

*Status:* Point in time view as at 01/04/2009. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* Access to Justice Act 1999 is up to date with all changes known to be in force on or before 28 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)

### *Rights of audience and rights to conduct litigation*

#### **36 Barristers and solicitors.**

For sections 31 to 33 of the <sup>M18</sup>Courts and Legal Services Act 1990 (deemed rights of barristers and solicitors) substitute—

##### **“31 Barristers and solicitors.**

- (1) Every barrister shall be deemed to have been granted by the General Council of the Bar a right of audience before every court in relation to all proceedings (exercisable in accordance with the qualification regulations and rules of conduct of the General Council of the Bar approved for the purposes of section 27 in relation to the right).
- (2) Every solicitor shall be deemed to have been granted by the Law Society—
  - (a) a right of audience before every court in relation to all proceedings (exercisable in accordance with the qualification regulations and rules of conduct of the Law Society approved for the purposes of section 27 in relation to the right); and
  - (b) a right to conduct litigation in relation to every court and all proceedings (exercisable in accordance with the qualification regulations and rules of conduct of the Law Society approved for the purposes of section 28 in relation to the right).
- (3) A person shall not have a right of audience by virtue of subsection (1) if—
  - (a) he has not been called to the Bar by an Inn of Court; or
  - (b) he has been disbarred, or is temporarily suspended from practice, by order of an Inn of Court.”

#### **Marginal Citations**

**M18** 1990 c.41.

#### **37 Rights of audience: employed advocates.**

In the <sup>M19</sup>Courts and Legal Services Act 1990, after section 31 (as substituted by section 36 above) insert—

##### **“31A Employed advocates.**

- (1) Where a person who has a right of audience granted by an authorised body is employed as a Crown Prosecutor or in any other description of employment, any qualification regulations or rules of conduct of the body relating to that right which fall within subsection (2) shall not have effect in relation to him.
- (2) Qualification regulations or rules of conduct relating to a right granted by a body fall within this subsection if—
  - (a) they limit the courts before which, or proceedings in which, that right may be exercised by members of the body who are employed or limit the circumstances in which that right may be exercised by them

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by requiring them to be accompanied by some other person when exercising it; and

- (b) they do not impose the same limitation on members of the body who have the right but are not employed.”

#### Marginal Citations

M19 1990 c.41.

### 38 Employees of Legal Services Commission.

In the Courts and Legal Services Act 1990, after section 31A (inserted by section 37 above) insert—

#### “31B Advocates and litigators employed by Legal Services Commission.

- (1) Where a person who has a right of audience or right to conduct litigation granted by an authorised body is employed by the Legal Services Commission, or by any body established and maintained by the Legal Services Commission, any rules of the authorised body which fall within subsection (2) shall not have effect in relation to him.
- (2) Rules of a body fall within this subsection if they are—
- (a) rules of conduct prohibiting or limiting the exercise of the right on behalf of members of the public by members of the body who are employees; or
- (b) rules of any other description prohibiting or limiting the provision of legal services to members of the public by such members of the body, and either of the conditions specified in subsection (3) is satisfied.
- (3) Those conditions are—
- (a) that the prohibition or limitation is on the exercise of the right, or the provision of the services, otherwise than on the instructions of solicitors (or other persons acting for the members of the public); and
- (b) that the rules do not impose the same prohibition or limitation on members of the body who have the right but are not employees.”

### 39 Rights of audience: change of authorised body.

In the <sup>M20</sup>Courts and Legal Services Act 1990, after section 31B (inserted by section 38 above) insert—

#### “31C Change of authorised body.

- (1) Where a person—
- (a) has at any time had, and been entitled to exercise, a right of audience before a court in relation to proceedings of any description granted by one authorised body; and
- (b) becomes a member of another authorised body and has a right of audience before that court in relation to that description of proceedings granted by that body,



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any qualification regulations of that body relating to that right shall not have effect in relation to him.

(2) Subsection (1) does not apply in relation to any qualification regulations to the extent that they impose requirements relating to continuing education or training which have effect in relation to the exercise of the right by all members of the body who have the right.

(3) Subsection (1) does not apply to a person if he has been banned from exercising the right of audience by the body mentioned in paragraph (a) of that subsection as a result of disciplinary proceedings and that body has not lifted the ban.”

#### Marginal Citations

M20 1990 c.41.

#### 40 Rights to conduct litigation: barristers and legal executives.

(1) Section 28 of the Courts and Legal Services Act 1990 (rights to conduct litigation) is amended as follows.

(2) In the definition of “authorised body” in subsection (5), after paragraph (a) (which specifies the Law Society), insert—

“(aa) the General Council of the Bar;

(ab) the Institute of Legal Executives; and”.

(3) After that subsection insert—

“(5A) Nothing in this section shall be taken to require the General Council of the Bar or the Institute of Legal Executives to grant a right to conduct litigation.”

#### 41 Authorised bodies: designation and regulations and rules.

Schedule 5 (which substitutes new provisions for sections 29 and 30 of, and Schedule 4 to, the Courts and Legal Services Act 1990) has effect.

#### 42 Overriding duties of advocates and litigators.

(1) In section 27 of the <sup>M21</sup>Courts and Legal Services Act 1990 (rights of audience), after subsection (2) insert—

“(2A) Every person who exercises before any court a right of audience granted by an authorised body has—

(a) a duty to the court to act with independence in the interests of justice; and

(b) a duty to comply with rules of conduct of the body relating to the right and approved for the purposes of this section;

and those duties shall override any obligation which the person may have (otherwise than under the criminal law) if it is inconsistent with them.”

(2) In section 28 of that Act (rights to conduct litigation), after subsection (2) insert—

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- “(2A) Every person who exercises in relation to proceedings in any court a right to conduct litigation granted by an authorised body has—
- (a) a duty to the court to act with independence in the interests of justice; and
  - (b) a duty to comply with rules of conduct of the body relating to the right and approved for the purposes of this section;
- and those duties shall override any obligation which the person may have (otherwise than under the criminal law) if it is inconsistent with them.”

**Marginal Citations**

**M21** 1990 c.41.

**43 Minor and consequential amendments.**

Schedule 6 (which makes minor and consequential amendments relating to rights of audience and rights to conduct litigation) has effect.

**Commencement Information**

**I2** S. 43 wholly in force at 1.1.2000; s. 43 not in force at Royal Assent see s. 108(1); s. 43 in force for certain purposes at 27.9.1999 by S.I. 1999/2657, art. 2(a); s. 43 in force at 1.1.2000 insofar as not already in force by S.I. 1999/3344, art. 2(a) (with art. 4)

*Barristers and solicitors*

**44 Barristers employed by solicitors etc.**

- (1) Where a barrister is employed by—
- (a) a solicitor or other authorised litigator (within the meaning of the <sup>M22</sup>Courts and Legal Services Act 1990), or
  - (b) a body recognised under section 9 of the <sup>M23</sup>Administration of Justice Act 1985 (incorporated solicitors’ practices),
- any rules of the General Council of the Bar which impose a prohibition or limitation on the provision of legal services shall not operate to prevent him from providing legal services to clients of his employer if either of the conditions specified in subsection (2) is satisfied.
- (2) Those conditions are—
- (a) that the prohibition or limitation is on the provision of the services otherwise than on the instructions of a solicitor (or other person acting for the client), and
  - (b) that the prohibition or limitation does not apply to barristers who provide legal services but are not employees.

**Marginal Citations**

**M22** 1990 c.41.

**M23** 1985 c.61.

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#### 45 Fees on application for appointment as Queen’s Counsel.

- (1) A person who applies to the [F44 Secretary of State] to be recommended for appointment as Queen’s Counsel in England and Wales shall pay a fee to the [F44 Secretary of State].
- (2) The amount of the fee shall be specified by order made by the [F44 Secretary of State]; and in determining that amount the [F44 Secretary of State] shall have regard to the expenses incurred by him in considering such applications.
- (3) An order under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) This section does not affect section 9 of the M24 Great Seal (Offices) Act 1874 (under which fees are charged in respect of the grant of Letters Patent under the Great Seal for appointment as Queen’s Counsel).

##### Textual Amendments

**F44** Words in s. 45 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, Sch. 2 para. 11(1)(c)

##### Marginal Citations

**M24** 1874 c.81.

#### 46 Bar practising certificates.

- (1) If the General Council of the Bar makes rules prohibiting barristers from practising as specified in the rules unless authorised by a certificate issued by the Council (a “practising certificate”), the rules may include provision requiring the payment of fees to the Council by applicants for practising certificates.
- (2) Rules made by virtue of subsection (1)—
  - (a) may provide for the payment of different fees by different descriptions of applicants, but
  - (b) may not set fees with a view to raising a total amount in excess of that applied by the Council for the purposes of.
    - [F45(i)] the regulation, education and training of barristers and those wishing to become barristers
    - [F46(ii)] the participation by the Council in law reform and the legislative process,
    - (iii) the provision by barristers and those wishing to become barristers of free legal services to the public,
    - (iv) the promotion of the protection by law of human rights and fundamental freedoms, and
    - (v) the promotion of relations between the Council and bodies representing the members of legal professions in jurisdictions other than England and Wales.]
- (3) The [F47 Secretary of State] may by order made by statutory instrument—
  - (a) amend subsection (2)(b) by adding to the purposes referred to in it such other purposes as the [F47 Secretary of State] considers appropriate, or

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- (b) vary or revoke an order under paragraph (a).
- (4) No order shall be made under subsection (3) unless—
  - (a) the [<sup>F47</sup> Secretary of State] has consulted the Council, and
  - (b) a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (5) No provision included in rules by virtue of subsection (1), and no other provision of rules made by the Council about practising certificates, shall have effect unless approved by the [<sup>F47</sup> Secretary of State].
- (6) The Council shall provide the [<sup>F47</sup> Secretary of State] with such information as he may reasonably require for deciding whether to approve any provision of rules made by the Council about practising certificates.

#### Textual Amendments

- F45** S. 46(2)(b)(i) renumbered (31.1.2001) by [S.I. 2001/135, art. 2](#)
- F46** S. 46(2)(b)(ii)-(v) inserted (31.1.2001) by [S.I. 2001/135, art. 2](#)
- F47** Words in s. 46 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\), art. 9, Sch. 2 para. 11\(1\)\(c\)](#)

#### 47 Fees for solicitors' practising certificates.

- (1) The [<sup>F48</sup> Secretary of State] may by order made by statutory instrument amend section 11(3) of the <sup>M25</sup>Solicitors Act 1974 (power of Law Society to apply fees payable on issue of practising certificates for any of its purposes) by substituting for the purposes referred to in it (at any time)—
  - (a) the purposes of the regulation, education and training of solicitors and those wishing to become solicitors, or
  - (b) both those purposes and such other purposes as the [<sup>F48</sup> Secretary of State] considers appropriate.
- (2) No order shall be made under this section unless—
  - (a) the [<sup>F48</sup> Secretary of State] has consulted the Master of the Rolls and the Law Society, and
  - (b) a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

#### Textual Amendments

- F48** Words in s. 47 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\), art. 9, Sch. 2 para. 11\(1\)\(c\)](#)

#### Marginal Citations

- M25** 1974 c.47.

#### 48 Law Society's powers in relation to conduct of solicitors etc.

Schedule 7 (which extends the powers of the Law Society in relation to the conduct of solicitors and their employees and consultants) has effect.

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## Legal Services Ombudsman

### 49 Powers of Ombudsman.

- (1) Section 23 of the <sup>M26</sup>Courts and Legal Services Act 1990 (recommendations of the Legal Services Ombudsman) is amended as follows.
- (2) In subsection (1)(c) (written report of investigation to be sent to person with respect to whom recommendation is made), after “subsection (2)” insert “ or an order under subsection (2A) ”.
- (3) In paragraph (e) of subsection (2) (recommendation that costs be paid by person or body to which recommendation under paragraph (c) or (d) applies), for “which a recommendation under paragraph (c) or (d) applies” substitute “ pay compensation under paragraph (c) or (d) ”.
- (4) After that subsection insert—
  - “(2A) If after completing any investigation under this Act the Ombudsman considers that, rather than recommending the taking of any action by any person or professional body under paragraph (c), (d) or (e) of subsection (2), he should make an order requiring the taking of that action by the person or body—
    - (a) he shall afford the person or body, and the person who made the allegation, a reasonable opportunity of appearing before him to make representations; and
    - (b) having considered any representations from them, he may, in reporting his conclusions, make the order.”
- (5) In subsections (3) and (4) (reports), after “recommendation” (in each place) insert “ or order ”.
- (6) In subsection (6) (duty to have regard to Ombudsman’s report), for “subsection (1)(b) or (c)” substitute “ subsection (1)(b), (c) or (d) ”.
- (7) For the sidenote substitute “ Recommendations and orders. ”

#### Marginal Citations

M26 1990 c.41.

### 50 Funding of Ombudsman by professional bodies.

In paragraph 7 of Schedule 3 to the Courts and Legal Services Act 1990 (financial provisions relating to Legal Services Ombudsman), for sub-paragraph (1) (Ombudsman’s expenses to be defrayed by [<sup>F49</sup> Secretary of State]) substitute—

- “(1) The [<sup>F49</sup> Secretary of State] may require any professional body (within the meaning of section 22 of this Act) to make payments of such amount as the [<sup>F49</sup> Secretary of State] considers appropriate to the Ombudsman towards meeting the expenditure incurred (or to be incurred) by him in the discharge of his functions.

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(1A) To the extent that that expenditure is not met by payments under subparagraph (1), it shall be met by the [<sup>F49</sup> Secretary of State] out of money provided by Parliament.”

#### Textual Amendments

**F49** Words in s. 50 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 11(1)(d)**

### *Legal Services Complaints Commissioner*

#### 51 Commissioner.

- (1) The [<sup>F50</sup> Secretary of State] may appoint a person as Legal Services Complaints Commissioner.
- (2) Any appointment of a person as Commissioner shall be for a period of not more than three years; and a person appointed as Commissioner shall hold and vacate office in accordance with the terms of his appointment.
- (3) At the end of his term of appointment the Commissioner shall be eligible for re-appointment.
- (4) The Commissioner shall not be an authorised advocate, authorised litigator, licensed conveyancer or authorised practitioner (within the meaning of the <sup>M27</sup>Courts and Legal Services Act 1990) or a notary.
- (5) Schedule 8 (which makes further provision about the Commissioner) has effect.

#### Textual Amendments

**F50** Words in s. 51 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 11(1)(e)**

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

**C15** S. 51 modified (temp.) (1.1.2010) by [The Legal Services Act 2007 \(Commencement No. 6, Transitory, Transitional and Saving Provisions\) Order 2009 \(S.I. 2009/3250\)](#), arts. 1(2), **8(2)** (with art. 9)

#### Marginal Citations

**M27** 1990 c.41.

#### 52 Commissioner’s functions.

- (1) If it appears to the [<sup>F51</sup> Secretary of State] that complaints about members of any professional body are not being handled effectively and efficiently, he may by direction require the Legal Services Complaints Commissioner to consider exercising in relation to the body such of the powers in subsection (2) as are specified in the direction.
- (2) Those powers are—

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- (a) to require a professional body to provide information, or make reports, to the Commissioner about the handling of complaints about its members,
  - (b) to investigate the handling of complaints about the members of a professional body,
  - (c) to make recommendations in relation to the handling of complaints about the members of a professional body,
  - (d) to set targets in relation to the handling of complaints about the members of a professional body, and
  - (e) to require a professional body to submit to the Commissioner a plan for the handling of complaints about its members.
- (3) Where the Commissioner requires a professional body to submit to him a plan for the handling of complaints about its members but the body—
  - (a) fails to submit to him a plan which he considers adequate for securing that such complaints are handled effectively and efficiently, or
  - (b) submits to him such a plan but fails to handle complaints in accordance with it, he may require the body to pay a penalty.
- (4) Before requiring a professional body to pay a penalty under subsection (3) the Commissioner shall afford it a reasonable opportunity of appearing before him to make representations.
- (5) The [<sup>F51</sup>Secretary of State] shall by order made by statutory instrument specify the maximum amount of any penalty under subsection (3).
- (6) In determining the amount of any penalty which a professional body is to be required to pay under subsection (3) the Commissioner shall have regard to all the circumstances of the case, including in particular—
  - (a) the total number of complaints about members of the body and, where the penalty is imposed in respect of a failure to handle complaints in accordance with a plan, the number of complaints not so handled, and
  - (b) the assets of the body and the number of its members.
- (7) A penalty under subsection (3) shall be paid to the Commissioner who shall pay it to the [<sup>F51</sup>Secretary of State].
- (8) Where a direction under subsection (1) in relation to a professional body has been given (and not revoked), section 24(1) of the <sup>M28</sup>Courts and Legal Services Act 1990 (power of Legal Services Ombudsman to make recommendations about arrangements for investigation of complaints) shall not have effect in relation to the body.
- (9) No order shall be made under subsection (5) unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (10) In this section “professional body” has the same meaning as in section 22 of the Courts and Legal Services Act 1990.

#### Textual Amendments

**F51** Words in s. 52 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(e\)](#)



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

**C16** S. 52 modified (temp.) (1.1.2010) by [The Legal Services Act 2007 \(Commencement No. 6, Transitory, Transitional and Saving Provisions\) Order 2009 \(S.I. 2009/3250\)](#), arts. 1(2), **8(3)-(10)** (with art. 9)

**Marginal Citations**

**M28** 1990 c.41.

*Public notaries*

**53 Abolition of scriveners' monopoly.**

A public notary may practise as a notary in, or within three miles of, the City of London whether or not he is a member of the Incorporated Company of Scriveners of London (even if he is admitted to practise only outside that area).

**PART IV**

APPEALS, COURTS, JUDGES AND COURT PROCEEDINGS

*Appeals*

**54 Permission to appeal.**

- (1) Rules of court may provide that any right of appeal to—
  - (a) a county court,
  - (b) the High Court, or
  - (c) the Court of Appeal,
 may be exercised only with permission.
- (2) This section does not apply to a right of appeal in a criminal cause or matter.
- (3) For the purposes of subsection (1) rules of court may make provision as to—
  - (a) the classes of case in which a right of appeal may be exercised only with permission,
  - (b) the court or courts which may give permission for the purposes of this section,
  - (c) any considerations to be taken into account in deciding whether permission should be given, and
  - (d) any requirements to be satisfied before permission may be given,
 and may make different provision for different circumstances.
- (4) No appeal may be made against a decision of a court under this section to give or refuse permission (but this subsection does not affect any right under rules of court to make a further application for permission to the same or another court).
- (5) For the purposes of this section a right to make an application to have a case stated for the opinion of the High Court constitutes a right of appeal.
- (6) For the purposes of this section a right of appeal to the Court of Appeal includes—
  - (a) the right to make an application for a new trial, and

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- (b) the right to make an application to set aside a verdict, finding or judgment in any cause or matter in the High Court which has been tried, or in which any issue has been tried, by a jury.

## 55 Second appeals.

- (1) Where an appeal is made to a county court or the High Court in relation to any matter, and on hearing the appeal the court makes a decision in relation to that matter, no appeal may be made to the Court of Appeal from that decision unless the Court of Appeal considers that—
  - (a) the appeal would raise an important point of principle or practice, or
  - (b) there is some other compelling reason for the Court of Appeal to hear it.
- (2) This section does not apply in relation to an appeal in a criminal cause or matter.

## 56 Power to prescribe alternative destination of appeals.

- (1) The Lord Chancellor may by order provide that appeals which would otherwise lie to—
  - (a) a county court,
  - (b) the High Court, or
  - (c) the Court of Appeal,shall lie instead to another of those courts, as specified in the order.
- (2) This section does not apply to an appeal in a criminal cause or matter.
- (3) An order under subsection (1)—
  - (a) may make different provision for different classes of proceedings or appeals, and
  - (b) may contain consequential amendments or repeals of enactments.
- (4) Before making an order under subsection (1) the Lord Chancellor shall consult—
  - (a) the Lord Chief Justice,
  - (b) the Master of the Rolls,
  - [<sup>F52</sup>(c) the President of the Queen's Bench Division,
  - (d) the President of the Family Division, and
  - (e) the Chancellor of the High Court.]
- (5) An order under subsection (1) shall be made by statutory instrument.
- (6) No such order may be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (7) For the purposes of this section an application to have a case stated for the opinion of the High Court constitutes an appeal.
- [<sup>F53</sup>(8) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

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### Textual Amendments

- F52** S. 56(4)(c)-(e) substituted (1.10.2005) for s. 56(4)(c)(d) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 148, [Sch. 4 para. 280\(2\)](#); S.I. 2005/2505, [art. 2\(c\)](#)
- F53** S. 56(8) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(1), 148, [Sch. 4 para. 280\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), [Sch. 1 para. 11\(w\)](#)

## 57 Assignment of appeals to Court of Appeal.

- (1) Where in any proceedings in a county court or the High Court a person appeals, or seeks permission to appeal, to a court other than the Court of Appeal or the House of Lords—
- (a) the Master of the Rolls, or
  - (b) the court from which or to which the appeal is made, or from which permission to appeal is sought,
- may direct that the appeal shall be heard instead by the Court of Appeal.
- (2) The power conferred by subsection (1)(b) shall be subject to rules of court.

## 58 Criminal appeals: minor amendments.

- <sup>F54</sup>(1) . . . . .
- (2) In section 8(1B)(b) of the Criminal Appeal Act 1968 (power of Court to direct entry of judgment and verdict of acquittal on applications relating to order for retrial), after “to” insert “ set aside the order for retrial and ”.
- (3) In section 9(2) of that Act (right of appeal against sentence for summary offence), insert at the end “ or sub-paragraph (4) of that paragraph. ”
- (4) Section 10 of that Act (appeal to Court of Appeal by person dealt with by Crown Court for offence of which he was not convicted on indictment) is amended in accordance with subsections (5) to (7).
- (5) <sup>F55</sup> . . . . .
- <sup>F54</sup>(6) . . . . .
- (7) In subsection (4) (calculation of length of term of imprisonment), after “imprisonment” insert “ or detention ”.

### Textual Amendments

- F54** S. 58(1)(6) repealed (25.8.2000) by [2000 c. 6](#), ss. 165(4), 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))
- F55** S. 58(5) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 332, 336, [Sch. 37 Pt. 7](#); S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 44\(4\)\(q\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#) (which said [Sch. 2 para. 23\(1\)](#)) was explained (29.7.2005) by S.I. 2005/2122, [art. 2](#))

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### *Civil division of Court of Appeal*

#### **59 Composition.**

In section 54 of the <sup>M29</sup>Supreme Court Act 1981 (composition of court of civil division of Court of Appeal), for subsections (2) to (4) (number of judges) substitute—

- “(2) Subject as follows, a court shall be duly constituted for the purpose of exercising any of its jurisdiction if it consists of one or more judges.
- (3) The Master of the Rolls may, with the concurrence of the Lord Chancellor, give (or vary or revoke) directions about the minimum number of judges of which a court must consist if it is to be duly constituted for the purpose of any description of proceedings.
- (4) The Master of the Rolls, or any Lord Justice of Appeal designated by him, may (subject to any directions under subsection (3)) determine the number of judges of which a court is to consist for the purpose of any particular proceedings.
- (4A) The Master of the Rolls may give directions as to what is to happen in any particular case where one or more members of a court which has partly heard proceedings are unable to continue.”

#### **Marginal Citations**

**M29** 1981 c.54.

#### **60 Calling into question of incidental decisions.**

For section 58 of the Supreme Court Act 1981 (exercise of incidental jurisdiction in civil division of Court of Appeal) substitute—

##### **“58 Calling into question of incidental decisions in civil division.**

- (1) Rules of court may provide that decisions of the Court of Appeal which—
- (a) are taken by a single judge or any officer or member of staff of that court in proceedings incidental to any cause or matter pending before the civil division of that court; and
- (b) do not involve the determination of an appeal or of an application for permission to appeal,
- may be called into question in such manner as may be prescribed.
- (2) No appeal shall lie to the House of Lords from a decision which may be called into question pursuant to rules under subsection (1).”

### *High Court*

#### **61 Cases stated by Crown Court.**

For section 28A of the Supreme Court Act 1981 (proceedings on case stated by magistrates' court) substitute—

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**“28A Proceedings on case stated by magistrates’ court or Crown Court.**

- (1) This section applies where a case is stated for the opinion of the High Court—
  - (a) by a magistrates’ court under section 111 of the <sup>M30</sup>Magistrates’ Courts Act 1980; or
  - (b) by the Crown Court under section 28(1) of this Act.
- (2) The High Court may, if it thinks fit, cause the case to be sent back for amendment and, where it does so, the case shall be amended accordingly.
- (3) The High Court shall hear and determine the question arising on the case (or the case as amended) and shall—
  - (a) reverse, affirm or amend the determination in respect of which the case has been stated; or
  - (b) remit the matter to the magistrates’ court, or the Crown Court, with the opinion of the High Court,
 and may make such other order in relation to the matter (including as to costs) as it thinks fit.
- (4) Except as provided by the <sup>M31</sup>Administration of Justice Act 1960 (right of appeal to House of Lords in criminal cases), a decision of the High Court under this section is final.”

**Marginal Citations**

**M30** 1980 c.43.

**M31** 1960 c.65.

**62 Power to vary committal in default.**

In the <sup>M32</sup>Supreme Court Act 1981, after section 43 insert—

**“43ZA Power of High Court to vary committal in default.**

- (1) Where the High Court quashes the committal of a person to prison or detention by a magistrates’ court or the Crown Court for—
  - (a) a default in paying a sum adjudged to be paid by a conviction; or
  - (b) want of sufficient distress to satisfy such a sum,
 the High Court may deal with the person for the default or want of sufficient distress in any way in which the magistrates’ court or Crown Court would have power to deal with him if it were dealing with him at the time when the committal is quashed.
- (2) If the High Court commits him to prison or detention, the period of imprisonment or detention shall, unless the High Court otherwise directs, be treated as having begun when the person was committed by the magistrates’ court or the Crown Court (except that any time during which he was released on bail shall not be counted as part of the period).”

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#### Marginal Citations

M32 1981 c.54.

### 63 Criminal causes and matters.

- (1) In section 1(1)(a) of the Administration of Justice Act 1960 (appeal to House of Lords from decision of Divisional Court of the Queen’s Bench Division in a criminal cause or matter), for “a Divisional Court of the Queen’s Bench Division” substitute “ the High Court ”.
- (2) In sections 4(2) and (3) and 9(2) of that Act (bail pending appeal), for “a Divisional Court” substitute “ the High Court ”.

### 64 Contempt of court.

- (1) Section 13(2) of the Administration of Justice Act 1960 (appeals in cases of contempt of court) is amended as follows.
- (2) In paragraph (a) (appeal from inferior courts from which appeal does not lie to Court of Appeal to lie to a Divisional Court of the High Court), omit “a Divisional Court of”.
- (3) In paragraph (b) (appeal to Court of Appeal from county court or single judge of High Court), for “decision, of a single” substitute “ decision (other than a decision on an appeal under this section) of a single ”.
- (4) In paragraph (c) (appeal from Divisional Court or Court of Appeal to House of Lords), insert at the beginning “ from a decision of a single judge of the High Court on an appeal under this section, ”.

### 65 Habeas corpus.

- (1) In the <sup>M33</sup>Administration of Justice Act 1960, omit—
  - (a) section 14(1) (order for release on criminal application for habeas corpus to be refused only by Divisional Court of Queen’s Bench Division), and
  - (b) section 15(2) (no appeal to House of Lords from order made by single judge on criminal application for habeas corpus).
- (2) In section 15 of that Act (appeals in habeas corpus cases)—
  - (a) in subsection (3) (no restriction on grant of leave to appeal to House of Lords against decision of Divisional Court on a criminal application for habeas corpus), and
  - (b) in subsection (4) (exceptions to right to be discharged in case of appeal to House of Lords against order of Divisional Court on such an application),  
for “a Divisional Court” substitute “ the High Court ”.

#### Marginal Citations

M33 1960 c.65.

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## Crown Court

F56 **66** .....

### Textual Amendments

**F56** S. 66 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

### 67 Time limits where accused sent for trial.

- (1) In paragraph 1 of Schedule 3 to the <sup>M34</sup>Crime and Disorder Act 1998 (regulations about service of evidence where a person is sent without committal proceedings to Crown Court)—
- (a) in sub-paragraph (1) (regulations to provide that evidence be served on or before the relevant date) omit the words “on or before the relevant date” and after paragraph (b) insert “ before the expiry of the period prescribed by the regulations; but the judge may at his discretion extend or further extend that period. ”, and
  - (b) for sub-paragraph (2) substitute—
 

“(2) The regulations may make provision as to the procedure to be followed on an application for the extension or further extension of a period under sub-paragraph (1) above.”
- (2) In section 13(1) of the <sup>M35</sup>Criminal Procedure and Investigations Act 1996 (transitional time limits relating to service of unused material), after paragraph (c) insert—
- “(ca) copies of the documents containing the evidence on which the charge or charges are based are served on the accused (where this Part applies by virtue of section 1(2)(c)),”.
- (3) In section 22 of the <sup>M36</sup>Prosecution of Offences Act 1985 (time limits in preliminary stages of criminal proceedings), in paragraph (a) of the definition of “appropriate court” in subsection (11) (which has effect so as to allow the Crown Court to extend time limits where the accused is committed for trial or indicted), after “trial” insert “ , sent for trial under section 51 of the <sup>M37</sup>Crime and Disorder Act 1998 ”.

### Commencement Information

**I3** S. 67 partly in force; s. 67 not in force at Royal Assent see s. 108(1); s. 67(1)(3) in force at 27.9.1999 see s. 108(3)(b); s. 67(2) in force for certain areas at 27.9.1999 by S.I. 1999/2657, art. 2(b), **Sch. 1**; s. 67(2) in force insofar as not already in force (8.1.2001) by S.I. 2000/3280, **art. 2(a)**

### Marginal Citations

**M34** 1998 c.37.  
**M35** 1996 c.25.  
**M36** 1985 c.23.  
**M37** 1998 c.37.



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### *Judges etc.*

## **68 Judges holding office in European or international courts.**

- (1) A holder of a United Kingdom judicial office may hold office in a relevant international court without being required to relinquish the United Kingdom judicial office.
- (2) In this section—
  - “United Kingdom judicial office” means the office of—
    - (a) Lord Justice of Appeal, Justice of the High Court or Circuit judge, in England and Wales,
    - (b) judge of the Court of Session or sheriff, in Scotland, or
    - (c) Lord Justice of Appeal, judge of the High Court or county court judge, in Northern Ireland, and
  - “relevant international court” means—
    - (a) any court established for any purposes of the European Communities, or
    - (b) any international court (apart from the European Court of Human Rights) which is designated [<sup>F57</sup>in relation to the holder of a United Kingdom judicial office by the appropriate Minister].
- (3) A holder of a United Kingdom judicial office who also holds office in a relevant international court is not required to perform any duties as the holder of the United Kingdom judicial office but does not count as holding the United Kingdom judicial office—
  - (a) for the purposes of section 12(1) to (6) of the <sup>M38</sup>Supreme Court Act 1981, section 9(1)(c) or (d) of the <sup>M39</sup>Administration of Justice Act 1973, section 18 of the <sup>M40</sup>Courts Act 1971, section 14 of the <sup>M41</sup>Sheriff Courts (Scotland) Act 1907 or section 106 of the <sup>M42</sup>County Courts Act (Northern Ireland) 1959 (judicial salaries),
  - (b) for the purposes of, or of any scheme established by and in accordance with, the <sup>M43</sup>Judicial Pensions and Retirement Act 1993, the <sup>M44</sup>Judicial Pensions Act 1981, the <sup>M45</sup>Sheriffs’ Pensions (Scotland) Act 1961 or the County Courts Act (Northern Ireland) 1959 (judicial pensions), or
  - (c) for the purposes of section 2(1) or 4(1) of the Supreme Court Act 1981, section 1(1) of the <sup>M46</sup>Court of Session Act 1988 or section 2(1) or 3(1) of the <sup>M47</sup>Judicature (Northern Ireland) Act 1978 (judicial numbers).
- (4) If the sheriff principal of any sheriffdom also holds office in a relevant international court, section 11(1) of the <sup>M48</sup>Sheriff Courts (Scotland) Act 1971 (temporary appointment of sheriff principal) applies as if the office of sheriff principal of that sheriffdom were vacant.
- (5) The appropriate Minister may by order made by statutory instrument make in relation to a holder of a United Kingdom judicial office who has ceased to hold office in a relevant international court such transitional provision (including, in particular, provision for a temporary increase in the maximum number of judges) as he considers appropriate.
- (6) In [<sup>F58</sup>this section] “the appropriate Minister” means—
  - (a) in relation to any United Kingdom judicial office specified in paragraph (a) or (c) of the definition in subsection (2), the Lord Chancellor, and

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- (b) in relation to any United Kingdom judicial office specified in paragraph (b) of that definition, the Secretary of State.
- (7) A statutory instrument containing an order made under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F59</sup>(8) The Lord Chancellor may exercise functions under this section in relation to the holder of a United Kingdom judicial office specified in paragraph (a) of the definition in subsection (2) only after consulting the Lord Chief Justice of England and Wales.
- (9) The Lord Chancellor may exercise functions under this section in relation to the holder of a United Kingdom judicial office specified in paragraph (c) of the definition in subsection (2) only after consulting the Lord Chief Justice of Northern Ireland.
- (10) The Lord Chief Justice of England and Wales may nominate a judicial office holder (within the meaning of section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (8).
- (11) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (9)—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F57** Words in definition of "relevant international court" in s. 68(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 281(2)**; S.I. 2005/1014, **art. 2(a)**, Sch. 1 para. 11(x)
- F58** Words in s. 68(6) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 281(3)**; S.I. 2005/1014, **art. 2(a)**, Sch. 1 para. 11(x)
- F59** S. 68(8)-(11) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, **Sch. 4 para. 281(4)**; S.I. 2005/1014, **art. 2(a)**, Sch. 1 para. 11(x)

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

- C17** S. 68(3)(b) excluded (1.9.2001) by 2001 c. 17, s. 1(3), **Sch. 1 para. 7(5)(a)** (with s. 78); S.I. 2001/2161, **art. 2**

#### Marginal Citations

- M38** 1981 c.54.  
**M39** 1973 c.15.  
**M40** 1971 c.23.  
**M41** 1907 c.51.  
**M42** 1959 c.25(N.I.).  
**M43** 1993 c.8.  
**M44** 1981 c.20.  
**M45** 1961 c.42.  
**M46** 1988 c.36.  
**M47** 1978 c.23.  
**M48** 1971 c.58.

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## 69 Vice-president of Queen’s Bench Division.

(1) The <sup>F60</sup>Lord Chief Justice may, after consulting the Lord Chancellor,] appoint one of the ordinary judges of the Court of Appeal as vice-president of the Queen’s Bench Division; and any person so appointed shall hold that office in accordance with the terms of his appointment.

<sup>F61</sup>(1A) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (1).]

(2) In section 4 of the <sup>M49</sup>Supreme Court Act 1981 (composition of High Court)—

(a) in subsection (1) (membership), after the words “the Senior Presiding Judge;” insert—

“(ddd) the vice-president of the Queen’s Bench Division;”, and

(b) in subsection (6) (vacancy in offices not to affect constitution), at the end insert “ and whether or not an appointment has been made to the office of vice-president of the Queen’s Bench Division. ”

(3) In section 5 of that Act (divisions of High Court), in subsection (1)(b) (Queen’s Bench Division), after “thereof,” insert “ the vice-president of the Queen’s Bench Division ”.

### Textual Amendments

**F60** Words in s. 69(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, Sch. 4 para. 282(2); S.I. 2005/1014, art. 2(a), Sch. 1 para. 11(x)

**F61** S. 69(1A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(1), 148, Sch. 4 para. 282(3); S.I. 2005/1014, art. 2(a), Sch. 1 para. 11(x)

### Marginal Citations

**M49** 1981 c.54.

## 70 Registrar of civil appeals.

<sup>F62</sup> .....

### Textual Amendments

**F62** S. 70 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), {Sch. 1 Pt. 1 Group 4}

### Court proceedings

## 71 Adjournment of inquest in event of judicial inquiry.

(1) In the <sup>M50</sup>Coroners Act 1988, after section 17 insert—

### “17A Adjournment of inquest in event of judicial inquiry.

(1) If on an inquest into a death the coroner is informed by the Lord Chancellor before the conclusion of the inquest that—

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- (a) a public inquiry conducted or chaired by a judge is being, or is to be, held into the events surrounding the death; and
  - (b) the Lord Chancellor considers that the cause of death is likely to be adequately investigated by the inquiry,
- the coroner shall, in the absence of any exceptional reason to the contrary, adjourn the inquest and, if a jury has been summoned, may, if he thinks fit, discharge them.
- (2) Where a coroner adjourns an inquest in compliance with subsection (1) above, he shall send to the registrar of deaths a certificate under his hand stating, so far as they have been ascertained at the date of the certificate, the particulars which under the 1953 Act are required to be registered concerning the death.
- (3) Where a coroner has adjourned an inquest in compliance with subsection (1) above, the Lord Chancellor shall send him the findings of the public inquiry as soon as reasonably practicable after their publication.
- (4) A coroner may only resume an inquest which has been adjourned in compliance with subsection (1) above if in his opinion there is exceptional reason for doing so; and he shall not do so—
- (a) before the end of the period of 28 days beginning with the day on which the findings of the public inquiry are published; or
  - (b) if the Lord Chancellor notifies the coroner that this paragraph applies, before the end of the period of 28 days beginning with the day on which the public inquiry is concluded.
- (5) Where a coroner resumes an inquest which has been adjourned in compliance with subsection (1) above—
- (a) the provisions of section 8(3) above shall not apply in relation to that inquest; and
  - (b) if he summons a jury (but not where he resumes without a jury, or with the same jury as before the adjournment), he shall proceed in all respects as if the inquest had not previously begun and the provisions of this Act shall apply accordingly as if the resumed inquest were a fresh inquest.
- (6) Where a coroner does not resume an inquest which he has adjourned in compliance with subsection (1) above, he shall (without prejudice to subsection (2) above) send to the registrar of deaths a certificate under his hand stating any findings of the public inquiry in relation to the death.”
- (2) In section 8(4) of that Act (power to summon jury), for “either before he proceeds to hold an inquest” substitute “before he proceeds to hold an inquest, on resuming an inquest begun with a jury after the inquest has been adjourned and the jury discharged”.
- (3) In the sidenote to section 16 of that Act (adjournment of inquest in certain cases), for “certain cases” substitute “event of criminal proceedings”.

**Marginal Citations**

**M50** 1988 c.13.

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## 72 Reporting of proceedings relating to children.

In section 97 of the <sup>M51</sup>Children Act 1989 (privacy for children involved in certain proceedings)—

- (a) in subsection (2) (which prohibits the publication of material intended or likely to identify a child as being involved in proceedings before a magistrates’ court in which powers under that Act may be exercised), after “before” insert “ the High Court, a county court or ”, and
- (b) in subsection (8) (which makes provision about the application of certain provisions of the <sup>M52</sup>Magistrates’ Courts Act 1980 in relation to proceedings to which section 97 applies), after “any proceedings” insert “ (before a magistrates’ court) ”.

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### Marginal Citations

**M51** 1989 c.41.

**M52** 1980 c.43.

## 73 Power to allow children to attend criminal proceedings.

- (1) In section 36 of the <sup>M53</sup>Children and Young Persons Act 1933 (child not to be present at criminal trial except where required as witness or otherwise for the purposes of justice), after “justice” insert “ or while the court consents to his presence ”.
- (2) In section 50(1) of the <sup>M54</sup>Criminal Procedure (Scotland) Act 1995 (child not to be present at criminal proceedings unless required as witness or otherwise for the purposes of justice), after “justice” insert “ or the court consents to his presence ”.

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### Marginal Citations

**M53** 1933 c.12.

**M54** 1995 c.46.

## PART V

### MAGISTRATES AND MAGISTRATES’ COURTS

#### *Territorial organisation*

## 74 Commission areas.

F63 .....

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### Textual Amendments

**F63** S. 74 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

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## 75 Petty sessions areas.

F64 .....

### Textual Amendments

**F64** S. 75 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

## 76 Areas: consequential provision.

- (1) The Lord Mayor and aldermen of the City of London shall not be justices of the peace unless appointed by the Lord Chancellor in accordance with the <sup>M55</sup>Justices of the Peace Act 1997.
- (2) Schedule 10 (which contains other provisions consequential on sections 74 and 75) has effect.

### Marginal Citations

**M55** 1997 c.25.

## 77 Youth courts.

F65 .....

### Textual Amendments

**F65** S. 77 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

## *Justices*

## 78 Unification and renaming of stipendiary bench.

- (1) <sup>F66</sup> .....
- (2) Schedule 11 (which makes amendments consequential on this section) has effect.

### Textual Amendments

**F66** S. 78(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

## 79 Justices not to sit on committal for sentence.

F67 .....

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**Textual Amendments**

**F67** S. 79 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), {Sch. 1 Pt. 1 Group 4}

**80 Jurisdiction over offences outside area.**

- (1) <sup>F68</sup> .....
- (2) <sup>F69</sup> .....

**Textual Amendments**

**F68** S. 80(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

**F69** S. 80(2) repealed (1.9.2004) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2004/2066, art. 2(d)(vi)(e) (subject to art. 3)

*Magistrates' courts committees*

**81 Areas outside Greater London.**

- <sup>F70</sup> .....

**Textual Amendments**

**F70** S. 81 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

**82 Constitution of committees outside Greater London.**

- <sup>F71</sup> .....

**Textual Amendments**

**F71** S. 82 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

**83 Greater London Magistrates' Courts Authority.**

- <sup>F72</sup> .....

**Textual Amendments**

**F72** S. 83 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)



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## 84 Standard goods and services.

F73

### Textual Amendments

**F73** S. 84 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

## 85 Power to direct implementation of inspectors' recommendations.

F74

### Textual Amendments

**F74** S. 85 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

## 86 Code of conduct.

F75

### Textual Amendments

**F75** S. 86 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

*Justices' chief executives, justices' clerks and staff*

## 87 Qualification for appointment as chief executive.

F76

### Textual Amendments

**F76** S. 87 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

## 88 Role of chief executives.

F77

### Textual Amendments

**F77** S. 88 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

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**89 Independence of clerks and staff exercising legal functions.**

F78 .....

**Textual Amendments**

**F78** S. 89 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

**90 Transfer of clerks’ functions to chief executives.**

(1) Schedule 13 (which makes amendments transferring administrative functions of justices’ clerks to justices’ chief executives) has effect.

(2) F79 .....

(3) F79 .....

(4) F79 .....

(5) F79 .....

**Textual Amendments**

**F79** S. 90(2)-(5) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

**91 Accounting etc. functions of chief executives.**

F80 .....

**Textual Amendments**

**F80** S. 91 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*Execution of warrants*

**92 Civilian enforcement officers.**

In the <sup>M56</sup>Magistrates’ Courts Act 1980, after section 125 insert—

**“125A Civilian enforcement officers.**

(1) A warrant to which this subsection applies may be executed anywhere in England and Wales by a civilian enforcement officer.

(2) In this section “civilian enforcement officer”, in relation to a warrant, means a person who—

(a) is employed by an authority of a prescribed class which performs functions in relation to any area specified in the warrant; and

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- (b) is authorised in the prescribed manner to execute warrants.
- (3) The warrants to which subsection (1) above applies are any warrant of arrest, commitment, detention or distress issued by a justice of the peace—
  - (a) under any provision specified for the purposes of this subsection by an order made by the Lord Chancellor and the Secretary of State, acting jointly; or
  - (b) for the enforcement of a court order of any description so specified.
- (4) Where a warrant has been executed by a civilian enforcement officer, a written statement indicating—
  - (a) the name of the officer;
  - (b) the authority by which he is employed; and
  - (c) that he is authorised in the prescribed manner to execute warrants,
 shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.
- (5) The power to make orders conferred by subsection (3) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Marginal Citations

M56 1980 c.43.

### 93 Approved enforcement agencies.

- (1) <sup>F81</sup> .....
- (2) In the <sup>M57</sup>Magistrates' Courts Act 1980, after section 125A (inserted by section 92 above) insert—

#### “125B Execution by approved enforcement agency.

- (1) A warrant to which section 125A(1) above applies may also be executed anywhere in England and Wales—
  - (a) by an individual who is an approved enforcement agency;
  - (b) by a director of a company which is an approved enforcement agency;
  - (c) by a partner in a partnership which is an approved enforcement agency; or
  - (d) by an employee of an approved enforcement agency who is authorised in writing by the agency to execute warrants.
- (2) In this section “approved enforcement agency”, in relation to a warrant, means a person or body approved under section 31A of the <sup>M58</sup>Justices of the Peace Act 1997 by the magistrates' courts committee for the petty sessions area of the justice (or any of the justices) who issued the warrant.
- (3) Failure by a magistrates' courts committee to comply with any provision of, or made under, section 31A(2) to (5) of the Justices of the Peace Act 1997 does not of itself render unlawful the execution of a warrant.

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- (4) Where a warrant has been executed by a person mentioned in subsection (1) above, a written statement indicating the matters specified in subsection (5) below shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.
- (5) The matters referred to in subsection (4) above are—
- (a) the name of the person by whom the warrant was executed;
  - (b) if he is a director of, or partner in, an approved enforcement agency, the fact that he is a director of, or partner in, that agency;
  - (c) if he is an employee of an approved enforcement agency, the fact that he is an employee authorised in writing by that agency to execute warrants; and
  - (d) the fact that his name, or (where paragraph (b) or (c) above applies) that of the agency indicated, is contained in the register maintained under section 31A(4) of the Justices of the <sup>M59</sup>Peace Act 1997 by the magistrates' courts committee concerned.”

#### Textual Amendments

**F81** S. 93(1) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

#### Marginal Citations

**M57** 1980 c.43.

**M58** 1997 c.25.

**M59** 1997 c.25.

## 94 Disclosure of information for enforcing warrants.

In the <sup>M60</sup>Magistrates' Courts Act 1980, after section 125B (inserted by section 93(2) above) insert—

### “125C Disclosure of information for enforcing warrants.

- (1) Basic personal information held by a relevant public authority may, on the application of a justices' chief executive, be supplied by the authority to him (or to a justices' clerk appointed by, or member of the staff of, his magistrates' courts committee who is specified in the application) for the purpose of facilitating the enforcement of a section 125A(1) warrant which is so specified.
- (2) In this section—

“basic personal information” means a person's name, date of birth or national insurance number or the address (or any of the addresses) of a person;

“relevant public authority” means a Minister of the Crown, government department, local authority or chief officer of police specified in an order made by the Lord Chancellor; and

“a section 125A(1) warrant” means a warrant to which section 125A(1) above applies and which has been issued by a justice of

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the peace to whom the justices' chief executive making the application is chief executive.

- (3) Information supplied to any person under subsection (1) above, or this subsection, for the purpose of facilitating the enforcement of a section 125A(1) warrant may be supplied by him for that purpose to—
- (a) any person entitled to execute the warrant;
  - (b) any employee of a body or person who, for the purposes of section 125B above, is an approved enforcement agency in relation to the warrant; or
  - (c) any person who is the justices' chief executive, a justices' clerk or a member of the staff of the magistrates' courts committee whose justices' chief executive made the application for the information.
- (4) A person who intentionally or recklessly—
- (a) discloses information supplied to him under this section otherwise than as permitted by subsection (3) above; or
  - (b) uses information so supplied otherwise than for the purpose of facilitating the enforcement of the section 125A(1) warrant concerned, commits an offence.
- (5) But it is not an offence under subsection (4) above—
- (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
  - (b) to disclose any information which has previously been lawfully disclosed to the public.
- (6) A person guilty of an offence under subsection (4) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine.
- (7) The power to make orders conferred by subsection (2) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament."

#### **Marginal Citations**

**M60** 1980 c.43.

## **95 Warrants of detention.**

- (1) In section 125(2) of the <sup>M61</sup>Magistrates' Courts Act 1980 (execution by person to whom warrant is directed or constable), after "warrant of commitment," insert "warrant of detention,".
- (2) In section 136(2) of that Act (warrants of detention), for the words from " , unless" to "functions" substitute "—
  - (a) shall authorise the person executing it".

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#### Marginal Citations

M61 1980 c.43.

## 96 Execution by person not in possession of warrant.

In the Magistrates' Courts Act 1980, after section 125C (inserted by section 94 above) insert—

### “125D Execution by person not in possession of warrant.

- (1) A warrant to which section 125A(1) above applies may be executed by any person entitled to execute it even though it is not in his possession at the time.
- (2) A warrant to which this subsection applies (and which is not a warrant to which section 125A(1) above applies) may be executed by a constable even though it is not in his possession at the time.
- (3) Subsection (2) above applies to—
  - (a) a warrant to arrest a person in connection with an offence;
  - (b) a warrant under section 186(3) of the <sup>M62</sup>Army Act 1955, section 186(3) of the <sup>M63</sup>Air Force Act 1955, section 105(3) of the <sup>M64</sup>Naval Discipline Act 1957 or Schedule 2 to the <sup>M65</sup>Reserve Forces Act 1996 (desertion etc.);
  - (c) a warrant under section 102 or 104 of the <sup>M66</sup>General Rate Act 1967 (insufficiency of distress);
  - (d) a warrant under section 47(8) of the <sup>M67</sup>Family Law Act 1996 (failure to comply with occupation order or non-molestation order);
  - (e) a warrant under paragraph 4 of Schedule 3 to the <sup>M68</sup>Crime and Disorder Act 1998 (unwilling witnesses);
  - (f) a warrant under paragraph 3(2) of Schedule 1 to [<sup>F82</sup>the Powers of Criminal Courts (Sentencing) Act 2000] (offenders referred to court by youth offender panel); and
  - (g) a warrant under section 55, 76, 93, 97 or 97A above.
- (4) Where by virtue of this section a warrant is executed by a person not in possession of it, it shall, on the demand of the person arrested, committed or detained or against whom distress is levied, be shown to him as soon as practicable.”

#### Textual Amendments

F82 Words in s. 96 substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 204

#### Commencement Information

I4 S. 96 wholly in force; s. 96 not in force at Royal Assent see s. 108; s. 96 in force at 19.2.2001 by S.I. 2001/168, art. 2(a) (subject to transitional provisions in art. 3)

#### Marginal Citations

M62 1955 c.18.

M63 1955 c.19.

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- M64** 1957 c.53.
- M65** 1966 c.14.
- M66** 1967 c.9.
- M67** 1996 c.27.
- M68** 1998 c.37.

## 97 Cessation of warrants.

- (1) In the <sup>M69</sup>Maintenance Orders Act 1958, in—
  - (a) section 2(4) (registration of orders), and
  - (b) section 5(4) (cancellation of registration),
 omit paragraph (b) (cessation of warrant of commitment on giving notice), apart from the word “and” at the end.
- (2) In section 83 of the <sup>M70</sup>Magistrates’ Courts Act 1980 (process for securing attendance of offender for purposes of section 82), omit subsection (4) (warrant to cease to have effect when sum in respect of which it is issued is paid to police officer holding the warrant).
- (3) In section 86(4) of that Act (which applies subsections (3) and (4) of section 83 to warrants issued under section 86), for “subsections (3) and (4)” substitute “subsection (3)”.
- (4) In section 125(1) of that Act (warrants of arrest), insert at the end “ or it ceases to have effect in accordance with the rules ”.

### Commencement Information

- I5** S. 97 wholly in force; s. 97 not in force at Royal Assent see s. 108; s. 97 in force at 19.2.2001 by S.I. 2001/168, art. 2(a) (subject to transitional provisions in art. 3)

### Marginal Citations

- M69** 1958 c.39.
- M70** 1980 c.43.

## PART VI

### IMMUNITY AND INDEMNITY

#### *Justices and their clerks*

## 98 Justices and clerks: immunity from costs.

- (1) <sup>F83</sup> .....
- (2) In the <sup>M71</sup>Magistrates’ Courts (Northern Ireland) Order 1981, after Article 6 insert—



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## 6A “Costs in legal proceedings

- (1) A court may not order any resident magistrate, justice of the peace or clerk of petty sessions to pay costs in any proceedings in respect of any act or omission of his in the execution (or purported execution) of his duty—
  - (a) as such a magistrate or justice; or
  - (b) as such a clerk exercising, by virtue of any statutory provision, any of the functions of a magistrates’ court.
- (2) Paragraph (1) does not apply in relation to—
  - (a) any proceedings in which a resident magistrate, justice of the peace or clerk of petty sessions is being tried for an offence or is appealing against a conviction; or
  - (b) any proceedings in which it is proved that a resident magistrate, justice of the peace or clerk of petty sessions acted in bad faith in respect of the matters giving rise to the proceedings.
- (3) Where a court is prevented by paragraph (1) from ordering a resident magistrate, justice of the peace or clerk of petty sessions to pay costs in any proceedings, the court may instead order the making by the Lord Chancellor of a payment in respect of the costs of a person in the proceedings.
- (4) The Lord Chancellor may by regulations specify—
  - (a) circumstances when a court shall or shall not exercise the power conferred on it by paragraph (3); and
  - (b) how the amount of any payment ordered under that paragraph is to be determined.
- (5) Regulations under paragraph (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the <sup>M72</sup>Statutory Instruments Act 1946 shall apply accordingly.”

(3) In—

- (a) Article 145A of the <sup>M73</sup>Magistrates’ Courts (Northern Ireland) Order 1981 (county court judge hearing certain appeals to be treated like resident magistrate in relation to immunity), <sup>F84</sup> . . .
- (b) <sup>F84</sup> . . . . .

after “6” insert “, 6A ”.

### Textual Amendments

**F83** S. 98(1) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(3), 110, [Sch. 10](#); S.I. 2005/910, [art. 3\(aa\)\(bb\)](#)

**F84** S. 98(3)(b) and preceding word repealed (1.4.2005) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#), ss. 86, 87, [Sch. 13](#); S.R. 2005/109, [art. 2](#), [Sch.](#)

### Marginal Citations

**M71** S.I. 1981/1765 (N.I.26).

**M72** 1946 c.36.

**M73** S.I. 1981/1675 (N.I.26).

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**99 Justices and clerks: indemnity.**

F85 .....

**Textual Amendments**  
F85 S. 99 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

**100 Assistant justices’ clerks: immunity from action.**

F86 .....

**Textual Amendments**  
F86 S. 100 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*General Commissioners of income tax and their clerks*

**101 General Commissioners: immunity from action.**

F87 .....

**Textual Amendments**  
F87 Ss. 101-103 repealed (1.4.2009) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 146, 148, Sch. 23 Pt. 1; S.I. 2008/2696, art. 6

**102 General Commissioners: immunity from costs and expenses.**

F88 .....

**Textual Amendments**  
F88 Ss. 101-103 repealed (1.4.2009) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 146, 148, Sch. 23 Pt. 1; S.I. 2008/2696, art. 6

**103 General Commissioners and clerks: indemnity.**

F89 .....

**Textual Amendments**  
F89 Ss. 101-103 repealed (1.4.2009) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 146, 148, Sch. 23 Pt. 1; S.I. 2008/2696, art. 6

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## Coroners

### 104 Indemnity.

(1) In the <sup>M74</sup>Coroners Act 1988, after section 27 insert—

#### “27A Indemnity.

- (1) A coroner shall be indemnified by the relevant council (without having to lay before them an account under section 27 above) in respect of—
  - (a) any costs which he reasonably incurs in or in connection with proceedings in respect of anything done or omitted in the exercise (or purported exercise) of his duty as a coroner;
  - (b) any costs which he reasonably incurs in taking steps to dispute any claim which might be made in such proceedings;
  - (c) any damages awarded against him or costs ordered to be paid by him in any such proceedings; and
  - (d) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim.
- (2) Subsection (1) above applies in relation to proceedings by a coroner only if and to the extent that the relevant council agrees in advance to indemnify him.
- (3) A coroner may appeal to the Secretary of State, or to any person appointed by the Secretary of State for the purpose, from any decision of the relevant council under subsection (2) above.
- (4) Any amount due to a coroner under this section shall be paid—
  - (a) in the case of a metropolitan or non-metropolitan district council or London borough council, out of the general fund;
  - (b) in the case of a non-metropolitan county council in England, out of the county fund;
  - (c) in the case of the council of a Welsh principal area, out of the council fund; and
  - (d) in the case of the Common Council, out of the City fund.
- (5) In the case of a coroner for a coroner’s district which—
  - (a) consists of two or more metropolitan districts, special non-metropolitan districts or London boroughs;
  - (b) lies partly in each of two or more Welsh principal areas; or
  - (c) lies partly in each of two or more non-metropolitan counties in England,any amount due to the coroner under this section shall be apportioned between the councils of those districts, boroughs, areas or counties in such manner as they may agree or, in default of agreement, as may be determined by the Secretary of State.”

(2) In <sup>M75</sup>the Coroners Act (Northern Ireland) 1959, after section 5 insert—

#### “5A Indemnity.

- (1) A coroner shall be indemnified by the Lord Chancellor in respect of—

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- (a) any costs which he reasonably incurs in or in connection with proceedings in respect of anything done or omitted in the exercise (or purported exercise) of his duty as a coroner;
- (b) any costs which he reasonably incurs in taking steps to dispute any claim which might be made in such proceedings;
- (c) any damages awarded against him or costs ordered to be paid by him in any such proceedings; and
- (d) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim.

(2) Sub-section (1) applies in relation to proceedings by a coroner only if and to the extent that the Lord Chancellor agrees in advance to indemnify him.”

#### Marginal Citations

**M74** 1988 c.13.

**M75** 1959 c.15(N.I.).

## PART VII

### SUPPLEMENTARY

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

- C18** Pt. 7: functions of the Lord Chancellor transferred (19.8.2003) to the Secretary of State by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 4, [Sch. 1](#) (with art. 6)  
Pt. 7: functions of the Secretary of State transferred (12.1.2006) to the Lord Chancellor by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), [art. 3](#) (with arts. 4, 5)

#### 105 Transitional provisions and savings.

Schedule 14 (transitional provisions and savings) has effect.

#### 106 Repeals and revocations.

Schedule 15 (repeals and revocations) has effect.

#### Commencement Information

- I6** [S. 106](#) partly in force; [s. 106](#) not in force at Royal Assent see [s. 108\(1\)](#); [s. 106](#) in force for certain purposes at 27.9.1999 and for certain further purposes at 1.11.1999 and for certain further purposes at 12.11.1999 by [S.I. 1999/2657](#), [arts. 2\(d\)\(iii\)](#), 3(c), 4(b); [s. 106](#) in force for certain further purposes at 1.1.2000 and for certain further purposes at 1.3.2000 by [S.I. 1999/3344](#), [arts. 2\(d\)](#), 3(b), [Sch. 1](#) (with art. 4); [s. 106](#) in force for certain purposes at 1.4.2000 by [S.I. 2000/774](#), [art. 2\(c\)\(ii\)](#); [s. 106](#) in force for certain purposes at 31.7.2000 by [S.I. 2000/1920](#), [art. 2\(c\)\(3\)\(c\)](#); [s. 106](#) in force for certain purposes at 8.1.2001 by [S.I. 2000/3280](#), [art. 2\(c\)](#); [s. 106](#) in force for specified purposes at 19.2.2001 by [S.I. 2001/168](#), [art. 2\(c\)](#); [s. 106](#) in force for specified purposes at 1.4.2001 by [S.I. 2001/916](#), [art. 2\(c\)\(iv\)](#); [s. 106](#) in force for specified purposes at 2.4.2001 by [S.I. 2001/916](#), [art. 3\(b\)](#)

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## 107 Crown application.

This Act binds the Crown.

## 108 Commencement.

- (1) Subject to subsections (2) and (3), the preceding provisions of this Act shall come into force on such day as the Lord Chancellor [<sup>F90</sup>or Secretary of State] may by order made by statutory instrument appoint; and different days may be appointed for different purposes and, in the case of section 67(2), for different areas.
- (2) Section 45 shall come into force on the day on which this Act is passed.
- (3) The following provisions shall come into force at the end of the period of two months beginning with the day on which this Act is passed—
  - (a) in Part II, sections 32 to 34,
  - (b) Part IV, apart from section 66 and Schedule 9 and sections 67(2) and 71,
  - (c) in Part V, sections 74 to 76, 81, 82, 84, 86 and 87 and Schedule 10,
  - (d) in Part VI, section 104,
  - (e) Schedule 14,
  - (f) in Schedule 15, Part III and Part V(1) and (5), apart from the provisions specified in subsection (4), and
  - (g) section 107.
- (4) The provisions excepted from subsection (3)(f) are the repeal of section 67(8) of the <sup>M76</sup>Magistrates' Courts Act 1980 (and that in Schedule 11 to the <sup>M77</sup>Children Act 1989) contained in Part V(1) of Schedule 15.

### Subordinate Legislation Made

- P1** S. 108(1): power partly exercised (21.9.1999): different dates appointed for specified provisions by S.I. 1999/2657, arts. 2, 3, 4, Sch. 1, Sch. 2  
S. 108(1): power partly exercised (13.12.1999): different dates appointed for specified provisions by S.I. 1999/3344, arts. 2, 3, Sch. 1 (with art. 4, Sch. 2)  
S. 108(1): power partly exercised (20.3.2000): 1.4.2000 appointed for specified provisions by S.I. 2000/774, art. 2 (with arts. 3-5)  
S. 108(1): power partly exercised (19.7.2000): different dates appointed for specified provisions by S.I. 2000/1920, arts. 2, 3 (with art. 4)  
S. 108(1): power partly exercised (13.12.2000): 8.1.2001 appointed for specified provisions by S.I. 2000/3280, art. 2 (with art. 3)  
S. 108(1): power partly exercised: 19.2.2001 appointed for specified provisions by S.I. 2001/168, art. 1  
S. 108(1) power partly exercised: different dates appointed for specified provisions by S.I. 2001/916, art. 2  
S. 108(1) power partly exercised: 25.5.2001 appointed for specified purposes by S.I. 2001/1655, art. 2
- P2** S. 108(1) power partly exercised: 31.3.2003 appointed for specified provisions by {S.I. 2003/207}, art. 2 (with art. 3)
- P3** S. 108(1) power partly exercised: 2.6.2003 appointed for specified provision by {S.I. 2003/1241}, art. 2
- P4** S. 108(1) power partly exercised: 1.11.2003 appointed for specified provisions by {S.I. 2003/2571}, art. 2

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#### Textual Amendments

**F90** Words in s. 108(1) inserted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 11(2)**

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

**C19** [S. 108\(1\)](#): certain functions transferred (28.2.2003) to the Scottish Ministers by [The Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2003 \(S.I. 2003/415\)](#), arts. 1, 2, **Sch.** (with art. 5)

#### Marginal Citations

**M76** 1980 c.43.

**M77** 1989 c.41.

### 109 Extent.

- (1) Sections 32 to 34 and 73(2) extend to Scotland.
- (2) Sections 98(2) and (3) and 104(2) extend to Northern Ireland.
- (3) Sections 68, 101, 102 and 103 extend to England and Wales, Scotland and Northern Ireland.
- (4) The other provisions of this Act which make amendments or repeals or revocations in other enactments also have the same extent as the enactments which they amend or repeal or revoke.
- (5) Subject to subsection (4), the provisions of this Part (including paragraph 1, but not the rest, of Schedule 14) extend to England and Wales, Scotland and Northern Ireland.
- (6) Subject to the preceding provisions, this Act extends to England and Wales.
- (7) For the purposes of the <sup>M78</sup>Scotland Act 1998 this Act, so far as it extends to Scotland, shall be taken to be a pre-commencement enactment within the meaning of that Act.

#### Marginal Citations

**M78** 1998 c.46.

### 110 Short title.

This Act may be cited as the Access to Justice Act 1999.

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### LEGAL SERVICES COMMISSION

##### *Incorporation and status*

- 1 The Commission shall be a body corporate.
- 2 The Commission shall not be regarded—
  - (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown;and the Commission's property shall not be regarded as property of, or held on behalf of, the Crown.

##### *Tenure of members*

PROSPECTIVE

F913 .....

##### **Textual Amendments**

**F91** Schs. 1-3A omitted (1.4.2013) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 51\(a\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

- 4 (1) A member of the Commission, or the person appointed to chair it, may resign office by giving notice in writing to the <sup>F92</sup>[Lord Chancellor].
  - (2) If the person appointed to chair the Commission ceases to be a member of it, he shall cease to chair it.
  - (3) A person who ceases to be a member of the Commission, or to chair it, shall be eligible for reappointment.

##### **Textual Amendments**

**F92** Words in [Sch. 1](#) substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, [Sch. para. 4\(d\)](#)

- 5 The <sup>F93</sup>[Lord Chancellor] may terminate the appointment of a member of the Commission if satisfied that—
  - (a) he has become bankrupt or made an arrangement with his creditors,



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- (b) he is unable to carry out his duties as a member of the Commission by reason of illness,
- (c) he has been absent from meetings of the Commission for a period longer than six consecutive months without the permission of the Commission, or
- (d) he is otherwise unable or unfit to discharge the functions of a member of the Commission.

#### Textual Amendments

**F93** Words in Sch. 1 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, [Sch. para. 4\(d\)](#)

#### *Members' interests*

- 6 (1) Before appointing a person to be a member of the Commission, the [<sup>F94</sup>Lord Chancellor] shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member of the Commission.
- (2) The [<sup>F94</sup>Lord Chancellor] shall from time to time satisfy himself with respect to every member of the Commission that he has no such interest as is referred to in sub-paragraph (1).
- (3) Any person whom the [<sup>F94</sup>Lord Chancellor] proposes to appoint as, and who has consented to be, a member of the Commission, and any member of the Commission, shall (whenever requested by the [<sup>F94</sup>Lord Chancellor] to do so) supply him with such information as the [<sup>F94</sup>Lord Chancellor] considers necessary for the performance by the [<sup>F94</sup>Lord Chancellor] of his duties under this paragraph.

#### Textual Amendments

**F94** Words in Sch. 1 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, [Sch. para. 4\(d\)](#)

- 7 (1) A member of the Commission who is in any way directly or indirectly interested in an individual contract entered into or proposed to be entered into, or an individual grant, loan or other payment made or proposed to be made, by the Commission shall disclose the nature of his interest at a meeting of the Commission; and—
- (a) the disclosure shall be recorded in the minutes of the Commission, and
  - (b) the member shall not take any part in any deliberation or decision of the Commission with respect to that contract or grant, loan or other payment.
- (2) For the purposes of sub-paragraph (1), a general notice given at a meeting of the Commission by a member of the Commission to the effect—
- (a) that he is a person with whom a contract may be entered into, or to whom a grant, loan or other payment may be made, by the Commission, or
  - (b) that he is a member of a specified body with which a contract may be entered into, or to which a grant, loan or other payment may be made, by the Commission,

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shall be regarded as a sufficient disclosure of his interest in relation to any contract subsequently entered into with, or grant, loan or other payment made to, him or the body.

- (3) A member of the Commission need not attend in person at a meeting of the Commission in order to make any disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is brought up and read out at the meeting.

#### *Remuneration of members*

- 8 (1) The Commission may—
- (a) pay to its members such remuneration, and
  - (b) make provision for the payment of such pensions, allowances or gratuities to or in respect of its members,
- as the [<sup>F95</sup>Lord Chancellor] may determine.
- (2) Where a person ceases to be a member of the Commission otherwise than on the expiry of his term of office, and it appears to the [<sup>F95</sup>Lord Chancellor] that there are special circumstances which make it right for that person to receive compensation, the [<sup>F95</sup>Lord Chancellor] may require the Commission to make that person a payment of such amount as the [<sup>F95</sup>Lord Chancellor] may determine.

#### **Textual Amendments**

**F95** Words in [Sch. 1](#) substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, [Sch. para. 4\(d\)](#)

#### *Staff*

- 9 (1) The Commission shall appoint a person to be the chief executive of the Commission who shall be responsible to the Commission for the exercise of its functions.
- (2) The Commission may appoint such other employees as it thinks fit.
- (3) The Commission may only appoint a person to be—
- (a) its chief executive, or
  - (b) the holder of any other employment of a description specified by the [<sup>F96</sup>Lord Chancellor] by direction given to the Commission,
- after consultation with, and subject to the approval of, the [<sup>F96</sup>Lord Chancellor] .
- (4) An appointment under this paragraph may be made on such terms and conditions as the Commission, with the approval of the [<sup>F96</sup>Lord Chancellor] , may determine.

#### **Textual Amendments**

**F96** Words in [Sch. 1](#) substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, [Sch. para. 4\(d\)](#)

- 10 (1) The Commission shall make, in respect of such of its employees as, with the approval of the [<sup>F97</sup>Lord Chancellor] , it may determine such arrangements for providing

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pensions, allowances or gratuities, including pensions, allowances or gratuities by way of compensation for loss of employment, as it may determine.

- (2) Arrangements under sub-paragraph (1) may include the establishment and administration, by the Commission or otherwise, of one or more pension schemes.
- (3) If an employee of the Commission—
- (a) becomes a member of the Commission, and
  - (b) was by reference to his employment by the Commission a participant in a pension scheme established and administered by it for the benefit of its employees,
- the Commission may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Commission whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 8.
- (4) Where the Commission exercises the power conferred by sub-paragraph (3), any discretion as to the benefits payable to or in respect of the member concerned which the scheme confers on the Commission shall be exercised only with the approval of the [<sup>F97</sup>Lord Chancellor] .

#### Textual Amendments

**F97** Words in Sch. 1 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, [Sch. para. 4\(d\)](#)

#### *Funding of costs relating to administration etc.*

- 11 (1) The [<sup>F98</sup>Lord Chancellor] shall pay to the Commission such sums as he may determine as appropriate for—
- (a) the exercise by the Commission of functions in relation to the Community Legal Service other than the funding of services,
  - [<sup>F99</sup>(aa) the exercise by the Commission of functions in relation to the Criminal Defence Service other than the funding of services, and]
  - (b) the administrative costs of the Commission.
- (2) The [<sup>F98</sup>Lord Chancellor] may—
- (a) determine the manner in which and times at which the sums mentioned in sub-paragraph (1) are to be paid to the Commission, and
  - (b) impose conditions on the payment of those sums.

#### Textual Amendments

**F98** Words in Sch. 1 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, [Sch. para. 4\(d\)](#)

**F99** Sch. 1 para. 11(1)(aa) substituted (2.10.2006) for word by [Criminal Defence Service Act 2006 \(c. 9\)](#), [ss. 1\(9\)](#), 5(2); S.I. 2006/2491, [art. 2](#)

#### *Proceedings*

- 12 (1) Subject to anything in any instrument made under this Part, the Commission may regulate its own proceedings.

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- (2) Committees—
- (a) may be appointed, and may be dissolved, by the Commission, and
  - (b) may include, or consist entirely of, persons who are not members of the Commission,
- but the [<sup>F100</sup>Lord Chancellor] may by direction require the Commission to make such provision relating to committees as is specified in the direction.
- (3) A committee shall act in accordance with such instructions as the Commission may from time to time give; and the Commission may provide for anything done by a committee to have effect as if it had been done by the Commission.
- (4) The Commission may pay to the members of any committee such fees and allowances as the [<sup>F100</sup>Lord Chancellor] may determine.
- (5) The validity of any proceedings of the Commission or of any committee appointed by the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any member.

#### Textual Amendments

**F100** Words in Sch. 1 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(d)**

#### *Provision of information*

- 13 (1) The Commission shall provide the [<sup>F101</sup>Lord Chancellor] with such information as he may require relating to its property and to the discharge or proposed discharge of its functions.
- (2) The Commission shall—
- (a) permit any person authorised by the [<sup>F101</sup>Lord Chancellor] to inspect and make copies of any accounts or documents of the Commission, and
  - (b) provide such explanation of them as any such person, or the [<sup>F101</sup>Lord Chancellor] , may require.

#### Textual Amendments

**F101** Words in Sch. 1 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(d)**

#### *Annual report*

- 14 (1) The Commission shall provide to the [<sup>F102</sup>Lord Chancellor] , as soon as possible after the end of each financial year, a report on how it has during that year—
- (a) funded services from the Community Legal Service Fund,
  - (b) funded services as part of the Criminal Defence Service, and
  - (c) exercised its other functions.

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- (2) The [<sup>F102</sup>Lord Chancellor] may by direction require the Commission to deal with the matters specified in the direction in reports, or a particular report, under this paragraph.
- (3) The [<sup>F102</sup>Lord Chancellor] shall lay before each House of Parliament a copy of each report provided to him under this paragraph and the Commission shall publish a report once it has been so laid.
- (4) In this paragraph and paragraphs 15 and 16 “financial year” means—
  - (a) the period beginning with the day on which the Commission is established and ending with the next 31st March, and
  - (b) each subsequent period of twelve months ending with 31st March.

#### Textual Amendments

**F102** Words in Sch. 1 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(d)**

#### *Annual plan*

- 15 (1) The Commission shall, before the beginning of each financial year (other than that specified in paragraph 14(4)(a)), prepare a plan setting out how it intends in that year—
  - (a) to fund services from the Community Legal Service Fund,
  - (b) to fund services as part of the Criminal Defence Service, and
  - (c) to exercise its other functions,
 and the plan shall include a summary of what the Commission has ascertained in the exercise of its functions under section 4(6).
- (2) The [<sup>F103</sup>Lord Chancellor] may by direction require the Commission to deal with the matters specified in the direction in plans, or a particular plan, under sub-paragraph (1).
- (3) The Commission shall send a copy of each plan prepared under sub-paragraph (1) to the [<sup>F103</sup>Lord Chancellor].
- (4) If the [<sup>F103</sup>Lord Chancellor] approves it, he shall lay a copy before each House of Parliament and the Commission shall publish the plan once it has been so laid.
- (5) If he does not approve it, he shall by direction require the Commission to revise it in accordance with the direction; and the direction shall include the [<sup>F104</sup>Lord Chancellor's] reasons for not approving the plan.
- (6) When the Commission has revised the plan it shall send the [<sup>F103</sup>Lord Chancellor] a copy of the revised plan and he shall lay a copy before each House of Parliament and the Commission shall publish the revised plan once it has been so laid.

#### Textual Amendments

**F103** Words in Sch. 1 substituted (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), art. 8, **Sch. para. 4(d)**

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**F104** Words in Sch. 1 substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 4(d)

#### *Accounts and audit*

- 16 (1) The Commission shall keep accounts and shall prepare in respect of each financial year a statement of accounts.
- (2) The accounts shall be kept, and the statement of accounts shall be prepared, in such form as the [<sup>F105</sup>Lord Chancellor] may, with the approval of the Treasury, specify by direction given to the Commission.
- (3) The Commission shall send a copy of the statement of accounts in respect of each financial year to the [<sup>F105</sup>Lord Chancellor] and to the Comptroller and Auditor General within such period after the end of the financial year to which it relates as the [<sup>F105</sup>Lord Chancellor] may specify by direction given to the Commission.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on each statement of accounts received by him under sub-paragraph (3), and
  - (b) lay a copy of each such statement of accounts, and his report on it, before each House of Parliament.

#### **Textual Amendments**

**F105** Words in Sch. 1 substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 4(d)

#### *Instruments*

- 17 (1) The fixing of the seal of the Commission shall be authenticated by a member of the Commission or by some other person authorised either generally or specially by the Commission to act for that purpose.
- (2) A document purporting to be duly executed under the seal of the Commission or to be signed on the Commission's behalf—
- (a) shall be received in evidence, and
  - (b) unless the contrary is proved, shall be deemed to be so executed or signed.

## SCHEDULE 2

Section 6.

### COMMUNITY LEGAL SERVICE: EXCLUDED SERVICES

The services which may not be funded as part of the Community Legal Service are as follows.

- 1 Services consisting of the provision of help (beyond the provision of general information about the law and the legal system and the availability of legal services) in relation to—
- <sup>F106</sup>(a) allegations of personal injury or death, other than allegations relating to clinical negligence,

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- (aa) allegations of negligently caused damage to property,]
- (b) conveyancing,
- (c) boundary disputes,
- (d) the making of wills,
- (e) matters of trust law,
- [<sup>F107</sup>(ea) the creation of lasting powers of attorney under the Mental Capacity Act 2005,
- (eb) the making of advance decisions under that Act,]
- (f) defamation or malicious falsehood,
- (g) matters of company or partnership law, <sup>F108</sup> . . .
- (h) other matters arising out of the carrying on of a [<sup>F109</sup>business, or]
- [<sup>F110</sup>(i) attending an interview conducted on behalf of the Secretary of State with a view to his reaching a decision on a claim for asylum (as defined by section 167(1) of the Immigration and Asylum Act 1999 <sup>F111</sup>).]

#### Textual Amendments

- F106** Sch. 2 para. 1(a)(aa) substituted (25.7.2005) for Sch. 2 para. 1(a) by The Community Legal Service (Scope) Regulations 2005 (S.I. 2005/2008), **reg. 2** (with reg. 4)
- F107** Sch. 2 para. 1(ea)(eb) inserted (1.10.2007) by Mental Capacity Act 2005 (c. 9), ss. 67(1), 68, **Sch. 6 para. 44** (with ss. 27-29, 62); S.I. 2007/1897, **art. 2**
- F108** Word in Sch. 2 para. 1(g) deleted (1.4.2004) by The Community Legal Service (Scope) Regulations 2004 (S.I. 2004/1055), **reg. 2(a)**
- F109** Words in Sch. 2 para. 1(h) substituted (1.4.2004) by The Community Legal Service (Scope) Regulations 2004 (S.I. 2004/1055), **reg. 2(b)**
- F110** Sch. 2 para. 1(i) inserted (1.4.2004) by The Community Legal Service (Scope) Regulations 2004 (S.I. 2004/1055), **reg. 2(c)**
- F111** 1999 c 33.

VALID FROM 01/02/2010

- [<sup>F112</sup>1A Services consisting of the provision of help to an individual in relation to matters arising out of or in connection with—
- (a) a proposal by that individual to establish a business;
  - (b) the carrying on of a business by that individual (whether or not the business is being carried on at the time the services are provided);
  - (c) the termination or transfer of a business that was being carried on by that individual.]

#### Textual Amendments

- F112** Sch. 2 para. 1A inserted (prosp.) by Coroners and Justice Act 2009 (c. 25), ss. **150(3)**, 182 (with s. 180)

- 2 Advocacy in any proceedings except—
- (1) proceedings in—
    - [<sup>F113</sup>(a) the Supreme Court,]



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- (b) [<sup>F114</sup>the Judicial Committee of the Privy Council in the exercise of its jurisdiction under the <sup>M79</sup>Government of Wales Act 1998, the <sup>M80</sup>Scotland Act 1998 or the <sup>M81</sup>Northern Ireland Act 1998,]
- (c) the Court of Appeal,
- (d) the High Court,
- (e) any county court,
- (f) the Employment Appeal Tribunal, [<sup>F115</sup>or]
- [<sup>F116</sup>(g) the First-tier Tribunal under any provision of the Mental Health Act 1983 or paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984, or the Mental Health Review Tribunal for Wales,
- (ga) the Upper Tribunal arising out of proceedings within paragraph (g),]
- [<sup>F117</sup>(h) the Asylum and Immigration Tribunal,]
- [<sup>F118</sup>(ha) the Special Immigration Appeals Commission,][<sup>F119</sup> or
- <sup>F119</sup>(i) the Proscribed Organisations Appeal Commission]
- (2) proceedings in the Crown Court—
  - (a) for the variation or discharge of an order under section 5 of the <sup>M82</sup>Protection from Harassment Act 1997,
  - (b) which relate to an order under section <sup>F120</sup> . . . 10 of the <sup>M83</sup>Crime and Disorder Act 1998, <sup>F121</sup> . . .
  - <sup>F122</sup>(c) . . . . . [<sup>F123</sup><sup>F124</sup> . . . . .
  - (d) which relate to an order under paragraph 6 of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001][<sup>F125</sup> or]
  - [<sup>F126</sup>(e) under the Proceeds of Crime Act 2002 to the extent specified in paragraph 3,]
- (3) proceedings in a magistrates' court—
  - (a) under section 43 or 47 of the <sup>M84</sup>National Assistance Act 1948, section 22 of the <sup>M85</sup>Maintenance Orders Act 1950, section 4 of the <sup>M86</sup>Maintenance Orders Act 1958 or section 106 of the <sup>M87</sup>Social Security Administration Act 1992,
  - (b) under Part I of the <sup>M88</sup>Maintenance Orders (Reciprocal Enforcement) Act 1972 relating to a maintenance order made by a court of a country outside the United Kingdom,
  - (c) in relation to an application for leave of the court to remove a child from a person's custody under [<sup>F127</sup>section 36 of the Adoption and Children Act 2002] or in which the making of [<sup>F128</sup>a placement order or adoption order (within the meaning of the Adoption and Children Act 2002) or an order under section 41 or 84] of that Act is opposed by any party to the proceedings,
  - (d) for or in relation to an order under Part I of the <sup>M89</sup>Domestic Proceedings and Magistrates' Courts Act 1978 [<sup>F129</sup>or Schedule 6 to the Civil Partnership Act 2004],
  - [<sup>F130</sup>(da) under section 55A of the Family Law Act 1986 (declarations of parentage),]
  - (e) under the <sup>M90</sup>Children Act 1989,

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- (f) under section 30 of the <sup>M91</sup>Human Fertilisation and Embryology Act 1990,
- (g) under section 20 <sup>F131</sup> . . . of the <sup>M92</sup>Child Support Act 1991,
- (h) under Part IV of the <sup>M93</sup>Family Law Act 1996,
- (i) for the variation or discharge of an order under section 5 of the Protection from Harassment Act 1997, <sup>F132</sup> . . .
- (j) under [<sup>F133</sup>section 8 or 11] of the Crime and Disorder Act 1998 [<sup>F134F135</sup> . . . ,
- (k) for an order or direction under paragraph 3, 5, 6, 9 or 10 of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001]
- [<sup>F136</sup>(l) for an order or direction under section 295, 297, 298, 301 or 302 of the Proceeds of Crime Act 2002,] and
- (4) proceedings before any person to whom a case is referred (in whole or in part) in any proceedings within paragraphs (1) to (3).

#### Textual Amendments

- F113** Sch. 2 para. 2(1)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 68(3)**; S.I. 2009/1604, **art. 2**
- F114** Sch. 2 para. 2(1)(b) repealed (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 146, 148, **Sch. 18 Pt. 5**; S.I. 2009/1604, **art. 2**
- F115** Word in Sch. 2 para. 2(1)(f) repealed (19.2.2001) by 2000 c. 11, s. 125(2), **Sch. 16 Pt. I**; S.I. 2001/421, **art. 2**
- F116** Sch. 2 para. 2(1)(g)(ga) substituted (3.11.2008) for Sch. 2 para. 2(1)(g) by The Transfer of Tribunal Functions Order (S.I. 2008/2833), art. 6, {Sch. 3 para. 178}
- F117** Sch. 2 para. 2(1)(h) substituted (4.4.2005) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 26(7), 48(3), **Sch. 2 para. 14**; S.I. 2005/565, **art. 2** (with arts. 3-9)
- F118** Sch. 2 para. 2(1)(ha) inserted (1.4.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 116**, 162 (with s. 159); S.I. 2003/754, **art. 2**, Sch. 1 (with arts. 3, 4, Sch. 2) (as amended (8.4.2003) by S.I. 2003/1040, art. 2) and (9.6.2003) by S.I. 2003/1339, art. 4)
- F119** Sch. 2 para. 2(1)(i) and preceding word inserted (19.2.2001) by 2000 c. 11, s. 125(1), **Sch. 15 para. 19**; S.I. 2001/421, **art. 2**
- F120** Words in Sch. 2 para. 2(2)(b) deleted (1.4.2000) by S.I. 2000/822, **art. 3(b)(i)**
- F121** Word in Sch. 2 para. 2(2)(b) repealed (20.12.2001) by 2001 c. 24, ss. 2(2), 125, **Sch. 8 Pt. I**; S.I. 2001/4019, **art. 2(b)(d)**
- F122** Sch. 2 para. 2(2)(c) deleted (1.4.2000) by S.I. 2000/822, **art. 3(b)(ii)**
- F123** Sch. 2 para. 2(2)(d) and preceding word inserted (20.12.2001) by 2001 c. 24, **s. 2(2)**; S.I. 2001/4019, **art. 2(b)**
- F124** Word in Sch. 2 para. 2(2)(c) omitted (30.12.2002) by virtue of Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(2)** and repealed (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 458(1), 457, **Sch. 12**; S.I. 2003/120, **art. 2**, Sch. (subject to arts. 3-7 (as amended by S.I. 2003/333, art. 14))
- F125** Sch. 2 para. 2(2)(e) and preceding word inserted (30.12.2002) by Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(2)**; S.I. 2002/3015, art. 2, **Sch.**
- F126** Sch. 2 para. 2(2)(e) and preceding word inserted (30.12.2002) by Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(2)**; S.I. 2002/3015, art. 2, **Sch.**
- F127** Words in Sch. 2 para. 2(3)(c) substituted (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139(1)(2), 148, **Sch. 3 para. 102(a)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F128** Words in Sch. 2 para. 2(3)(c) substituted (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139(1)(2), 148, **Sch. 3 para. 102(b)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**

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- F129** Words in Sch. 2 para. 2(3)(d) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 156**; S.I. 2005/3175, **art. 2(2)** (subject to art. 2(3)-(5))
- F130** Sch. 2 para. 2(3)(da) inserted (1.4.2001) by 2000 c. 19, s. 83(5), **Sch. 8 para. 15** (with s. 83(6)); S.I. 2001/774, **art. 2(c)**
- F131** Words in Sch. 2 para. 2(3)(g) repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**
- F132** Word in Sch. 2 para. 2(3)(i) repealed (20.12.2001) by 2001 c. 24, ss. 2(3), 125, **Sch. 8 Pt. I**; S.I. 2001/4019, **art. 2(b)(d)**
- F133** Words in Sch. 2 para. 2(3)(j) substituted (1.4.2000) by S.I. 2000/822, **art. 3(c)**
- F134** Sch. 2 para. 2(3)(k) and preceding word inserted (20.12.2001) by 2001 c. 24, **s. 2(3)**; S.I. 2001/4019, **art. 2(b)**
- F135** Word in Sch. 2 para. 2(3)(j) omitted (30.12.2002) by virtue of Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(3)** and repealed (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 458(1), 457, **Sch. 12**; S.I. 2003/120, **art. 2**, Sch. (subject to arts. 3-7 (as amended by S.I. 2003/333, art. 14))
- F136** Sch. 2 para. 2(3)(l) inserted (30.12.2002) by Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(3)**; S.I. 2002/3015, art. 2, **Sch.**

#### Marginal Citations

- M79** 1998 c.38.  
**M80** 1998 c.46.  
**M81** 1998 c.47.  
**M82** 1997 c.40.  
**M83** 1998 c.37.  
**M84** 1948 c.29.  
**M85** 1950 c.37.  
**M86** 1958 c.39.  
**M87** 1992 c.5.  
**M88** 1972 c.18.  
**M89** 1978 c.22.  
**M90** 1989 c.41.  
**M91** 1990 c.37.  
**M92** 1991 c.48.  
**M93** 1996 c.27.

[<sup>F137</sup>3 (1) These are the proceedings under the Proceeds of Crime Act 2002—

[ an application under section 42 for a restraint order;]  
<sup>F138</sup>(za)

- (a) an application under section 42(3) to vary or discharge a restraint order or an order under section 41(7);
- (b) proceedings which relate to a direction under section 54(3) <sup>F139</sup>. . . as to the distribution of funds in the hands of a receiver;
- (c) an application under section 62 relating to action taken or proposed to be taken by a receiver;
- (d) an application under section 63 to vary or discharge an order under any of sections 48 [<sup>F140</sup>to 51] for the appointment of or conferring powers on a receiver;
- (e) an application under section 72 or 73 for the payment of compensation;
- (f) proceedings which relate to an order under section 298 for the forfeiture of cash;
- (g) an application under section 351(3), 362(3), 369(3) or 375(2) to vary or discharge certain orders made under Part 8.

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- (2) But sub-paragraph (1) does not authorise the funding of the provision of services to a defendant (within the meaning of Part 1 of that Act) in relation to—
- (a) proceedings mentioned in paragraph (b);
  - (b) an application under section 73 for the payment of compensation if the confiscation order was varied under section 29.]

#### Textual Amendments

**F137** Sch. 2 para. 3 inserted (30.12.2002) by Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(4)**; S.I. 2002/3015, art. 2, **Sch.**

**F138** Sch. 2 para. 3(za) inserted (25.7.2005) by The Community Legal Service (Scope) Regulations 2005 (S.I. 2005/2008), **reg. 3**

**F139** Words in Sch. 2 para. 3(1)(b) repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), ss. 74(2), 92, 94, Sch. 8 para. 159(2), **Sch. 14**; S.I. 2008/755, **art. 2** (subject to arts. 3-14)

**F140** Words in Sch. 2 para. 3(1)(d) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), ss. 74(2), 94, **Sch. 8 para. 159(3)**; S.I. 2008/755, **art. 2** (subject to arts. 3-14)

PROSPECTIVE

F91

#### Textual Amendments

**F91** Schs. 1-3A omitted (1.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 51(a)**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

## SCHEDULE 3

Section 14.

### CRIMINAL DEFENCE SERVICE: RIGHT TO REPRESENTATION

#### *Individuals to whom right may be granted*

- 1 (1) A right to representation for the purposes of any kind of criminal proceedings before a court may be granted to an individual such as is mentioned in relation to that kind of proceedings in section 12(2).
- (2) A right to representation for the purposes of criminal proceedings may also be granted to an individual to enable him to resist an appeal to the Crown Court otherwise than in an official capacity.
- (3) In this Schedule “court” includes any body before which criminal proceedings take place.

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### <sup>F141</sup>Individuals to whom right may be provisionally granted

#### Textual Amendments

**F141** Sch. 3 para. 1A inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(6), 153; S.I. 2008/1586, art. 2, Sch. 1

- 1A (1) Regulations may provide that, in prescribed circumstances, and subject to any prescribed conditions, a right to representation may be provisionally granted to an individual where—
- (a) the individual is involved in an investigation which may result in criminal proceedings, and
  - (b) the right is so granted for the purposes of criminal proceedings that may result from the investigation.
- (2) Regulations under sub-paragraph (1) may, in particular, make provision about—
- (a) the stage in an investigation at which a right to representation may be provisionally granted;
  - (b) the circumstances in which a right which has been so granted—
    - (i) is to become, or be treated as if it were, a right to representation under paragraph 1, or
    - (ii) is to be, or may be, withdrawn.]

#### *Grant of right by court*

- 2 (1) A court before which any criminal proceedings take place, or are to take place, has power to grant a right to representation in respect of those proceedings [<sup>F142</sup>subject to sub-paragraph (1A)].
- [<sup>F143</sup>(1A) The power under sub-paragraph (1) shall not be exercisable—
- (a) in relation to proceedings in respect of which the Commission has power to grant a right to representation under paragraph 2A, unless regulations otherwise provide, or
  - (b) in such other circumstances as may be prescribed.]
- (2) Where a right to representation is granted for the purposes of criminal proceedings it includes the right to representation for the purposes of any related bail proceedings and any preliminary or incidental proceedings; and regulations may make provision specifying whether any proceedings are or are not to be regarded as preliminary or incidental.
- (3) A court also has power to grant a right to representation for the purposes of criminal proceedings before another court in such circumstances as may be prescribed.
- (4) The form of the application for a grant of a right to representation under this paragraph, and the form of the grant of such a right, shall be such as may be prescribed.
- (5) [<sup>F144</sup>Subject to sub-paragraph (5A),] a right to representation in respect of proceedings may be withdrawn by any court before which the proceedings take place; and a court must consider whether to withdraw a right to representation in such circumstances as may be prescribed.

*Status:* Point in time view as at 01/04/2009. This version of this Act contains provisions that are not valid for this point in time.

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[<sup>F145</sup>(5A) Sub-paragraph (5) does not apply where the Commission has power to withdraw the right to representation in respect of the proceedings.]

(6) The powers of a magistrates’ court for any area under this paragraph may be exercised by a single justice of the peace for the area.

(7) <sup>F146</sup>.....

**Textual Amendments**

- F142** Words in Sch. 3 para. 2(1) substituted (2.10.2006) by Criminal Defence Service Act 2006 (c. 9), ss. 1(2), 5(2); S.I. 2006/2491, art. 2
- F143** Sch. 3 para. 2(1A) inserted (2.10.2006) by Criminal Defence Service Act 2006 (c. 9), ss. 1(3), 5(2); S.I. 2006/2491, art. 2
- F144** Words in Sch. 3 para. 2(5) inserted (2.10.2006) by Criminal Defence Service Act 2006 (c. 9), ss. 1(4), 5(2); S.I. 2006/2491, art. 2
- F145** Sch. 3 para. 2(5A) inserted (2.10.2006) by Criminal Defence Service Act 2006 (c. 9), ss. 1(5), 5(2); S.I. 2006/2491, art. 2
- F146** Sch. 3 para. 2(7) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), arts. 2, 3, Sch. para. 38

*Grant of right by commission*

[<sup>F147</sup>2A(1) Regulations may—

- (a) provide that the Commission shall have power to grant rights to representation in respect of criminal proceedings of a prescribed description;
- (b) provide that the Commission shall, except in such circumstances as may be prescribed, have power to withdraw any rights to representation granted in respect of proceedings of a description prescribed under paragraph (a).

[<sup>F148</sup>(c) provide that any provisional grant of a right to representation, or any withdrawal of a right so granted, in accordance with regulations under paragraph 1A is to be made by the Commission.]

(2) In sub-paragraph (1)(a), the reference to criminal proceedings does not include proceedings prescribed under section 12(2)(g).

(3) Regulations under sub-paragraph (1) may make such consequential amendment or repeal of any enactment, including an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978), as the Lord Chancellor may consider appropriate.]

**Textual Amendments**

- F147** Sch. 3 para. 2A inserted (2.10.2006) by Criminal Defence Service Act 2006 (c. 9), ss. 1(6), 5(2); S.I. 2006/2491, art. 2
- F148** Sch. 3 para. 2A(1)(c) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(7), 153; S.I. 2008/1586, art. 2, Sch. 1

3 (1) Regulations may provide that the Commission shall have power to grant rights to representation in respect of any one or more of the descriptions of proceedings prescribed under section 12(2)(g), and to withdraw any rights to representation granted by it.

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<sup>F149</sup>(2) .....

**Textual Amendments**

**F149** Sch. 3 para. 3A substituted (2.10.2006) for Sch. 3 para. 3(2)(3) by [Criminal Defence Service Act 2006 \(c. 9\), ss. 1\(7\), 5\(2\); S.I. 2006/2491, art. 2](#)

[<sup>F150</sup>3A(1) The form of the grant [<sup>F151</sup>, or provisional grant,] of a right to representation under paragraph 2A or 3 shall be such as may be prescribed.

(2) Regulations under paragraph 2A or 3 may make such transitional provision as the Lord Chancellor may consider appropriate.]

**Textual Amendments**

**F150** Sch. 3 para. 3A substituted (2.10.2006) for Sch. 3 para. 3(2)(3) by [Criminal Defence Service Act 2006 \(c. 9\), ss. 1\(7\), 5\(2\); S.I. 2006/2491, art. 2](#)

**F151** Words in Sch. 3 para. 3A(1) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 56\(8\), 153; S.I. 2008/1586, art. 2, Sch. 1](#)

*[<sup>F152</sup>Financial eligibility*

**Textual Amendments**

**F152** Sch. 3 para. 3B and heading inserted (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\), ss. 2\(2\), 5\(2\); S.I. 2006/2491, art. 2](#)

3B (1) Power under this Schedule to grant [<sup>F153</sup>, or provisionally grant,] a right to representation may only be exercised in relation to an individual whose financial resources appear to the relevant authority to be such that, under regulations, he is eligible to be granted [<sup>F154</sup>, or provisionally granted,] such a right.

(2) Power under this Schedule to withdraw a right to representation shall be exercised in relation to an individual if it appears to the relevant authority—

- (a) that his financial resources are not such that, under regulations, he is eligible to be granted [<sup>F155</sup>, or provisionally granted,] such a right, or
- (b) that he has failed, in relation to the right, to comply with regulations under this paragraph about the furnishing of information.

(3) Regulations may make provision for exceptions from sub-paragraph (1) or (2).

(4) Regulations under this paragraph may include—

- (a) provision requiring the furnishing of information;
- (b) provision for the notification of decisions about the application of—
  - (i) sub-paragraph (1) or (2), or
  - (ii) regulations under sub-paragraph (3);
- (c) provision for the review of such decisions;
- (d) such transitional provision as the Lord Chancellor may consider appropriate.



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- (5) The provision which may be made under sub-paragraph (4)(c) includes provision prescribing circumstances in which the person or body reviewing a decision may refer a question to the High Court for its decision.
- (6) Section 16 of the Supreme Court Act 1981 (appeals from the High Court) shall not apply to decisions of the High Court on a reference under regulations under this paragraph.]

#### Textual Amendments

**F153** Words in Sch. 3 para. 3B(1) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(9)(a), 153; S.I. 2008/1586, art. 2, Sch. 1

**F154** Words in Sch. 3 para. 3B(1) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(9)(a), 153; S.I. 2008/1586, art. 2, Sch. 1

**F155** Words in Sch. 3 para. 3B(2)(a) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(9)(b), 153; S.I. 2008/1586, art. 2, Sch. 1

#### *Appeals*

- 4 Except where regulations otherwise provide, an appeal shall lie to such court or other person or body as may be prescribed against a decision to refuse to grant a right to representation or to withdraw a right to representation.<sup>[F156]</sup> This paragraph does not apply in relation to any right to representation granted in accordance with paragraph 1A.]

#### Textual Amendments

**F156** Words in Sch. 3 para. 4 inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(10), 153; S.I. 2008/1586, art. 2, Sch. 1

#### *Criteria for grant of right*

- 5 (1) Any question as to whether [<sup>F157</sup>power to grant [<sup>F158</sup>, or provisionally grant,] a right to representation should be exercised] shall be determined according to the interests of justice.
- (2) In deciding what the interests of justice consist of in relation to any individual, the following factors must be taken into account—
- (a) whether the individual would, if any matter arising in the proceedings is decided against him, be likely to lose his liberty or livelihood or suffer serious damage to his reputation,
  - (b) whether the determination of any matter arising in the proceedings may involve consideration of a substantial question of law,
  - (c) whether the individual may be unable to understand the proceedings or to state his own case,
  - (d) whether the proceedings may involve the tracing, interviewing or expert cross-examination of witnesses on behalf of the individual, and
  - (e) whether it is in the interests of another person that the individual be represented.

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[<sup>F159</sup>(2A) For the purposes of sub-paragraph (2), “proceedings” includes, in the context of a provisional grant of a right to representation, proceedings that may result from the investigation in which the individual is involved.]

(3) The [<sup>F160</sup>Lord Chancellor] may by order amend sub-paragraph (2) by adding new factors or varying any factor.

[<sup>F161</sup>(4) Regulations may prescribe circumstances in which the grant [<sup>F162</sup>, or provisional grant,] of a right to representation shall be taken to be in the interests of justice.]

#### Textual Amendments

**F157** Words in Sch. 3 para. 5(1) substituted (2.10.2006) by Criminal Defence Service Act 2006 (c. 9), ss. 2(3), 5(2); S.I. 2006/2491, art. 2

**F158** Words in Sch. 3 para. 5(1) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(11)(a), 153; S.I. 2008/1586, art. 2, Sch. 1

**F159** Sch. 3 para. 5(2A) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(11)(b), 153; S.I. 2008/1586, art. 2, Sch. 1

**F160** Words in Sch. 3 substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 4(d)

**F161** Sch. 3 para. 5(4) substituted (2.10.2006) by Criminal Defence Service Act 2006 (c. 9), ss. 2(4), 5(2); S.I. 2006/2491, art. 2

**F162** Words in Sch. 3 para. 5(4) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 56(11)(c), 153; S.I. 2008/1586, art. 2, Sch. 1

#### [<sup>F163</sup>Information requests

#### Textual Amendments

**F163** Sch. 3 paras. 6-8 inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 57(3), 153; S.I. 2008/1586, art. 2, Sch. 1

- 6 (1) The relevant authority may make an information request to—
- the Secretary of State, or
  - the Commissioners,
- for the purpose of facilitating the making of a decision by the authority about the application of paragraph 3B(1) or (2), or regulations under paragraph 3B(3), in relation to an individual.
- (2) An information request made to the Secretary of State is a request for the disclosure of some or all of the following information—
- the individual's full name;
  - the individual's address;
  - the individual's date of birth;
  - the individual's national insurance number;
  - the individual's benefit status;
  - information of any description specified in regulations.

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- (3) An information request made to the Commissioners is a request for the disclosure of some or all of the following information—
  - (a) whether or not the individual is employed;
  - (b) the name and address of the employer (if the individual is employed);
  - (c) the individual's national insurance number;
  - (d) information of any description specified in regulations made with the agreement of the Commissioners.
- (4) The information that may be specified under subsection (3)(d) includes, in particular, information relating to the individual's income (as defined in the regulations) for a period so specified.
- (5) On receiving an information request, the Secretary of State or (as the case may be) the Commissioners may disclose the information requested to the relevant authority.

#### *Restrictions on disclosure*

- 7 (1) A person to whom information is disclosed under paragraph 6(5), or this sub-paragraph, may disclose the information to any person to whom its disclosure is necessary or expedient in connection with facilitating the making of a decision by the relevant authority about the application of paragraph 3B(1) or (2), or regulations under paragraph 3B(3), in relation to an individual.
- (2) A person to whom such information is disclosed commits an offence if the person—
  - (a) discloses or uses the information, and
  - (b) the disclosure is not authorised by sub-paragraph (1) or (as the case may be) the use is not for the purpose of facilitating the making of such a decision as is mentioned in that sub-paragraph.
- (3) But it is not an offence under sub-paragraph (2)—
  - (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
  - (b) to disclose any information which has previously been lawfully disclosed to the public.
- (4) It is a defence for a person charged with an offence under sub-paragraph (2) to prove that the person reasonably believed that the disclosure or use was lawful.
- (5) A person guilty of an offence under sub-paragraph (2) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.
- (6) In sub-paragraph (5)(b) the reference to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.
- (7) Nothing in section 20 applies in relation to the disclosure of information to which sub-paragraph (1) applies.

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*Paragraphs 6 and 7: supplementary*

- 8 (1) This paragraph applies for the purposes of paragraphs 6 and 7.
- (2) “Benefit status”, in relation to an individual, means whether or not the individual is in direct or indirect receipt of any prescribed benefit or benefits and, if so (in the case of each benefit)—
- (a) which benefit the individual is so receiving, and
  - (b) (in prescribed cases) the amount the individual is so receiving by way of the benefit.
- (3) “The Commissioners” means the Commissioners for Her Majesty's Revenue and Customs.
- (4) “Information” means information held in any form.
- (5) Nothing in paragraph 6 or 7 authorises the making of a disclosure which contravenes the Data Protection Act 1998.]

VALID FROM 12/11/2009

[<sup>F164</sup>SCHEDULE 3A

MOTOR VEHICLE ORDERS

**Textual Amendments**

**F164** Sch. 3A inserted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), ss. 152(4), 182, Sch. 18 (with s. 180)

SCHEDULE 4

Section 24.

**AMENDMENTS CONSEQUENTIAL ON PART I**

*The Public Records Act 1958 (c.51)*

- 1 In the First Schedule to the Public Records Act 1958 (definition of public records), in Part I of the Table at the end of paragraph 3, in the second column, after “Legal Aid Board.” insert—

“Legal Services Commission”

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*The Parliamentary Commissioner Act 1967 (c.13)*

2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (which lists the bodies subject to the jurisdiction of the Parliamentary Commissioner), insert (at the appropriate place in alphabetical order)—

“Legal Services Commission”

*The Criminal Appeal Act 1968 (c.19)*

3 In section 50 of the Criminal Appeal Act 1968 (meaning of “sentence”), at the end insert—

“(3) An order under section 17 of the Access to Justice Act 1999 is not a sentence for the purposes of this Act.”

*The Children and Young Persons Act 1969 (c.54)*

4 The Children and Young Persons Act 1969 has effect subject to the following amendments.

F1655 .....

**Textual Amendments**

**F165** Sch. 4 para. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

6 In section 23 (remands and committals to local authority accommodation), in subsection (5A) (restrictions on imposing a security requirement on person who is not legally represented)—

(a) for paragraph (a) substitute—

“(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and

(b) in paragraph (b), for “legal aid” substitute “ such representation ”.

7 In that section as it has effect pursuant to section 98 of the Crime and Disorder Act 1998 (alternative provision for 15 and 16 year old boys), in subsection (4A) (restrictions on remand of boy who is not legally represented)—

(a) for paragraph (a) substitute—

“(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and

(b) in paragraph (b), for “legal aid” substitute “ such representation ”.

*The Attachment of Earnings Act 1971 (c.32)*

8 In section 1(3)(c) of the Attachment of Earnings Act 1971 (magistrates’ court may make order to secure payment of any sum required to be paid by legal aid contribution order), for “legal aid contribution order” substitute “ order under section 17(2) of the Access to Justice Act 1999 ”.

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*The Powers of Criminal Courts Act 1973 (c.62)*

F1669 .....

**Textual Amendments**

**F166** Sch. 4 para. 9 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Solicitors Act 1974 (c.47)*

- 10 (1) Section 47 of the Solicitors Act 1974 (jurisdiction of Solicitors Disciplinary Tribunal) is amended as follows.
- (2) In subsection (2)(d) (exclusion of solicitor from legal aid work), for “legal aid work” substitute “ providing representation funded by the Legal Services Commission as part of the Criminal Defence Service ”.
- (3) In subsection (2A) (exclusion of solicitor from providing legal aid work because of conduct in connection with services under the Legal Aid Act 1988)—
- (a) for “legal aid work” substitute “ providing representation ”, and
- (b) in paragraph (a), for “under the Legal Aid Act 1988” substitute “ funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service ”.
- (4) In subsection (2B) (exclusion of member of solicitor’s firm from legal aid work), for “legal aid work” substitute “ providing representation funded by the Legal Services Commission as part of the Criminal Defence Service ”.
- (5) In subsection (2D) (person excluded from legal aid work may apply for termination of exclusion), for “legal aid work” substitute “ providing representation funded by the Legal Services Commission as part of the Criminal Defence Service ”.

**Commencement Information**

**I7** Sch. 4 para. 10 wholly in force; Sch. 4 para. 10 not in force at Royal Assent see s. 108; Sch. 4 para. 10(1)(3)(b) in force at 1.4.2000 by S.I. 2000/774, art. 2(a)(ii) (subject to arts. 3, 4); Sch. 4 para. 10 in force insofar as not already in force at 2.4.2001 by S.I. 2001/916, art. 3(a)(ii)

*The House of Commons Disqualification Act 1975 (c.24)*

- 11 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—
- “The Legal Services Commission”

*The Northern Ireland Assembly Disqualification Act 1975 (c.25)*

- 12 In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—
- “The Legal Services Commission.”

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*The Sex Discrimination Act 1975 (c.65)*

13 F167 .....

**Textual Amendments**

**F167** Sch. 4 para. 13 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 91, 93, Sch. 4 (with s. 92); S.I. 2007/2603, art. 2

*The Race Relations Act 1976 (c.74)*

14 F168 .....

**Textual Amendments**

**F168** Sch. 4 para. 14 repealed (1.10.2007) by Equality Act 2006 (c. 3), ss. 91, 93, Sch. 4 (with s. 92); S.I. 2007/2603, art. 2

*The Magistrates' Courts Act 1980 (c.43)*

15 The Magistrates' Courts Act 1980 has effect subject to the following amendments.

16 In section 8(4) (matters which may be contained in a report of committal proceedings without an order), for paragraph (i) substitute—

“(i) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

17 In section 92(1)(b) (no restriction on power to impose imprisonment for default in paying contribution ordered under section 23 of the Legal Aid Act 1988), for the words from “section 23” to “to” substitute “ section 17(2) of the Access to Justice Act 1999 (payment by individual in respect of”.

18 In section 130(3) (power of alternate court in remand hearings to grant legal aid), for “the grant of legal aid” substitute “ the grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service ”.

19 In section 145A(4) (rules about costs may include provision for the reimbursement of sums paid by the Legal Aid Board), for “Legal Aid Board” substitute “ Legal Services Commission ”.

20 F169 .....

**Textual Amendments**

**F169** Sch. 4 para. 20 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Supreme Court Act 1981 (c.54)*

21 The Supreme Court Act 1981 has effect subject to the following amendments.

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22 In section 28 (appeal by way of case stated from decisions of Crown Court, other than those relating to trial on indictment), at the end insert—

“(4) In subsection (2)(a) the reference to a decision of the Crown Court relating to trial on indictment does not include a decision relating to an order under section 17 of the Access to Justice Act 1999.”

23 In section 29 (judicial review of decisions of Crown Court, other than matters relating to trial on indictment), at the end insert—

“(6) In subsection (3) the reference to the Crown Court’s jurisdiction in matters relating to trial on indictment does not include its jurisdiction relating to orders under section 17 of the Access to Justice Act 1999.”

F170 24 .....

**Textual Amendments**  
**F170** Sch. 4 para. 24 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Criminal Justice Act 1982 (c.48)*

F171 25 .....

**Textual Amendments**  
**F171** Sch. 4 para. 25 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Telecommunications Act 1984 (c.12)*

26 [F172] In section 52(5) of the Telecommunications Act 1984 (charges to recover costs of assistance in legal proceedings subject to legal aid charges), for paragraph (a) substitute—

“(a) any charge imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission;”.]

**Textual Amendments**  
**F172** Sch. 4 para. 26 repealed (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(6)(7), 408, 411, Sch. 19(1) (with Sch. 18, Sch. 19 Note 1); S.I. 2003/1900, arts. 1(2), 2(1), 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, art. 3(2) (with art. 11)

*The Prosecution of Offences Act 1985 (c.23)*

27 The Prosecution of Offences Act 1985 has effect subject to the following amendments.



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- 28 In section 19(2)(b) (in making an order for costs account to be taken of grant of representation under Legal Aid Act 1988), for the words from “or any grant” to the end substitute “ or any grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service; ”.
- 29 In section 20(2) (recovery of sums paid by Legal Aid Board where legally assisted person is awarded costs), for “Legal Aid Board” substitute “ Legal Services Commission ”.
- 30 (1) Section 21 (interpretation) is amended as follows.
- (2) In subsection (1), in the definition of “legally assisted person”, for “representation under the Legal Aid Act 1988” substitute “ a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service ”.
- (3) In subsection (4A)—
- (a) in paragraph (a), for the words from “include” to “of contribution;” substitute “ the cost of representation funded for him by the Legal Services Commission as part of the Criminal Defence Service; ”, and
- (b) in paragraph (b), for the words from “and 19” to the end substitute “ , 19 and 19A of this Act, his costs shall be taken to include the cost of representation funded for him by the Legal Services Commission as part of the Criminal Defence Service; ”.

*The Child Abduction and Custody Act 1985 (c.60)*

- 31 In section 11 of the Child Abduction and Custody Act 1985 (costs of application for child custody or access), for the words from “by virtue of” to “1988,” substitute “by virtue of—
- (a) the provision of any service funded by the Legal Services Commission as part of the Community Legal Service, or
- (b) the grant of legal aid or legal advice and assistance under.”

*The Administration of Justice Act 1985 (c.61)*

- 32 The Administration of Justice Act 1985 has effect subject to the following amendments.
- 33 In section 40(1) (legal aid complaints), for “under the Legal Aid Act 1988” substitute “ funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service ”.
- 34 In section 41(2) (reduction of fees payable in connection with services provided by barristers under Legal Aid Act 1988), for paragraphs (a) and (b) substitute “ otherwise payable by the Legal Services Commission in connection with services provided by him as part of the Community Legal Service or Criminal Defence Service ”.
- 35 In section 42 (exclusion of barristers from legal aid work), in subsections (1) and (3), for “legal aid work” substitute “ providing representation funded by the Legal Services Commission as part of the Criminal Defence Service ”.
- 36 In section 43(3) (reduction of costs payable in connection with services provided by solicitors under Legal Aid Act 1988), for the words from “any costs” to “solicitor” substitute “ any costs otherwise payable by the Legal Services Commission in

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connection with services provided by the solicitor as part of the Community Legal Service or Criminal Defence Service ”.

*The Housing Act 1985 (c.68)*

- 37 In section 170(5) of the Housing Act 1985 (charges to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “ imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission. ”

*The Criminal Justice Act 1987 (c.38)*

- 38 The Criminal Justice Act 1987 has effect subject to the following amendments.
- 39 In section 4(1) (functions of magistrates’ court to cease when case transferred to Crown Court, except for purposes of grant of legal aid), for “section 20(4) of the Legal Aid Act 1988” substitute “ paragraph 2 of Schedule 3 to the Access to Justice Act 1999 ”.
- 40 In section 11(12) (matters to which restrictions on reporting do not apply), for paragraph (h) substitute—
- “(h) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

*The Consumer Arbitration Agreements Act 1988 (c.21)*

- 41 In section 4(3) of the Consumer Arbitration Agreements Act 1988 (availability of legal aid to be considered in determining whether to make reference to arbitration), for “legal aid” substitute “ services funded by the Legal Services Commission as part of the Community Legal Service ”.

*The Housing Act 1988 (c.50)*

- 42 The Housing Act 1988 has effect subject to the following amendments.
- 43 In section 82(4) (charge to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “ imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission. ”
- 44 In section 107(4) (charge to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “ imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission. ”

*The Children Act 1989 (c.41)*

- 45 In section 25(6) of the Children Act 1989 (child without legal representation not to be placed in secure accommodation without having been informed of right to apply for legal aid), for “legal aid” substitute “ representation funded by the Legal

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Services Commission as part of the Community Legal Service or Criminal Defence Service ”.

*The Courts and Legal Services Act 1990 (c.41)*

- 46 In section 17(3)(c)(iii) of the Courts and Legal Services Act 1990 (effect of rules of a professional body relating to the withholding of services from persons receiving support under the Legal Aid Act 1988), for “under the Legal Aid Act 1988” substitute “as part of the Community Legal Service or Criminal Defence Service ”.

*The Criminal Justice Act 1991 (c.53)*

- 47 In section 53(3) of the Criminal Justice Act 1991 (functions of magistrates’ court to cease when case transferred to Crown Court, except for purposes of grant of legal aid), for “section 20(4) of the Legal Aid Act 1988” substitute “ paragraph 2 of Schedule 3 to the Access to Justice Act 1999 ”.

*The Social Security Administration Act 1992 (c.5)*

- 48 (1) Section 108(7) of the Social Security Administration Act 1992 (Secretary of State to inform Legal Aid Board if he recovers maintenance arrears for a person who owes money to the Board) is amended as follows.
- (2) For “the Legal Aid Board” substitute “ the Legal Services Commission ”.
- (3) In paragraph (a), for “; and” substitute “; or  
(iii) received services funded by the Legal Services Commission as part of the Community Legal Service; and”.
- (4) In paragraph (b), after paragraph (ii) insert “or  
(iii) by virtue of section 10 of the Access to Justice Act 1999 in respect of services funded by the Legal Services Commission as part of the Community Legal Service,”.

*The Criminal Procedure and Investigations Act 1996 (c.25)*

- 49 In section 37(9) of the Criminal Procedure and Investigations Act 1996 (matters to which restrictions on reporting do not apply), for paragraph (g) substitute—  
“(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

*The Family Law Act 1996 (c.27)*

- 50 The Family Law Act 1996 has effect subject to the following amendments.
- 51 (1) Section 8 (information meetings) is amended as follows.
- (2) In subsection (9) (matters about which regulations must be made for the purposes of information given at information meetings), for paragraph (h) substitute—

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“(h) the availability of services funded by the Legal Services Commission as part of the Community Legal Service, and where parties can get advice about obtaining such services;”.

(3) In subsection (12) (contributions), for “provided for him under Part IIIA of the Legal Aid Act 1988” substitute “ funded for him by the Legal Services Commission as part of the Community Legal Service ”.

52 (1) Section 23 (provision of marriage counselling) is amended as follows.

(2) In subsection (3) (contributions), for “provided for them under Part IIIA of the Legal Aid Act 1988” substitute “ funded for them by the Legal Services Commission as part of the Community Legal Service ”.

(3) In subsection (8) (powers of the Legal Aid Board)—

- (a) for “the Legal Aid Board” substitute “ the Legal Services Commission ”,
- (b) for “the Board” substitute “ the Commission ”,
- (c) for “the Legal Aid Act 1988” substitute “ Part I of the Access to Justice Act 1999 ”, and
- (d) after “purposes of”, in the second place, insert “ that Part of ”.

*The Crime and Disorder Act 1998 (c.37)*

53 The Crime and Disorder Act 1998 has effect subject to the following amendments.

54 F173 .....

**Textual Amendments**  
 F173 Sch. 4 para. 54 repealed (2.10.2006) by [The Criminal Defence Service \(Representation Orders and Consequential Amendments\) Regulations 2006 \(S.I. 2006/2493\)](#), [reg. 9](#) (with [reg. 6](#))

55 In paragraph 3(8) of Schedule 3 (matters which may be contained in a report of an application for dismissal of charges), for paragraph (g) substitute—

“(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

*The Disability Rights Commission Act 1999 (c. 17)*

56 F174 .....

**Textual Amendments**  
 F174 Sch. 4 para. 56 repealed (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), [ss. 91, 93](#), [Sch. 4](#) (with [s. 92](#)); [S.I. 2007/2603](#), [art. 2](#)

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## SCHEDULE 5

Section 41.

### AUTHORISED BODIES: DESIGNATION AND REGULATIONS AND RULES

1 For sections 29 and 30 of the <sup>M94</sup>Courts and Legal Services Act 1990 substitute—

**“29 Authorised bodies.**

The provisions of Schedule 4 shall have effect with respect to the authorisation of bodies for the purposes of sections 27 and 28 and the approval and alteration of qualification regulations and rules of conduct.”

**Marginal Citations**

**M94** 1980 c.41.

2 For Schedule 4 to that Act substitute—

## “SCHEDULE 4

Section 29.

### AUTHORISED BODIES

#### PART I

#### DESIGNATION OF BODIES AND APPROVAL OF REGULATIONS AND RULES

##### *Application to Lord Chancellor*

- 1 (1) If a professional or other body wishes to grant rights of audience or rights to conduct litigation to any of its members, it shall apply to the Lord Chancellor in writing for him—
- (a) to recommend to Her Majesty that an Order in Council be made designating the body as an authorised body for the purposes of section 27 (if it proposes to grant rights of audience) or section 28 (if it proposes to grant rights to conduct litigation); and
  - (b) to approve what the body proposes as qualification regulations and rules of conduct in relation to the proposed rights.
- (2) An application under this paragraph shall be accompanied by—
- (a) a statement of the proposed rights;
  - (b) the proposed qualification regulations and rules of conduct; and
  - (c) such explanatory material (including material about the applicant’s constitution and activities) as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.
- (3) The applicant shall provide the Lord Chancellor with such additional information as he may reasonably require.
- (4) The Lord Chancellor shall send a copy of—

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- (a) the application and accompanying material; and
  - (b) any information provided under sub-paragraph (3),
- to the Consultative Panel, the Director and each of the designated judges.

*Advice of Consultative Panel*

- 2
- (1) The Consultative Panel shall consider whether the application should be granted.
  - (2) The applicant shall provide the Consultative Panel with such additional information as it may reasonably require.
  - (3) When the Consultative Panel has completed its consideration it shall give such advice to the Lord Chancellor as it thinks fit.
  - (4) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 3
- (1) The Director shall consider whether granting the application would have, or be likely to have, any significant effect on competition.
  - (2) The applicant shall provide the Director with such additional information as he may reasonably require.
  - (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
  - (4) The Director shall publish any advice given by him under this paragraph.
  - (5) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
  - (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

*Representations by applicant*

- 4
- (1) When the Lord Chancellor has received the advice of the Consultative Panel and the Director, he shall send a copy of the advice to the applicant.
  - (2) The applicant shall be allowed a period of 28 days beginning with the day on which the copy is sent to him, or such other period as the applicant and the Lord Chancellor may agree, to make representations about the advice to the Lord Chancellor.

*Advice of designated judges*

- 5
- (1) The Lord Chancellor shall send to each of the designated judges a copy of—
    - (a) the advice of the Consultative Panel and the Director; and

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- (b) any representations made under paragraph 4(2).
- (2) Each of the designated judges shall then consider whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

#### *Decision by Lord Chancellor*

- 6 (1) After considering—
  - (a) the advice given by the Consultative Panel and any representations made about it;
  - (b) the advice given by the Director and any representations made about it; and
  - (c) the advice given by each of the designated judges,
 the Lord Chancellor shall decide whether to grant the application.
- (2) When the Lord Chancellor has made his decision he shall notify the applicant of it.
- (3) If the Lord Chancellor has decided to refuse the application he shall also notify the applicant of the reasons for his decision.

#### *Effect of grant of application*

- 7 Where the application is granted—
  - (a) the Lord Chancellor may recommend to Her Majesty that an Order in Council be made designating the body as an authorised body for the purposes of section 27 (if it proposes to grant rights of audience) or section 28 (if it proposes to grant rights to conduct litigation); and
  - (b) the proposed regulations and rules are approved as qualification regulations and rules of conduct in relation to the proposed rights.

## PART II

### APPROVAL IN CASES OF ALTERED REGULATIONS, RULES OR RIGHTS

#### *Requirement of approval*

- 8 (1) If an authorised body makes an alteration of its qualification regulations or rules of conduct, the alteration shall not have effect unless approved by the Lord Chancellor.
- (2) If an authorised body makes an alteration of—
  - (a) any rights of audience granted by it (including the grant of a new right of audience); or
  - (b) any rights to conduct litigation granted by it (including the grant of a new right to conduct litigation),



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the qualification regulations and rules of conduct of the body shall not have effect in relation to the rights as altered unless approved by the Lord Chancellor.

- (3) If a question arises whether approval is required by virtue of this paragraph it shall be for the Lord Chancellor to decide.

#### *Application to Lord Chancellor*

- 9 (1) An application by a body for the Lord Chancellor to approve—
- (a) an alteration of qualification regulations or rules of conduct; or
  - (b) qualification regulations or rules of conduct in relation to altered rights,
- shall be made in writing.
- (2) The application shall be accompanied by—
- (a) the qualification regulations and rules of conduct;
  - (b) a statement of the alteration of the regulations, rules or rights; and
  - (c) such explanatory material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.
- (3) The applicant shall provide the Lord Chancellor with such additional information as he may reasonably require.
- (4) The Lord Chancellor shall—
- (a) send a copy of the application and accompanying material and any information provided under sub-paragraph (3) to each of the designated judges; and
  - (b) consider whether it would be appropriate to seek the advice of either or both of the Consultative Panel and the Director.

#### *Early advice of designated judges*

- 10 (1) If the Lord Chancellor considers that it would not be appropriate to seek the advice of the Consultative Panel or the Director, he—
- (a) shall inform each of the designated judges that that is his view; and
  - (b) may inform each of them of his provisional view as to whether or not the application should be granted.
- (2) If so informed, each of the designated judges shall consider whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (5) After considering the advice given by each of the designated judges, the Lord Chancellor shall consider again whether or not it would be appropriate to seek the advice of either or both of—
- (a) the Consultative Panel; and
  - (b) the Director,

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before deciding whether to grant the application.

*Advice of Consultative Panel*

- 11 (1) If the Lord Chancellor decides (after considering the matter under paragraph 9(4)(b) or 10(5)) to seek the advice of the Consultative Panel, he shall send to the Consultative Panel a copy of—
- (a) the application and accompanying material; and
  - (b) any information provided under paragraph 9(3).
- (2) The Consultative Panel shall consider whether the application should be granted.
- (3) The applicant shall provide the Consultative Panel with such additional information as it may reasonably require.
- (4) When the Consultative Panel has completed its consideration it shall give such advice to the Lord Chancellor as it thinks fit.
- (5) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 12 (1) If the Lord Chancellor decides (after considering the matter under paragraph 9(4)(b) or 10(5)) to seek the advice of the Director, he shall send to the Director a copy of—
- (a) the application and accompanying material; and
  - (b) any information provided under paragraph 9(3).
- (2) The Director shall consider whether granting the application would have, or be likely to have, any significant effect on competition.
- (3) The applicant shall provide the Director with such additional information as he may reasonably require.
- (4) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (5) The Director shall publish any advice given by him under this paragraph.
- (6) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (5) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- (7) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

*Representations by applicant*

- 13 (1) If the Lord Chancellor has sought the advice of the Consultative Panel or the Director he shall, on receiving it, send a copy to the applicant.

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- (2) The applicant shall be allowed a period of 28 days beginning with the day on which the copy is sent to him, or such other period as the applicant and the Lord Chancellor may agree, to make representations about the advice to the Lord Chancellor.

*Advice or further advice of designated judges*

- 14 (1) If the Lord Chancellor has sought the advice of the Consultative Panel or the Director he shall, on receiving it, send to each of the designated judges a copy of—
  - (a) the advice; and
  - (b) any representations made under paragraph 13(2).
- (2) Each of the designated judges shall then consider (or consider again) whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

*Decision by Lord Chancellor*

- 15 (1) After considering—
  - (a) any advice given by the Consultative Panel and any representations made about it;
  - (b) any advice given by the Director and any representations made about it; and
  - (c) the advice given by each of the designated judges (under paragraph 10 or 14 or both of those paragraphs),the Lord Chancellor shall decide whether to grant the application.
- (2) The Lord Chancellor may not refuse the application unless he has received advice from the Consultative Panel.
- (3) When the Lord Chancellor has made his decision he shall notify the applicant of it.
- (4) If the Lord Chancellor has decided to refuse the application he shall also notify the applicant of the reasons for his decision.

*Effect of grant of application*

- 16 Where the application is granted—
  - (a) in a case within sub-paragraph (1) of paragraph 8, the alteration of the qualification regulations or rules of conduct is approved; and
  - (b) in a case within sub-paragraph (2) of that paragraph, the qualification regulations or rules of conduct are approved in relation to the rights as altered.

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### PART III

#### ALTERATION OF REGULATIONS AND RULES BY ORDER

##### *Notice to authorised body*

- 17 (1) If the Lord Chancellor considers—
- (a) that any of the qualification regulations of an authorised body may unduly restrict a right of audience or right to conduct litigation or the exercise of such a right, or
  - (b) that any of the rules of conduct of an authorised body may unduly restrict the exercise of such a right,
- he may give written notice to the body.
- (2) Before giving notice to an authorised body under sub-paragraph (1) the Lord Chancellor shall inform each of the designated judges that he intends to do so.

##### *Representations by authorised body*

- 18 (1) The notice shall invite the authorised body to make representations in writing to the Lord Chancellor.
- (2) Any such representations must be made before the end of—
- (a) the period of three months beginning with the date on which the notice was given; or
  - (b) such other period as the authorised body and the Lord Chancellor may agree.
- (3) When that period has expired the Lord Chancellor shall consider, in the light of any representations made under sub-paragraph (2), whether he proposes to make alterations of the qualification regulations or rules of conduct.
- (4) If the Lord Chancellor proposes to make alterations of the qualification regulations or rules of conduct he shall send a copy of—
- (a) the alterations which he proposes to make; and
  - (b) any representations made under sub-paragraph (2),
- to the Consultative Panel, the Director and each of the designated judges.

##### *Advice of Consultative Panel*

- 19 (1) The Consultative Panel shall consider whether the alterations should be made.
- (2) The Lord Chancellor and the authorised body shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its consideration it shall give such advice to the Lord Chancellor as it thinks fit.
- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

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#### *Advice of Director General of Fair Trading*

- 20 (1) The Director shall consider whether making the alterations would have, or be likely to have, any significant effect on competition.
- (2) The Lord Chancellor and the authorised body shall provide the Director with such additional information as he may reasonably require.
- (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (4) The Director shall publish any advice given by him under this paragraph.
- (5) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the authorised body) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

#### *Further representations by authorised body*

- 21 (1) When the Lord Chancellor has received the advice of the Consultative Panel and the Director, he shall send a copy of the advice to the authorised body.
- (2) The authorised body shall be allowed a period of 28 days, beginning with the day on which the copy is sent to him, or such other period as the authorised body and the Lord Chancellor may agree, to make representations about the advice to the Lord Chancellor.

#### *Advice of designated judges*

- 22 (1) The Lord Chancellor shall send to each of the designated judges a copy of—
- (a) the advice of the Consultative Panel and the Director; and
- (b) any representations made under paragraph 21(2).
- (2) Each of the designated judges shall then consider whether the alterations should be made.
- (3) The Lord Chancellor and the authorised body shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

#### *Decision by Lord Chancellor*

- 23 (1) After considering—
- (a) the advice given by the Consultative Panel and any representations made about it;

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- (b) the advice given by the Director and any representations made about it; and
  - (c) the advice given by each of the designated judges under paragraph 22,
- the Lord Chancellor shall decide whether to make the alterations.
- (2) When the Lord Chancellor has made his decision he shall notify the authorised body of it.
- (3) If the Lord Chancellor has decided to make the alterations he shall also notify the authorised body of the reasons for his decision.

#### *Order effecting alterations*

- 24 If the Lord Chancellor has decided to make the alterations he may make an order giving effect to the alterations.

### PART IV

#### REVOCATION OF DESIGNATION

##### *Order in Council*

- 25 (1) Where an Order in Council has been made designating a body as an authorised body for the purposes of section 27, or for the purposes of section 28, the Lord Chancellor may recommend to Her Majesty that an Order in Council be made revoking that designation.
- (2) A recommendation may be made under sub-paragraph (1) only if—
- (a) the authorised body has made a written request to the Lord Chancellor asking for it to be made;
  - (b) the authorised body has agreed in writing to its being made; or
  - (c) the Lord Chancellor is satisfied that the circumstances at the time when he is considering whether to make the recommendation are such that, had that body then been applying to become an authorised body, its application would have failed.

##### *Requirement to seek advice*

- 26 Where the Lord Chancellor considers that it may be appropriate for him to make a recommendation in reliance on paragraph 25(2)(c), he shall seek the advice of the Consultative Panel and the Director.

##### *Advice of Consultative Panel*

- 27 (1) The Consultative Panel shall carry out such investigations with respect to the authorised body as it considers appropriate.
- (2) The Lord Chancellor and the authorised body shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its investigations it shall—

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- (a) advise the Lord Chancellor as to whether or not there appear to be grounds for making the recommendation; and
  - (b) if its advice is that there appear to be such grounds, advise the Lord Chancellor as to the transitional and incidental provision (if any) which it considers should be included in any Order made in pursuance of it.
- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 28 (1) The Director shall consider whether revoking the designation would have, or be likely to have, any significant effect on competition.
- (2) The Lord Chancellor and the authorised body shall provide the Director with such additional information as he may reasonably require.
- (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (4) The Director shall publish any advice given by him under this paragraph.
- (5) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the authorised body) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

*Notice to authorised body*

- 29 (1) When the Lord Chancellor has received the advice of the Consultative Panel and the Director, he may give to the body a notice containing—
- (a) a copy of the advice; and
  - (b) a statement of the effect of an Order made in pursuance of the recommendation.
- (2) The notice shall invite the authorised body to make representations in writing to the Lord Chancellor.
- (3) Any such representations must be made before the end of—
- (a) the period of three months beginning with the date on which the notice was given; or
  - (b) such other period as the authorised body and the Lord Chancellor may agree.

*Notice to members of authorised body*

- 30 (1) Where the Lord Chancellor—
- (a) has given a notice to an authorised body under paragraph 29(1); or



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- (b) is proposing to make a recommendation in relation to an authorised body in reliance on paragraph 25(2)(a) or (b),  
 he shall take such steps as are reasonably practicable to bring the matter to the attention of the members of the authorised body and of any other persons who, in his opinion, are likely to be affected by an Order made in pursuance of the recommendation.
- (2) Any such steps shall include inviting those members and other persons to make representations to the Lord Chancellor.
- (3) Any such representations—
  - (a) shall, except in such circumstances as the Lord Chancellor may specify, be in writing; and
  - (b) must be made before the end of the period of three months beginning with such date as may be specified by the Lord Chancellor.

*Advice of designated judges*

- 31 (1) The Lord Chancellor shall send to each of the designated judges—
  - (a) a copy of any written representations made under paragraph 30 and a note of any oral representations made under that paragraph; and
  - (b) in a case where he is required to seek the advice of the Consultative Panel and the Director, a copy of the advice given to him by the Consultative Panel and the Director and of any representations made under paragraph 29.
- (2) Each of the designated judges shall then consider whether the Lord Chancellor should make the recommendation.
- (3) The Lord Chancellor and the authorised body shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

*Consideration by Lord Chancellor*

- 32 Before deciding whether to make the recommendation the Lord Chancellor shall consider—
  - (a) any representations made under paragraph 30 and the advice given by each of the designated judges; and
  - (b) in a case where he is required to seek the advice of the Consultative Panel and the Director, the advice given to him by the Consultative Panel and the Director and of any representations made under paragraph 29.

*The Order*

- 33 (1) An Order made in pursuance of a recommendation under paragraph 25 may include any appropriate transitional and incidental provision.

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- (2) Where an Order is made in relation to a body in pursuance of such a recommendation, the grant of any rights of audience, or rights to conduct litigation, to any person by the body shall cease to have effect, subject to any transitional provision included in the Order.
- (3) Where such an Order is made, the Lord Chancellor shall—
  - (a) give the body written notice of the making of the Order and of his reasons for recommending that it be made;
  - (b) take such steps as are reasonably practicable to bring the making of the Order to the attention of the members of that body; and
  - (c) publish notice of the making of the Order in such manner as he considers appropriate for bringing it to the attention of persons (other than those members) who, in his opinion, are likely to be affected by the Order.”

## SCHEDULE 6

Section 43.

### RIGHTS OF AUDIENCE AND RIGHTS TO CONDUCT LITIGATION

#### *The Solicitors Act 1974 (c.47)*

- 1 The Solicitors Act 1974 has effect subject to the following amendments.
- 2 In section 2(4) (Lord Chief Justice or Master of the Rolls deemed to concur in making of regulations approved by him under Schedule 4 to the <sup>M95</sup>Courts and Legal Services Act 1990), for the words from “, the Lord Chief Justice” to the end substitute “ approves any regulation such as is mentioned in subsection (1), the requirement of the concurrence of the Lord Chief Justice and the Master of the Rolls imposed by that subsection shall not apply. ”

#### **Marginal Citations**

**M95** 1990 c.41.

- 3 In section 31(3) (Master of the Rolls deemed to concur in making of rules approved by him under Schedule 4 to the <sup>M96</sup>Courts and Legal Services Act 1990), for the words from “Master of the Rolls” to the end substitute “ Lord Chancellor approves any rule such as is mentioned in subsection (1), the requirement of the concurrence of the Master of the Rolls imposed by that subsection shall not apply. ”

#### **Marginal Citations**

**M96** 1990 c.41.

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*The Courts and Legal Services Act 1990 (c.41)*

- 4        The Courts and Legal Services Act 1990 has effect subject to the following amendments.
- 5        (1) Section 18 (duty to exercise functions as soon as reasonably practicable and in accordance with that section) is amended as follows.
- (2) In subsection (1) (matters to which duty relates), in paragraph (c) (approval of qualification regulations or rules of conduct), after “approval” insert “or alteration”.
- (3) After that subsection insert—
- “(1A) Where any person other than the Lord Chancellor is called upon to exercise any such functions, the Lord Chancellor may require him to do so within such time as the Lord Chancellor may reasonably specify.”
- 6        (1) Section 27 (rights of audience) is amended as follows.
- (2) In subsection (2)(a)(ii) (approval of qualification regulations and rules of conduct in relation to granting of right), omit “the granting of”.
- (3) After subsection (8) insert—
- “(8A) But a court may not limit the right to appear before the court in any proceedings to only some of those who have the right by virtue of the provisions of this section.”
- (4) In subsection (9)—
- (a) in the definition of “qualification regulations”, after “entitled to” insert “, or to exercise, ”, and
- (b) in the definition of “qualified litigator”, for “(“practising” having the same meaning as in section 19(8)(b))” substitute “(that is, one who has a practising certificate in force or is employed wholly or mainly for the purpose of providing legal services to his employer) ”.
- 7        (1) Section 28 (rights to conduct litigation) is amended as follows.
- (2) In subsection (2)(a)(ii) (approval of qualification regulations and rules of conduct in relation to granting of right), omit “the granting of”.
- (3) After subsection (4) insert—
- “(4A) A court may not limit the right to conduct litigation in relation to proceedings before the court to only some of those who have the right by virtue of the provisions of this section.”
- (4) In subsection (5), in the definition of “qualification regulations”, after “entitled to” insert “, or to exercise, ”.
- 8        In section 53(6)(a) (Council for Licensed Conveyancers), for “section 29” substitute “ Schedule 4 ”.

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- 9 In section 71 (qualification for judicial appointments), for subsection (6) substitute—
- “(6) Any period during which a person had a right of audience but was, as a result of disciplinary proceedings, prevented by the authorised body concerned from exercising it shall not count towards the period mentioned in subsection (5)(b).”
- 10 (1) Section 119(1) (interpretation) is amended as follows.
- (2) In the definition of “right of audience”, for “exercise any of the functions of appearing before and addressing a court including the calling and examining of” substitute “appear before and address a court including the right to call and examine”.
- (3) In the definition of “right to conduct litigation”, for “exercise all or any of the functions of issuing a writ or otherwise commencing” substitute “issue”.
- 11 (1) Section 120 (subordinate legislation) is amended as follows.
- (2) In subsection (4) (orders and regulations subject to affirmative procedure), for “or paragraph 4” substitute “, paragraph 24 of Schedule 4, paragraph 4”.
- (3) In subsection (5) (Orders in Council subject to affirmative procedure), for “section 29(2) or 30(1)” substitute “Part I or Part IV of Schedule 4”.

## SCHEDULE 7

Section 48.

### POWERS OF LAW SOCIETY

#### *Monitoring of compliance with rules*

- 1 In section 31(1) of the <sup>M97</sup>Solicitors Act 1974 (power of Council of the Law Society to make rules about professional practice, conduct and discipline), insert at the end “and for empowering the Society to take such action as may be appropriate to enable the Society to ascertain whether or not the provisions of rules made, or of any code or guidance issued, by the Council are being complied with.”

#### **Marginal Citations**

**M97** 1974 c.47.

#### *Bank and building society accounts*

- 2 In—
- (a) section 32(4) of that Act (power of Council of the Law Society to disclose report or information about solicitor’s accounts to Director of Public Prosecutions for investigation and prosecution of offences), and
- (b) paragraph 3 of Schedule 2 to the <sup>M98</sup>Administration of Justice Act 1985 (corresponding provision in relation to accounts of incorporated practices), omit “to the Director of Public Prosecutions” and “, if the Director thinks fit.”

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#### Marginal Citations

M98 1985 c.61.

3 In the Solicitors Act 1974, after section 33 insert—

#### “33A Inspection of practice bank accounts etc.

- (1) The Council may make rules, with the concurrence of the Master of the Rolls, empowering the Council to require a solicitor to produce documents relating to any account kept by him at a bank or with a building society—
- (a) in connection with his practice; or
  - (b) in connection with any trust of which he is or formerly was a trustee, for inspection by a person appointed by the Council pursuant to the rules.

- (2) The Council shall be at liberty to disclose information obtained in exercise of the powers conferred by rules made under subsection (1) for use in investigating the possible commission of an offence by the solicitor and for use in connection with any prosecution of the solicitor consequent on the investigation.”

4 In section 87(1) of that Act (interpretation), in the definition of “building society”, omit “; and a reference to an account with a building society is a reference to a deposit account”.

5 In Schedule 2 to the <sup>M99</sup>Administration of Justice Act 1985, after paragraph 4 insert—

#### *“ Inspection of bank accounts*

- (4A) Where rules made under section 33A(1) of the 1974 Act are applied to recognised bodies in accordance with section 9(2)(f) of this Act, the Council shall be at liberty to disclose information about a recognised body’s accounts obtained in pursuance of the rules for use in investigating the possible commission of an offence by that body and for use in connection with any prosecution of that body consequent on the investigation.”

#### Marginal Citations

M99 1985 c.61.

#### *Intervention for breach of rules on practice, conduct and discipline*

6 In Schedule 1 to the <sup>M100</sup>Solicitors Act 1974 (intervention in solicitor’s practice), in paragraph 1(1) (circumstances in which Law Society may intervene), in paragraph (c) (failure to comply with rules made by virtue of section 32 or 37(2) (c)), after “section” insert “ 31, ”.

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### Marginal Citations

M100 1974 c.47.

### *Solicitors' employees and consultants*

- 7 (1) Section 43 of that Act (control of employment of clerks) is amended as follows.
- (2) In subsection (1) (power of Law Society to apply to Solicitors Disciplinary Tribunal for order in the case of clerk guilty of an offence of dishonesty or other act which makes it undesirable for him to be employed by solicitor)—
- (a) for “a clerk to a solicitor” substitute “employed or remunerated by a solicitor in connection with his practice ”,
  - (b) after “employed” (in both places) insert “or remunerated ”,
  - (c) for “to whom he is or was clerk” substitute “by whom he is or was employed or remunerated ”, and
  - (d) for the words from “an application” to the end substitute “the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) with respect to him. ”
- (3) After that subsection insert—
- “(1A) Where the Society investigates whether there are grounds for making, or making an application to the Tribunal for it to make, an order under subsection (2) with respect to a person, the Council may direct him to pay to the Council an amount which—
- (a) is calculated by the Council as the cost to the Society of investigating the matter; or
  - (b) in the opinion of the Council represents a reasonable contribution towards that cost.”
- (4) In subsection (2) (order of Tribunal barring solicitor from employing the clerk)—
- (a) for the words from the beginning to “an order” substitute “An order under this subsection made by the Society or the Tribunal shall state ”, and
  - (b) for “application is” substitute “order is ”.
- (5) For subsection (3) (revocation by Tribunal) substitute—
- “(3) Where an order has been made under subsection (2) with respect to a person by the Society or the Tribunal—
- (a) that person or the Society may make an application to the Tribunal for it to be reviewed, and
  - (b) whichever of the Society and the Tribunal made it may at any time revoke it.
- (3A) On the review of an order under subsection (3) the Tribunal may order—
- (a) the quashing of the order;
  - (b) the variation of the order; or
  - (c) the confirmation of the order;

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and where in the opinion of the Tribunal no prima facie case for quashing or varying the order is shown, the Tribunal may order its confirmation without hearing the applicant.”

- (6) In subsection (5) (inspection of orders), for “this section and filed with the Society” substitute “ subsection (2) by the Society, or made, varied or confirmed under this section by the Tribunal and filed with the Society, ”.
- (7) In the sidenote, for “employment of certain clerks” substitute “ solicitors’ employees and consultants ”.
- 8 In section 44(2) of that Act (breach of order by solicitor), for the words from “an order” to the end of paragraph (b) substitute “ an order under section 43(2) is in force in respect of a person ”.
- 9 (1) Section 49 of that Act (appeals from Tribunal) is amended as follows.
- (2) In subsection (3) (who can appeal)—
- (a) for “43(2)” substitute “ 43(3A) ”, and
- (b) for “application” substitute “ order ”.
- (3) In subsection (6) (finality of appeal), for “43(2)” substitute “ 43(3A) ”.
- 10 In paragraph 11(1) of Schedule 2 to the <sup>M101</sup>Administration of Justice Act 1985 (control of employment of employees of recognised bodies)—
- (a) after “employed” (in each place) insert “ or remunerated ”, and
- (b) for the words from “an application” to the end substitute “ the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) of section 43 of the 1974 Act with respect to him. ”

#### Marginal Citations

M101 1985 c.61.

#### *Power to examine files*

- 11 (1) Section 44B of the <sup>M102</sup>Solicitors Act 1974 (power of Law Society to examine files of solicitor or his firm in connection with complaints) is amended as follows.
- (2) In subsection (1), for the words from “investigating” to the end of paragraph (b) substitute “investigating—
- (a) whether there has been professional misconduct by a solicitor;
- (b) whether a solicitor has failed to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council;
- (c) whether any professional services provided by a solicitor were not of the quality which it is reasonable to expect of him as a solicitor; or
- (d) whether there are grounds for making, or making an application to the Tribunal for it to make, an order under section 43(2) with respect to a person who is or was employed or remunerated by a solicitor in connection with his practice,”;



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and for the words from “all documents” to the end substitute “ all relevant documents in the possession of the solicitor or his firm. ”

(3) For the sidenote substitute “ Examination of files. ”

**Marginal Citations**

M102 1974 c.47.

12 In paragraph 14(1) of Schedule 2 to the <sup>M103</sup>Administration of Justice Act 1985 (power of Law Society to examine files of recognised body in connection with complaints), for paragraphs (a) and (b) substitute—

- “(a) whether a recognised body has failed to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council and applicable to it by virtue of section 9 of this Act;
- (b) whether any professional services provided by a recognised body were not of the quality which it is reasonable to expect of it as a recognised body; or
- (c) whether there are grounds for making, or making an application to the Tribunal for it to make, an order under section 43(2) with respect to a person who is or was employed or remunerated by a recognised body in connection with its business;”;

and for the words from “all documents” to the end substitute “ all relevant documents in the body’s possession. ”

**Marginal Citations**

M103 1985 c.61.

*Payment of costs by solicitor under investigation*

13 In the Solicitors Act 1974, after section 44B insert—

*“ Costs of investigations*

**44C Payment of costs of investigations.**

Where the Society investigates possible professional misconduct by a solicitor, or a failure or apprehended failure by a solicitor to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council, the Council may direct him to pay to the Council an amount which—

- (a) is calculated by the Council as the cost to the Society of investigating and dealing with the matter; or
- (b) in the opinion of the Council represents a reasonable contribution towards that cost.”

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- 14 In Schedule 2 to the <sup>M104</sup>Administration of Justice Act 1985, after paragraph 14 insert—

*“ Payment of costs of investigations*

- 14A Where the Society investigates a failure or apprehended failure by a recognised body to comply with any requirement imposed by or by virtue of this Act or any rules applicable to it by virtue of section 9 of this Act, the Council may direct the body to pay to the Council an amount which—
- (a) is calculated by the Council as the cost to the Society of the investigation; or
  - (b) in the opinion of the Council represents a reasonable contribution towards that cost.”

**Marginal Citations**

**M104** 1985 c.61.

*Registered foreign lawyers*

- 15 Subsections (5) to (7) of section 89 of the <sup>M105</sup>Courts and Legal Services Act 1990 power to apply existing provisions to registered foreign lawyers with or without modifications and power to modify existing provisions in their application to recognised bodies whose officers include registered foreign lawyers) apply in relation to the provisions contained in this Schedule as if they were contained in an Act passed before the commencement of that section.

**Marginal Citations**

**M105** 1990 c.41.

SCHEDULE 8

Section 51.

LEGAL SERVICES COMPLAINTS COMMISSIONER

*Provision for discharge of functions*

- 1 (1) The [<sup>F175</sup>Secretary of State] may give general directions concerning the discharge of the functions of the Legal Services Complaints Commissioner.
- (2) Any such directions shall be published by the [<sup>F175</sup>Secretary of State] in such manner as appears to him to be appropriate.
- (3) Subject to any such direction and to the provisions of this Act, the Commissioner may make such provision as he considers appropriate for the discharge of his functions.

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#### Textual Amendments

**F175** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(f\)](#)

#### *Delegation of functions*

- 2 (1) The Commissioner may delegate any of his functions to such members of his staff as he thinks fit.
- (2) All reports prepared by or on behalf of the Commissioner must be signed by him.

#### *Remuneration*

- 3 (1) The [<sup>F176</sup> Secretary of State] shall pay to, or in respect of, the Commissioner such amounts—
- (a) by way of remuneration, pensions, allowances or gratuities, or
  - (b) by way of provision for any such benefits,
- as he may determine.
- (2) If—
- (a) the Commissioner ceases to hold office, and
  - (b) it appears to the [<sup>F176</sup> Secretary of State] that there are special circumstances which make it right that he should receive compensation,
- the [<sup>F176</sup> Secretary of State] may pay to him such sum as the [<sup>F176</sup> Secretary of State] may determine.

#### Textual Amendments

**F176** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(f\)](#)

#### *Staff*

- 4 (1) The Commissioner may appoint such staff as he thinks necessary for the discharge of his functions.
- (2) Appointments shall be made by the Commissioner on such terms and conditions (including terms as to pensions, allowances and gratuities) as he may, with the approval of the [<sup>F177</sup> Secretary of State], determine.
- (3) The reference in sub-paragraph (2) to pensions, allowances or gratuities includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Commissioner's staff who suffer loss of employment or loss or diminution of emoluments.

#### Textual Amendments

**F177** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(f\)](#)

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#### *Annual and other reports*

- 5
- (1) The Commissioner shall make an annual report to the [F178 Secretary of State] on the discharge of his functions during the year to which the report relates.
  - (2) The Commissioner may, in addition, report to the [F178 Secretary of State] at any time on any matter relating to the discharge of the Commissioner's functions.
  - (3) The Commissioner shall provide the [F178 Secretary of State] with such information relating to the discharge of his functions as the [F178 Secretary of State] may see fit to require.
  - (4) The [F178 Secretary of State] shall lay before each House of Parliament a copy of any annual report made to him under sub-paragraph (1).

#### **Textual Amendments**

**F178** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, **Sch. 2 para. 11(1)(f)**

#### *Accounts and audit*

- 6
- (1) The Commissioner shall keep accounts with respect to his receipts and expenditure and shall prepare a statement of accounts with respect to each financial year.
  - (2) The accounts shall be kept, and the statement of accounts prepared, in such form as the [F179 Secretary of State] may, with the approval of the Treasury, direct.
  - (3) The accounts shall be audited by persons appointed by the [F179 Secretary of State] in respect of each financial year.
  - (4) The auditors shall send to the [F179 Secretary of State] a copy of the statement of accounts and of their report.
  - (5) The [F179 Secretary of State] shall lay before each House of Parliament a copy of every statement of accounts and auditors' report sent to him under this paragraph.

#### **Textual Amendments**

**F179** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, **Sch. 2 para. 11(1)(f)**

#### *Financial provisions*

- 7
- (1) The [F180 Secretary of State] may require any professional body in relation to which a direction under section 52 of this Act has been given (and not revoked) to make payments of such amounts as the [F180 Secretary of State] considers appropriate to the Commissioner towards meeting the expenditure incurred (or to be incurred) by him in the discharge of his functions.
  - (2) To the extent that that expenditure is not met by payments under sub-paragraph (1), it shall be met by the [F180 Secretary of State] out of money provided by Parliament.

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- (3) The Commissioner may, with the approval of the [<sup>F180</sup> Secretary of State], pay fees or allowances to any person who, in the Commissioner’s opinion, is qualified to assist him in the discharge of his functions and who so assists him.

**Textual Amendments**

**F180** Words in Sch. 8 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/18887), art. 9, Sch. 2 para. 11(1)(f)

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

**C20** Sch. 8 para. 7 modified (temp.) (1.1.2010) by The Legal Services Act 2007 (Commencement No. 6, Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/3250), arts. 1(2), 8(10) (with art. 9)

*Parliamentary disqualification*

- 8 In Part III of Schedule 1 to—
- (a) the <sup>M106</sup>House of Commons Disqualification Act 1975, and
  - (b) the <sup>M107</sup>Northern Ireland Assembly Disqualification Act 1975,
- (disqualifying offices), insert (at the appropriate place in alphabetical order)—
- “The Legal Services Complaints Commissioner.”

**Marginal Citations**

**M106** 1975 c.24.

**M107** 1975 c.25.

*Parliamentary Commissioner*

- 9 In Schedule 2 to the <sup>M108</sup>Parliamentary Commissioner Act 1967 (which lists the bodies subject to the jurisdiction of the Parliamentary Commissioner), insert (at the appropriate place in alphabetical order)—
- “The Legal Services Complaints Commissioner.”

**Marginal Citations**

**M108** 1967 c.13.

*Acting Commissioner*

- 10 (1) The [<sup>F181</sup> Secretary of State] may appoint a person to exercise the functions of the Commissioner where—
- (a) the Commissioner’s office becomes vacant, or
  - (b) the Commissioner is incapable of exercising his functions or considers that it would be inappropriate for him to exercise any of his functions in connection with a particular matter (because of a possible conflict of interests or for any other reason).

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- (2) A person so appointed shall have the powers of the Commissioner but shall act only in accordance with the terms on which he is appointed.
- (3) The [<sup>F181</sup> Secretary of State] may pay to any person so appointed such remuneration as he may determine.

**Textual Amendments**  
**F181** Words in Sch. 8 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/18887), art. 9, Sch. 2 para. 11(1)(f)

<sup>F182</sup>SCHEDULE 9

.....

**Textual Amendments**  
**F182** Sch. 9 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

SCHEDULE 10

Section 76.

COMMISSION AREAS AND PETTY SESSIONS AREAS

*The Parochial Libraries Act 1708 (c.14)*

1 <sup>F183</sup> .....

**Textual Amendments**  
**F183** Sch. 10 para. 1 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), {Sch. 1 Pt. 6 Group 5}; and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Distress for Rent Act 1737 (c.19)*

2 <sup>F184</sup> .....

**Textual Amendments**  
**F184** Sch. 10 para. 2 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

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*The Inclosure Act 1773 (c.81)*

3 F185 .....

**Textual Amendments**

**F185** Sch. 10 para. 3 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

*The Burial Ground Act 1816 (c.141)*

4 F186 .....

**Textual Amendments**

**F186** Sch. 10 para. 4 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

*The Inclosure and Drainage (Rates) Act 1833 (c.35)*

5 F187 .....

**Textual Amendments**

**F187** Sch. 10 para. 5 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

*The Ordnance Survey Act 1841 (c.30)*

6 F188 .....

**Textual Amendments**

**F188** Sch. 10 para. 6 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

*The Geological Survey Act 1845 (c.63)*

7 F189 .....

**Textual Amendments**

**F189** Sch. 10 para. 7 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

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*The Inclosure Act 1845 (c.118)*

- 8 In section 159 of the Inclosure Act 1845 (recovery of penalties), after “county” insert “ or other jurisdiction ”.

*The Hares Act 1848 (c.29)*

- 9 F190 .....

**Textual Amendments**

**F190** Sch. 10 para. 9 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

*The Fairs Act 1873 (c.37)*

- 10 F191 .....

**Textual Amendments**

**F191** Sch. 10 para. 10 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

*The Commons Act 1876 (c.56)*

- 11 F192 .....

**Textual Amendments**

**F192** Sch. 10 para. 11 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

*The Municipal Corporations Act 1882 (c.50)*

- 12 F193 .....

**Textual Amendments**

**F193** Sch. 10 para. 12 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

*The Local Government Act 1888 (c.41)*

- 13 In section 28(2) of the Local Government Act 1888 (power of county council to delegate to justices of the county functions relating to contagious diseases of animals), for “county sitting in petty sessions” substitute “ peace for a commission area consisting of or including the whole or part of the county ”.



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*The Children and Young Persons Act 1933 (c.12)*

14 F194 .....

**Textual Amendments**

**F194** Sch. 10 para. 14 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

15 F195 .....

**Textual Amendments**

**F195** Sch. 10 para. 15 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

16 F196 .....

**Textual Amendments**

**F196** Sch. 10 para. 16 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

*The Criminal Justice Act 1948 (c.58)*

F197 17 .....

**Textual Amendments**

**F197** Sch. 10 para. 17 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)**, Table

*The Prevention of Damage by Pests Act 1949 (c.55)*

18 F198 .....

**Textual Amendments**

**F198** Sch. 10 para. 18 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

*The National Parks and Access to the Countryside Act 1949 (c.97)*

19 F199 .....

**Textual Amendments**

**F199** Sch. 10 para. 19 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

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*The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.65)*

20            **F200** .....

**Textual Amendments**  
**F200** Sch. 10 para. 20 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Prison Act 1952 (c.52)*

21            In section 19(1) of the Prison Act 1952 (right of justice to visit prison)—  
               (a)        **F201** .....

              (b)        for “county”, in the second and third places, substitute “ area ”.

**Textual Amendments**  
**F201** Sch. 10 para. 21(a) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Maintenance Orders Act 1958 (c.39)*

22            In section 21(1) of the Maintenance Orders Act 1958 (interpretation), in the definition of “magistrates’ court” and “petty sessions area”, for the words from “and “petty sessions area”” to “court” substitute “ has the meaning assigned to it by the <sup>M115</sup>Magistrates’ Courts Act 1980 and ”.

**Marginal Citations**  
**M115** 1980 c.43.

*The Licensing Act 1964 (c.26)*

23            **F202** .....

**Textual Amendments**  
**F202** Sch. 10 paras. 23-29 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

24            **F203** .....

**Textual Amendments**  
**F203** Sch. 10 paras. 23-29 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

25            **F204** .....

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**Textual Amendments**

**F204** Sch. 10 paras. 23-29 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

26 **F205** .....

**Textual Amendments**

**F205** Sch. 10 paras. 23-29 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

27 **F206** .....

**Textual Amendments**

**F206** Sch. 10 paras. 23-29 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

28 **F207** .....

**Textual Amendments**

**F207** Sch. 10 paras. 23-29 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

29 **F208** .....

**Textual Amendments**

**F208** Sch. 10 paras. 23-29 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

*The Administration of Justice Act 1964 (c.42)*

- 30 (1) Section 19 of the Administration of Justice Act 1964 (sheriff of Greater London and under-sheriffs for London commission areas) is amended as follows.
- (2) In subsection (1) (appointment of sheriff of Greater London and under-sheriff for each London commission area), for “and for each London commission area an under-sheriff shall be so appointed” substitute “ and an under-sheriff shall be so appointed for each area of Greater London (not including any part of the City) specified by the Lord Chancellor by order; and an order under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament ”
- (3) In subsection (2) (application of enactments to under-sheriffs as if London commission areas were counties), for “London commission area” substitute “ area specified by virtue of subsection (1) of this section ”.

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- (4) In subsection (4) (modification of <sup>M116</sup>Sheriffs Act 1887 in its application to Greater London)—
  - (a) for “London commission area” substitute “ area specified by virtue of subsection (1) of this section ”,
  - (b) <sup>F209</sup> .....
  - (c) for the words from “shall be sent” to the end substitute “ shall be sent to the officer specified by the Lord Chancellor by order made by statutory instrument. ”

**Textual Amendments**  
**F209** Sch. 10 para. 30(4)(b) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

**Marginal Citations**  
**M116** 1887 c.55.

*The Sunday Theatre Act 1972 (c.26)*

31 <sup>F210</sup> .....

**Textual Amendments**  
**F210** Sch. 10 para. 31 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

*The Solicitors Act 1974 (c.47)*

32 <sup>F211</sup> .....

**Textual Amendments**  
**F211** Sch. 10 para. 32 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Magistrates’ Courts Act 1980 (c.43)*

- 33 The Magistrates’ Courts Act 1980 has effect subject to the following amendments.
- 34 In section 70 (jurisdiction in inner London for family proceedings), in subsection (3), in the definition of “inner London petty sessions area”, for the words after “means” substitute “ any petty sessions area falling wholly or partly within the area consisting of the inner London boroughs and the City of London. ”
- 35 <sup>F212</sup> .....

**Status:** Point in time view as at 01/04/2009. This version of this Act contains provisions that are not valid for this point in time.  
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**Textual Amendments**

**F212** Sch. 10 para. 35 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

36 **F213** .....

**Textual Amendments**

**F213** Sch. 10 para. 36 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Public Passenger Vehicles Act 1981 (c.14)*

37 In section 82(1) of the Public Passenger Vehicles Act 1981 (interpretation), in the definition of “magistrates’ court” and “petty sessions area”, for “and “petty sessions area” have the same meanings” substitute “ has the same meaning ”.

*The Road Traffic Regulation Act 1984 (c.27)*

38 In section 142(1) of the Road Traffic Regulation Act 1984 (interpretation), in the definition of “magistrates’ court” and “petty sessions area”, for “and “petty sessions area” have the same meanings” substitute “ has the same meaning ”.

*The Criminal Justice Act 1991 (c.53)*

39 **F214** .....

**Textual Amendments**

**F214** Sch. 10 para. 39 repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6) (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 2(c); and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Local Government Finance Act 1992 (c.14)*

40 (1) Section 46 of the Local Government Finance Act 1992 (special expenses of precepting authority) is amended as follows.

(2) In subsection (2)(d) (expenses of the Receiver relating to magistrates’ courts in the inner London area)—

(a) **F215** .....

(b) for “that area” substitute “ the inner London area ”.

(3) In subsection (4) (interpretation), in the definition of “inner London area”, for “has the same meaning as in the Justices of the Peace Act 1997” substitute “ means the area consisting of the inner London boroughs ”.

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**Textual Amendments**  
**F215** Sch. 10 para. 40(2)(a) repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6) (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 2**

*The Probation Service Act 1993 (c.47)*

F216 41 .....

**Textual Amendments**  
**F216** Sch. 10 para. 41 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)**, Table

F217 42 .....

**Textual Amendments**  
**F217** Sch. 10 para. 42 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)**, Table

F218 43 .....

**Textual Amendments**  
**F218** Sch. 10 para. 43 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)**, Table

F219 44 .....

**Textual Amendments**  
**F219** Sch. 10 para. 44 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)**, Table

F220 45 .....

**Textual Amendments**  
**F220** Sch. 10 para. 45 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)**, Table

*The Local Government (Wales) Act 1994 (c.19)*

46 In section 55(3) of the Local Government (Wales) Act 1994 (alteration of areas in Wales in connection with alteration of local government area), for paragraphs (a) to (c) substitute “ the commission areas, petty sessions area or areas of magistrates’ courts committees in Wales. ”

*The Justices of the Peace Act 1997 (c.25)*

47 F221 .....

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**Textual Amendments**

**F221** Sch. 10 para. 47 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

48 **F222** .....

**Textual Amendments**

**F222** Sch. 10 para. 48 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

49 **F223** .....

**Textual Amendments**

**F223** Sch. 10 para. 49 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

50 **F224** .....

**Textual Amendments**

**F224** Sch. 10 para. 50 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

51 **F225** .....

**Textual Amendments**

**F225** Sch. 10 para. 51 repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6) (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 2(c)**; and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

52 **F226** .....

**Textual Amendments**

**F226** Sch. 10 para. 52 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

53 **F227** .....

**Textual Amendments**

**F227** Sch. 10 para. 53 repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6) (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 2(c)**; and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

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## SCHEDULE 11

Section 78.

## UNIFICATION AND RENAMING OF STIPENDIARY BENCH

*The Metropolitan Police Act 1839 (c.47)*

- 1 The Metropolitan Police Act 1839 has effect subject to the following amendments.
- 2 In section 52 (prevention of obstruction in neighbourhood of public buildings), for “police courts” substitute “ magistrates’ courts ”.
- 3 F228 .....

**Textual Amendments**

**F228** Sch. 11 para. 3 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

- 4 In section 76 (complaints to be heard and determined by one of the police magistrates), for the words from “by one” to the end substitute “ by a District Judge (Magistrates’ Courts) ”.

*The Metropolitan Police Courts Act 1840 (c.84)*

- 5 In section 13 of the Metropolitan Police Courts Act 1840 (duties of police magistrates in relation to deserted premises), for “police magistrates” (in both places) substitute “ District Judges (Magistrates’ Courts) ”.

*The London Hackney Carriages Act 1843 (c.86)*

- 6 In section 24 of the London Hackney Carriages Act 1843 (application for summons to police court of district)—
- (a) F229 .....
- (b) for “police court”, in each other place, substitute “ magistrates’ court ”.

**Textual Amendments**

**F229** Sch. 11 para. 6(a) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The London Hackney Carriages Act 1850 (c.7)*

- 7 In section 4 of the London Hackney Carriages Act 1850 (notice of hackney carriage standings to be hung in police courts), for “police courts” substitute “ magistrates’ courts acting for an area falling wholly within an inner London borough ”.

*The London Hackney Carriage Act 1853 (c.33)*

- 8 In section 18 of the London Hackney Carriage Act 1853 (jurisdiction of police magistrates)—
- (a) for “any one of the police magistrates at any of the Metropolitan Police Courts” substitute “ two justices of the peace ”, and



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- (b) omit the words from “or if the offence,”, in the first place, to “the county;”.

*The Regulation of Railways Act 1871 (c.78)*

9 F230 .....

**Textual Amendments**

**F230** Sch. 11 para. 9 repealed (7.6.2005) by Inquiries Act 2005 (c. 12), ss. 49(2), 51, Sch. 3 (with ss. 44, 50); S.I. 2005/1432, art. 2

*The Metropolitan Police Courts Act 1897 (c.26)*

10 F231 .....

**Textual Amendments**

**F231** Sch. 11 para. 10 repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6); S.I. 2001/916, {art, 2}

*The Law of Distress Amendment Act 1908 (c.53)*

- 11 In section 2 of the Law of Distress Amendment Act 1908 (order by stipendiary magistrate or two justices for restoration of goods illegally distrained by landlord etc.), for the words from “a stipendiary” to “or justices” substitute “ two justices who ”.

*The Children and Young Persons Act 1933 (c.12)*

12 F232 .....

**Textual Amendments**

**F232** Sch. 11 para. 12 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Local Government Act 1948 (c.26)*

- 13 (1) Section 121 of the Local Government Act 1948 (precept for expenses of metropolitan police) is amended as follows.
- (2) In subsection (3) (precepts for expenses of metropolitan police courts and probation system in the metropolitan police court area)—
- (a) for the first paragraph substitute—
- “(3) In relation to expenses of and incidental to magistrates’ courts acting for petty sessions areas falling wholly within the inner London boroughs and the probation system within those petty sessions areas respectively, precepts issued under this section shall be issued to all rating authorities

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with areas falling wholly within the area comprising those petty sessions areas.”, and

(b) in the proviso, for “metropolitan police court area” substitute “ the area comprising those petty sessions areas ”.

(3) In subsection (6) (receipts), for “metropolitan police courts and the probation system within the metropolitan police court area” substitute “ magistrates’ courts acting for petty sessions areas falling wholly within the inner London boroughs and the probation system within those petty sessions areas ”.

(4) In subsection (7) (receipts exceeding expenses), for “metropolitan police courts or the probation system within the metropolitan police court area” substitute “ magistrates’ courts acting for petty sessions areas falling wholly within the inner London boroughs or the probation system within those petty sessions areas ”.

*The Metropolitan Magistrates’ Courts Act 1959 (c.45)*

14 The Metropolitan Magistrates’ Courts Act 1959 (functions of Receiver) has effect subject to the following amendments.

F233 15 .....

**Textual Amendments**

**F233** Sch. 11 para. 15 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g), Table

16 In section 4(2) (borrowing power of Receiver), for the words “of the metropolitan magistrates’ courts” substitute “ of the magistrates’ courts acting for petty sessions areas falling wholly within the inner London boroughs ”.

*The Licensing Act 1964 (c.26)*

17 F234 .....

**Textual Amendments**

**F234** Sch. 11 para. 17 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

*The Backing of Warrants (Republic of Ireland) Act 1965 (c.45)*

18 F235 .....

**Textual Amendments**

**F235** Sch. 11 para. 18 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, Sch. 4; S.I. 2003/3103, art. 2 (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2))); and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

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*The Courts Act 1971 (c.23)*

- 19 In Part IA of Schedule 2 to the Courts Act 1971 (certain office-holders eligible for appointment as Circuit judges), for “Stipendiary magistrate” substitute “ District Judge (Magistrates’ Courts). ”

*The Local Government Act 1972 (c.70)*

- 20 In section 67(2)(b) of the Local Government Act 1972 (which provides that regulations may make provision about the functions or areas of jurisdiction of certain bodies or officers in connection with changes in local government areas in Wales)—
- (a) for “justice of the peace, stipendiary magistrate” substitute “ justice of the peace other than a District Judge (Magistrates’ Courts), ” and
  - (b) after “police officers)” insert “ , and the functions of any District Judge (Magistrates’ Courts), ”.

*The Administration of Justice Act 1973 (c.15)*

- 21 In section 9(1) of the Administration of Justice Act 1973 (judicial salaries charged on and paid out of the Consolidated Fund), for paragraphs (e) and (f) (metropolitan stipendiary magistrates and other stipendiary magistrates) substitute—
- “(e) District Judges (Magistrates’ Courts);”.

*The Juries Act 1974 (c.23)*

- 22 F236 .....

**Textual Amendments**

**F236** Sch. 11 para. 22 repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 332, 336, [Sch. 37 Pt. 10](#); [S.I. 2004/829](#), [art. 2\(1\)\(2\)\(j\)\(i\)\(iv\)](#) (subject to [art. 2\(3\)-\(6\)](#))

*The Solicitors Act 1974 (c.47)*

- 23 In section 38 of the Solicitors Act 1974 (disqualification of a solicitor who is a justice of the peace), after subsection (3) insert—
- “(3A) Subsection (1) does not apply where a solicitor is a Deputy District Judge (Magistrates’ Courts); but where a solicitor is acting as a Deputy District Judge (Magistrates’ Courts) for any petty sessions area it shall not be lawful for him, or for any partner of his, to act in connection with proceedings before any justice of the peace acting for that area as solicitor or agent for the solicitor of any person concerned in those proceedings.”

*The House of Commons Disqualification Act 1975 (c.24)*

- 24 In Part I of Schedule 1 to the House of Commons Disqualification Act 1975 (judicial offices disqualifying for membership of the House of Commons), for “Stipendiary Magistrate within the meaning of the<sup>M117</sup>Justices of the Peace Act 1997.” substitute “ District Judge (Magistrates’ Courts) (but not Deputy District Judge (Magistrates’ Courts)). ”

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**Marginal Citations**

M117 1997 c.25.

*The Northern Ireland Assembly Disqualification Act 1975 (c.25)*

25 In Part I of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (judicial offices disqualifying for membership of the Northern Ireland Assembly), for “Stipendiary Magistrate within the meaning of the <sup>M117</sup>Justices of the Peace Act 1949.” substitute “ District Judge (Magistrates’ Courts) (but not Deputy District Judge (Magistrates’ Courts)). ”

**Marginal Citations**

M118 1949 c.101.

*The Magistrates’ Courts Act 1980 (c.43)*

26 The Magistrates’ Courts Act 1980 has effect subject to the following amendments.

27 For section 66 substitute—

**“66 Composition of magistrates’ courts for family proceedings: general.**

(1) A magistrates’ court when hearing family proceedings shall be composed of—

- (a) two or three lay justices; or
- (b) a District Judge (Magistrates’ Courts) as chairman and one or two lay justices;

or, if it is not practicable for such a court to be so composed, a District Judge (Magistrates’ Courts) sitting alone.

(2) Except where such a court is composed of a District Judge (Magistrates’ Courts) sitting alone, it shall, so far as practicable, include both a man and a woman.

(3) In this section and section 67 below “lay justices” means justices of the peace who are not District Judges (Magistrates’ Courts).”

28 F237 .....

**Textual Amendments**

F237 Sch. 11 para. 28 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

29 F238 .....

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**Textual Amendments**

**F238** Sch. 11 para. 29 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

30 **F239** .....

**Textual Amendments**

**F239** Sch. 11 para. 30 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

*The Extradition Act 1989 (c.33)*

31 **F240** .....

**Textual Amendments**

**F240** Sch. 11 paras. 31 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2))

32 **F241** .....

**Textual Amendments**

**F241** Sch. 11 para. 32 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2)); and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art 3(aa)(bb)**

33 **F242** .....

**Textual Amendments**

**F242** Sch. 11 paras. 33 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2))

34 **F243** .....

**Textual Amendments**

**F243** Sch. 11 paras. 34 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2))

35 **F244** .....

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**Textual Amendments**  
**F244** Sch. 11 paras. 35 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2))

36 **F245** .....

**Textual Amendments**  
**F245** Sch. 11 para. 36 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2)); and Sch. 11 para. 36(3)(4)(a) expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art 3(aa)(bb)**

*The Courts and Legal Services Act 1990 (c.41)*

37 In Schedule 11 to the Courts and Legal Services Act 1990 (judges etc. barred from legal practice), for “Stipendiary Magistrate” substitute “ District Judge (Magistrates’ Courts) ”.

*The Local Government Act 1992 (c.19)*

38 In section 19(2)(d) of the Local Government Act 1992 (which provides that regulations may make provision about the functions or areas of jurisdiction of certain bodies or officers in connection with changes in local government areas in England)—

- (a) in sub-paragraph (i), for “justice of the peace, stipendiary magistrate” substitute “ justice of the peace other than a District Judge (Magistrates’ Courts),” and
- (b) before “and the costs” insert “ , and the functions of any District Judge (Magistrates’ Courts),”.

*The Judicial Pensions and Retirement Act 1993 (c. 8)*

39 The Judicial Pensions and Retirement Act 1993 has effect subject to the following amendments.

40 In Part I of Schedule 1 (qualifying offices), after “County Court Judge in Northern Ireland” insert “ District Judge (Magistrates’ Courts) ”.

41 In Schedule 5 (retirement), for “Stipendiary magistrate in England and Wales” substitute “ District Judge (Magistrates’ Courts) ”.

*The Probation Service Act 1993 (c.47)*

**F246**42 .....

**Textual Amendments**  
**F246** Sch. 11 para. 42 repealed (1.4.2001) by 2000 c. 43, s. 75, **Sch. 8**; S.I. 2001/919, **art. 2(g)**, Table

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*The Justices of the Peace Act 1997 (c.25)*

43 F247 .....

**Textual Amendments**

**F247** Sch. 11 paras. 43 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

44 F248 .....

**Textual Amendments**

**F248** Sch. 11 paras. 44 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

45 F249 .....

**Textual Amendments**

**F249** Sch. 11 paras. 45 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

46 F250 .....

**Textual Amendments**

**F250** Sch. 11 paras. 46 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

47 F251 .....

**Textual Amendments**

**F251** Sch. 11 paras. 47 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

48 F252 .....

**Textual Amendments**

**F252** Sch. 11 paras. 48 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

49 F253 .....

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**Textual Amendments**

**F253** Sch. 11 paras. 49 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

50

**F254**

**Textual Amendments**

**F254** Sch. 11 paras. 50 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

**F255**<sup>F255</sup>SCHEDULE 12

**Textual Amendments**

**F255** Sch. 12 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

SCHEDULE 13

Section 90.

FUNCTIONS TRANSFERRED TO JUSTICES’ CHIEF EXECUTIVES

*The London Hackney Carriages Act 1843 (c.86)*

1

**F257**

**Textual Amendments**

**F257** Sch. 13 para. 1 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

*The Evidence Act 1851 (c.99)*

2

- (1) Section 13 of the Evidence Act 1851 (proof of previous conviction by copy of record certified by clerk) is amended as follows.
- (2) Number the existing provision as subsection (1) and for the words from “under the hand” to “such clerk or other officer,” substitute “ by the proper officer of the court where such conviction or acquittal took place ”.
- (3) After that subsection insert—
  - “(2) In subsection (1) “proper officer” means—



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**Changes to legislation:** Access to Justice Act 1999 is up to date with all changes known to be in force on or before 28 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)

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court or other officer having the custody of the records of the court, or the deputy of such clerk or other officer.”

*The Criminal Procedure Act 1865 (c.18)*

- 3 (1) Section 6 of the Criminal Procedure Act 1865 (proof of previous conviction of witness by certificate signed by clerk) is amended as follows.
- (2) Number the existing provision as subsection (1) and for the words from “the clerk” to “such clerk or officer,” substitute “ the proper officer of the court where the offender was convicted ”.
- (3) After that subsection insert—
- “(2) In subsection (1) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to any other court, the clerk of the court or other officer having the custody of the records of the court, or the deputy of such clerk or other officer.”

*The Prevention of Crimes Act 1871 (c.112)*

- 4 (1) Section 18 of the Prevention of Crimes Act 1871 (evidence of previous conviction by record signed by clerk) is amended as follows.
- (2) For the words from “clerk of the court” to “such clerk or officer;” substitute “ proper officer of the court by which such conviction was made; ”.
- (3) For “clerk or other officer” substitute “ proper officer ”.
- (4) At the end of that section insert—
- “In this section “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to any other court, the clerk of the court or other officer having the custody of the records of the court, or the deputy of such clerk or other officer.”

*The Fairs Act 1873 (c.37)*

5 F258 .....

**Textual Amendments**

**F258** Sch. 13 para. 5 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

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*The Public Health Acts Amendment Act 1907 (c.53)*

6            F259            .....

**Textual Amendments**  
**F259** Sch. 13 para. 6 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Maintenance Orders (Facilities for Enforcement) Act 1920 (c.33)*

7            F260            .....

**Textual Amendments**  
**F260** Sch. 13 para. 7 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Children and Young Persons Act 1933 (c.12)*

8            The Children and Young Persons Act 1933 has effect subject to the following amendments.

9            In section 42(2)(b) (transmission of deposition of child), for “clerk” substitute “proper officer”.

10          F261            .....

**Textual Amendments**  
**F261** Sch. 13 para. 10 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

11          F262            .....

**Textual Amendments**  
**F262** Sch. 13 para. 11 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Maintenance Orders Act 1950 (c.37)*

12          Part II of the Maintenance Orders Act 1950 (enforcement of certain maintenance orders made in another part of the United Kingdom) has effect subject to the following amendments.

13          (1) Section 18 (enforcement of registered orders) is amended as follows.

(2) F263 .....

(3) In subsection (2A) (requirement of person liable under order to notify change of address to clerk of the court), for “clerk” substitute “proper officer”.

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(4) After that subsection insert—

“(2B) In subsection (2A) of this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court of summary jurisdiction in Northern Ireland, the clerk of the court.”

**Textual Amendments**

**F263** Sch. 13 para. 13(2) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

14 F264 .....

**Textual Amendments**

**F264** Sch. 13 para. 14 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

15 F265 .....

**Textual Amendments**

**F265** Sch. 13 para. 15 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Army Act 1955 (c.18)*

16 The Army Act 1955 has effect subject to the following amendments.

17 (1) Section 189 (delivery into military custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.

(2) In subsection (1) (fee payable to clerk of the court), for “clerk” substitute “ proper officer ”.

(3) After subsection (3) insert—

“(3A) In subsection (1) of this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.”

18 (1) Section 199 (proof of outcome of civil trial) is amended as follows.

(2) In subsections (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “ proper officer ”.

(3) For subsection (4) substitute—

“(4) In this section “proper officer” means—

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- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

*The Air Force Act 1955 (c.19)*

19 The Air Force Act 1955 has effect subject to the following amendments.

20 (1) Section 189 (delivery into air-force custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.

(2) In subsection (1) (fee payable to clerk of the court), for “clerk” substitute “ proper officer ”.

(3) After subsection (3) insert—

“(3A) In subsection (1) of this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.”

21 (1) Section 199 (proof of outcome of civil trial) is amended as follows.

(2) In subsections (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “ proper officer ”.

(3) For subsection (4) substitute—

“(4) In this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

*The Naval Discipline Act 1957 (c.53)*

22 The Naval Discipline Act 1957 has effect subject to the following amendments.

23 (1) Section 110 (delivery into naval custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.

(2) In subsection (2) (fee payable to clerk of the court), for “clerk” substitute “ proper officer ”.

(3) After subsection (2) insert—

“(2A) In subsection (2) of this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.”

24 (1) Section 129B (proof of outcome of civil trial) is amended as follows.

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(2) In subsections (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “proper officer”.

(3) For subsection (4) substitute—

“(4) In this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

*The Maintenance Orders Act 1958 (c.39)*

25 F266 .....

**Textual Amendments**

**F266** Sch. 13 para. 25 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

26 F267 .....

**Textual Amendments**

**F267** Sch. 13 para. 26 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

27 F268 .....

**Textual Amendments**

**F268** Sch. 13 para. 27 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

28 F269 .....

**Textual Amendments**

**F269** Sch. 13 para. 28 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

29 F270 .....

**Textual Amendments**

**F270** Sch. 13 para. 29 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

30 F271 .....

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**Textual Amendments**  
**F271** Sch. 13 para. 30 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

31 **F272** .....

**Textual Amendments**  
**F272** Sch. 13 para. 31 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

*The Betting, Gaming and Lotteries Act 1963 (c.2)*

32 **F273** .....

**Textual Amendments**  
**F273** Sch. 13 paras. 32-35 repealed (1.9.2007) by Gambling Act 2005 (c. 19), ss. 356(4)(5), 358, **Sch. 17** (with ss. 352, 354); S.I. 2006/3272, **art. 2(4)** (with art. 6, Sch. 4)

33 **F274** .....

**Textual Amendments**  
**F274** Sch. 13 paras. 32-35 repealed (1.9.2007) by Gambling Act 2005 (c. 19), ss. 356(4)(5), 358, **Sch. 17** (with ss. 352, 354); S.I. 2006/3272, **art. 2(4)** (with art. 6, Sch. 4)

34 **F275** .....

**Textual Amendments**  
**F275** Sch. 13 paras. 32-35 repealed (1.9.2007) by Gambling Act 2005 (c. 19), ss. 356(4)(5), 358, **Sch. 17** (with ss. 352, 354); S.I. 2006/3272, **art. 2(4)** (with art. 6, Sch. 4)

35 **F276** .....

**Textual Amendments**  
**F276** Sch. 13 paras. 32-35 repealed (1.9.2007) by Gambling Act 2005 (c. 19), ss. 356(4)(5), 358, **Sch. 17** (with ss. 352, 354); S.I. 2006/3272, **art. 2(4)** (with art. 6, Sch. 4)

*The Licensing Act 1964 (c.26)*

36 **F277** .....

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**Textual Amendments**

**F277** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

37 **F278** .....

**Textual Amendments**

**F278** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

38 **F279** .....

**Textual Amendments**

**F279** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

39 **F280** .....

**Textual Amendments**

**F280** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

40 **F281** .....

**Textual Amendments**

**F281** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

41 **F282** .....

**Textual Amendments**

**F282** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

42 **F283** .....

**Textual Amendments**

**F283** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

43 **F284** .....

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**Textual Amendments**

**F284** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

44 **F285** .....

**Textual Amendments**

**F285** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

45 **F286** .....

**Textual Amendments**

**F286** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

46 **F287** .....

**Textual Amendments**

**F287** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

47 **F288** .....

**Textual Amendments**

**F288** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

48 **F289** .....

**Textual Amendments**

**F289** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

49 **F290** .....

**Textual Amendments**

**F290** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

50 **F291** .....



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**Textual Amendments**

**F291** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

51 **F292** .....

**Textual Amendments**

**F292** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

52 **F293** .....

**Textual Amendments**

**F293** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

53 **F294** .....

**Textual Amendments**

**F294** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

54 **F295** .....

**Textual Amendments**

**F295** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

55 **F296** .....

**Textual Amendments**

**F296** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

56 **F297** .....

**Textual Amendments**

**F297** Sch. 13 paras. 36-56 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

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*The Gaming Act 1968 (c.65)*

- 57        The Gaming Act 1968 has effect subject to the following amendments.
- 58        (1) Schedule 2 (grant etc. of licences) is amended as follows.
- (2) In paragraph 1(1) (licensing authority), at the end insert “ and references to the proper officer of a licensing authority shall be construed accordingly ”.
- (3) In paragraphs 5(2) and 6(2) (procedure for application), for “clerk to” substitute “ proper officer of ”.
- (4) In paragraph 7 (public notice of application)—
- (a) in sub-paragraph (1), for “clerk to” substitute “ proper officer of ”,
- (b) in sub-paragraph (2), for “clerk to” substitute “ proper officer of ” and for “if the clerk” substitute “ if the proper officer ”, and
- (c) in sub-paragraphs (3) and (4), for “clerk to” substitute “ proper officer of ”.
- (5) In paragraph 12(1) (making of application for renewal), for “clerk to” substitute “ proper officer of ”.
- (6) In paragraph 13 (notification of application for renewal)—
- (a) in sub-paragraphs (2) and (3), for “clerk to” substitute “ proper officer of ”,
- (b) in sub-paragraph (4), for “clerk to” substitute “ proper officer of ” and for “clerk”, in the other two places, substitute “ proper officer ”, and
- (c) in sub-paragraph (5), for “clerk to” substitute “ proper officer of ”.
- (7) In paragraph 14(2)(a) (proceedings on application for grant or renewal), for “clerk to” substitute “ proper officer of ”.
- (8) In paragraph 15 (objections)—
- (a) for “clerk to” substitute “ proper officer of ”, and
- (b) in paragraph (b), for “clerk” substitute “ proper officer ”.
- (9) In—
- (a) paragraph 28 (notification of Board’s advice),
- (b) paragraph 29(1) (in both places) and (2) (appeal by applicant),
- (c) paragraph 31(1) and (2) (appeal by Board),
- (d) paragraph 33(1) (appeal in Scotland),
- (e) paragraph 35(5) (revocation of certificate of consent), and
- (f) paragraphs 36(1) and (3) and 37 (cancellation),
- for “clerk to” substitute “ proper officer of ”.
- (10) In paragraph 46(1) (notice of appeal), for “clerk” substitute “ proper officer ”.
- (11) In paragraph 48 (cancellation of licence where holder convicted of offence)—
- (a) in sub-paragraph (4), for “clerk of” and for “clerk to” (in both places) substitute “ proper officer of ”, and
- (b) after that sub-paragraph insert—
- “(5) In sub-paragraph (4) of this paragraph, “the proper officer of the court” means—
- (a) in relation to a magistrates’ court, the justices’ chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”

**Status:** Point in time view as at 01/04/2009. This version of this Act contains provisions that are not valid for this point in time.

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- (12) In paragraphs 57(4) and 58(1) (transfer of licence), for “clerk to” substitute “ proper officer of”.
  - (13) In paragraph 63 (fees)—
    - (a) in sub-paragraph (1), for “clerk to” substitute “ proper officer of”, and
    - (b) in sub-paragraph (2), for “clerk to” substitute “ proper officer of”.
  - (14) In paragraphs 64(1) and 65(1) and (2) (notification of corporate changes), for “clerk to” substitute “ proper officer of”.
- 59 (1) Schedule 3 (registration of members’ clubs in England and Wales) is amended as follows.
- (2) <sup>F298</sup> .....
  - (3) In paragraph 17 (cancellation pursuant to conviction)—
    - (a) <sup>F299</sup> .....
    - (b) after that sub-paragraph insert—
      - “(4) In sub-paragraph (3) of this paragraph the “proper officer of the court” means—
        - (a) in relation to a magistrates’ court, the justices’ chief executive for the court, and
        - (b) in relation to the Crown Court, the appropriate officer of the court.”
  - (4) <sup>F300</sup> .....

**Textual Amendments**

**F298** Sch. 13 para. 59(2) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

**F299** Sch. 13 para. 59(3)(a) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

**F300** Sch. 13 para. 59(4) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

- 60 <sup>F301</sup> .....

**Textual Amendments**

**F301** Sch. 13 para. 60 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

- 61 <sup>F302</sup> .....

**Textual Amendments**

**F302** Sch. 13 para. 61 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

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*The Late Night Refreshment Houses Act 1969 (c.53)*

62 F303 .....

**Textual Amendments**  
F303 Sch. 13 para. 62 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

*The Children and Young Persons Act 1969 (c.54)*

F304 63 .....

**Textual Amendments**  
F304 Sch. 13 para. 63 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Attachment of Earnings Act 1971 (c.32)*

64 The Attachment of Earnings Act 1971 has effect subject to the following amendments.

65 F305 .....

**Textual Amendments**  
F305 Sch. 13 para. 65 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

66 F306 .....

**Textual Amendments**  
F306 Sch. 13 para. 66 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

67 In section 17(3)(d) (power to require court officer to deal with payments under consolidated attachment order as directed by court or rules), for “clerk or registrar” substitute “ officer ”.

68 F307 .....

**Textual Amendments**  
F307 Sch. 13 para. 68 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

69 F308 .....

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**Textual Amendments**

**F308** Sch. 13 para. 69 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Immigration Act 1971 (c.77)*

- 70 (1) Schedule 2 to the Immigration Act 1971 (administrative provisions) is amended as follows.
- (2) In sub-paragraph (1) of paragraph 23, in paragraph (b) (particulars of recognizance to be given to clerk), for “clerk” substitute “ proper officer ”.
- (3) After that sub-paragraph insert—
- “(1A) In sub-paragraph (1) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to a court of summary jurisdiction in Northern Ireland, the clerk of the court.”
- (4) In sub-paragraph (3) of paragraph 31 (particulars of forfeited recognizance to be given to clerk), for “clerk” substitute “ proper officer ”.
- (5) After that sub-paragraph insert—
- “(3A) In sub-paragraph (3) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to a court of summary jurisdiction in Northern Ireland, the clerk of the court.”

*The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c.18)*

71 The Maintenance Orders (Reciprocal Enforcement) Act 1972 has effect subject to the following amendments.

72 **F309** .....

**Textual Amendments**

**F309** Sch. 13 para. 72 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

- 73 (1) Section 8 (enforcement of maintenance order registered in United Kingdom court) is amended as follows.
- (2) In subsection (3) (requirement of person liable under order to notify change of address to clerk of the court), for “clerk” substitute “ appropriate officer ”.
- (3) After that subsection insert—
- “(3A) In subsection (3) above “appropriate officer” means—

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- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court elsewhere, the clerk of the court.”

(4) <sup>F310</sup> .....

**Textual Amendments**  
**F310** Sch. 13 para. 73(4) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

74 <sup>F311</sup> .....

**Textual Amendments**  
**F311** Sch. 13 para. 74 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

75 (1) Section 23 (maintenance orders registered in High Court under Maintenance Orders (Facilities for <sup>M121</sup>Enforcement) Act 1920) is amended as follows.

(2) In subsections (2), (3) and (4) (procedure), for “clerk” substitute “ appropriate officer ”.

(3) After subsection (5) insert—

“(6) In this section “appropriate officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a magistrates’ court in Northern Ireland, the clerk of the court.”

**Marginal Citations**  
**M121** 1920 c.33.

76 In section 26 (application for recovery of maintenance in convention country), for subsections (6) and (7) substitute—

“(6) The appropriate officer for the purposes of this section is—

- (a) where the applicant is residing in England and Wales, the justices’ chief executive for the petty sessions area;
- (b) where the applicant is residing in Northern Ireland, the clerk of the court for the petty sessions district; and
- (c) where the applicant is residing in Scotland, the sheriff clerk or sheriff clerk depute of the sheriff court within the jurisdiction of which the applicant is residing.”

77 <sup>F312</sup> .....

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**Textual Amendments**

**F312** Sch. 13 para. 77 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

78 **F313** .....

**Textual Amendments**

**F313** Sch. 13 para. 78 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

- 79 (1) Section 32 (transfer of orders) is amended as follows.
- (2) In subsection (2) (transmission of copy of order)—
- (a) for “the clerk” (in both places) substitute “ the appropriate officer ”, and
  - (b) for “that clerk” substitute “ the appropriate officer ”.
- (3) After that subsection insert—
- “(2A) In subsection (2) above the “appropriate officer” means—
- (a) in relation to a court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to a court in Northern Ireland, the clerk of the court.”
- 80 In section 34(3) (application from abroad to vary a registered order), for “the clerk of that court” substitute “—
- (a) the justices’ chief executive for the court, if the court is in England and Wales; or
  - (b) the clerk of the court, if the court is in Northern Ireland.”

81 **F314** .....

**Textual Amendments**

**F314** Sch. 13 para. 81 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Matrimonial Causes Act 1973 (c.18)*

82 **F315** .....

**Textual Amendments**

**F315** Sch. 13 para. 82 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Powers of Criminal Courts Act 1973 (c.62)*

**F316**83 .....

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**Textual Amendments**  
**F316** Sch. 13 para. 83 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F317** 84 .....

**Textual Amendments**  
**F317** Sch. 13 para. 84 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F318** 85 .....

**Textual Amendments**  
**F318** Sch. 13 para. 85 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*The Salmon and Freshwater Fisheries Act 1975 (c.51)*

- 86 (1) Schedule 4 to the Salmon and Freshwater Fisheries Act 1975 (procedure relating to offences) is amended as follows.
- (2) In paragraphs 10 and 12 (delivery of licence and certificate of conviction), for “clerk” substitute “proper officer”.
- (3) After paragraph 13 insert—
  - “14 In paragraphs 10 and 12 above “proper officer” means—
  - (a) in relation to a magistrates’ court, the justices’ chief executive for the court; and
  - (b) in relation to the Crown Court, the appropriate officer.”

*The Lotteries and Amusements Act 1976 (c.32)*

87 **F319** .....

**Textual Amendments**  
**F319** Sch. 13 para. 87 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

*The Adoption Act 1976 (c.36)*

88 **F320** .....



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**Textual Amendments**

**F320** Sch. 13 para. 88 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139(2)(3), 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2005/2897, art. 2(b) (with arts. 3-16)

*The Bail Act 1976 (c.63)*

89 **F321** .....

**Textual Amendments**

**F321** Sch. 13 para. 89 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Domestic Proceedings and Magistrates’ Courts Act 1978 (c.22)*

90 **F322** .....

**Textual Amendments**

**F322** Sch. 13 para. 90 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

91 **F323** .....

**Textual Amendments**

**F323** Sch. 13 para. 91 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

92 **F324** .....

**Textual Amendments**

**F324** Sch. 13 para. 92 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

93 **F325** .....

**Textual Amendments**

**F325** Sch. 13 para. 93 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Licensed Premises (Exclusion of Certain Persons) Act 1980 (c.32)*

94

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[<sup>F326</sup>(1) Section 4 of the Licensed Premises (Exclusion of Certain Persons) Act 1980 (supplemental) is amended as follows.

(2) In subsection (3) (copy of exclusion order to be sent to licensee of relevant premises), for the words from “clerk” to “may be,” substitute “ proper officer of the court ”.

(3) After that subsection insert—

“(4) For the purposes of subsection (3) above—

- (a) the proper officer of a magistrates’ court in England and Wales is the justices’ chief executive for the court;
- (b) the proper officer of the Crown Court is the appropriate officer; and
- (c) the proper officer of a court in Scotland is the clerk of the court.”]

**Textual Amendments**

**F326** Sch. 13 para. 94 repealed (S.) (1.2.2008) by [Licensing \(Scotland\) Act 2005 \(asp 16\)](#), ss. 149, 150, [Sch. 7](#) (with s. 143); [S.S.I. 2007/472](#), [art. 2](#), [Schs. 1, 2](#); and this same provision otherwise repealed (prosp.) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 65, 66(2), [Sch. 5](#)

*The Magistrates’ Courts Act 1980 (c.43)*

95 The Magistrates’ Courts Act 1980 has effect subject to the following amendments.

96 <sup>F327</sup> .....

**Textual Amendments**

**F327** Sch. 13 para. 96 repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(3), 110, [Sch. 10](#); [S.I. 2005/910](#), [art. 3\(aa\)\(bb\)](#); and this same provision expressed to be repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 4](#); [S.I. 2012/1320](#), [art. 4\(1\)\(d\)\(2\)\(3\)](#) (with [art. 5](#)) (see [S.I. 2012/2574](#), [art. 4\(2\)](#) and [S.I. 2013/1103](#), [art. 4](#)); [S.I. 2012/2574](#), [art. 2\(2\)\(3\)\(d\)](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (4.11.2012) by [S.I. 2012/2761](#), [art. 2](#)) (with [S.I. 2013/1103](#), [art. 4](#)); [S.I. 2013/1103](#), [art. 2\(1\)\(d\)\(2\)\(3\)](#) (with [arts. 3, 4](#))

97 <sup>F328</sup> .....

**Textual Amendments**

**F328** Sch. 13 para. 97 repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(3), 110, [Sch. 10](#); [S.I. 2005/910](#), [art. 3\(aa\)\(bb\)](#)

98 <sup>F329</sup> .....

**Textual Amendments**

**F329** Sch. 13 para. 98 repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(3), 110, [Sch. 10](#); [S.I. 2005/910](#), [art. 3\(aa\)\(bb\)](#)

99 <sup>F330</sup> .....

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**Textual Amendments**

**F330** Sch. 13 para. 99 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

100 **F331** .....

**Textual Amendments**

**F331** Sch. 13 para. 100 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

101 **F332** .....

**Textual Amendments**

**F332** Sch. 13 para. 101 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

102 **F333** .....

**Textual Amendments**

**F333** Sch. 13 para. 102 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

103 **F334** .....

**Textual Amendments**

**F334** Sch. 13 para. 103 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

104 **F335** .....

**Textual Amendments**

**F335** Sch. 13 para. 104 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

105 **F336** .....

**Textual Amendments**

**F336** Sch. 13 para. 105 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

106 **F337** .....

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**Textual Amendments**  
**F337** Sch. 13 para. 106 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

107 **F338** .....

**Textual Amendments**  
**F338** Sch. 13 para. 107 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

108 **F339** .....

**Textual Amendments**  
**F339** Sch. 13 para. 108 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

109 **F340** .....

**Textual Amendments**  
**F340** Sch. 13 para. 109 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

110 **F341** .....

**Textual Amendments**  
**F341** Sch. 13 para. 110 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

111 **F342** .....

**Textual Amendments**  
**F342** Sch. 13 para. 111 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**; and this same provision expressed to be repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts 3, 4)

112 **F343** .....

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**Textual Amendments**

**F343** Sch. 13 para. 112 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

113 In section 114 (payment to clerk of fees and recognizances on case stated), for “him the fees payable for the case and for the recognizances” substitute “the fees payable for the case and for the recognizances to the justices’ chief executive for the court”.

114 **F344** .....

**Textual Amendments**

**F344** Sch. 13 para. 114 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

115 **F345** .....

**Textual Amendments**

**F345** Sch. 13 para. 115 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

116 **F346** .....

**Textual Amendments**

**F346** Sch. 13 para. 116 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

117 **F347** .....

**Textual Amendments**

**F347** Sch. 13 para. 117 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

*The Highways Act 1980 (c.66)*

118 **F348** .....

**Textual Amendments**

**F348** Sch. 13 para. 118 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

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*The Betting and Gaming Duties Act 1981 (c.63)*

119 The Betting and Gaming Duties Act 1981 has effect subject to the following amendments.

120 **F349** .....

**Textual Amendments**  
**F349** Sch. 13 para. 120 repealed (with effect in accordance with Sch. 25 of the amending Act) by Finance Act 2007 (c. 11), s. 114, {Sch. 27 Pt. 6(3) Note}

- 121 (1) Paragraph 15 of Schedule 4 (register of permits) is amended as follows.
- (2) In sub-paragraph (1) (registers of permits etc.), for “clerk to” substitute “ proper officer of”.
- (3) After sub-paragraph (2) insert—
- “(3) In sub-paragraph (1) above “proper officer of the appropriate authority” means—
- (a) where the appropriate authority is a committee of the justices acting for a petty sessions area, the chief executive to the justices; and
- (b) in any other case, the clerk to the authority.”

*The Civil Jurisdiction and Judgments Act 1982 (c.27)*

- 122 (1) Section 5 of the <sup>M122</sup>Civil Jurisdiction and Judgments Act 1982 (recognition and enforcement of maintenance orders) is amended as follows.
- (2) **F350** .....
- (3) In subsection (7) (requirement of payer to notify change of address to clerk of the court), for “clerk” substitute “ proper officer ”.
- (4) After that subsection insert—
- “(8) In subsection (7) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a magistrates’ court in Northern Ireland, the clerk of the court.”

**Textual Amendments**  
**F350** Sch. 13 para. 122(2) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

**Marginal Citations**  
**M122** 1980 c.43.

*The Criminal Justice Act 1982 (c.48)*

**F351** 123 .....

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**Textual Amendments**

**F351** Sch. 13 para. 123 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*The Licensing (Occasional Permissions) Act 1983 (c.24)*

124 **F352** .....

**Textual Amendments**

**F352** Sch. 13 para. 124 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), **2(2)** (with art. 4)

*The Police and Criminal Evidence Act 1984 (c.60)*

125 The Police and Criminal Evidence Act 1984 has effect subject to the following amendments.

126 **F353** .....

**Textual Amendments**

**F353** Sch. 13 para. 126 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

127 **F354** .....

**Textual Amendments**

**F354** Sch. 13 para. 127 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

- 128 (1) Section 73 (proof of conviction) is amended as follows.
- (2) In subsection (2) (certificate of conviction to be signed by clerk), for “clerk” (in each place) substitute “proper officer”.
- (3) For subsection (3) substitute—
- “(3) In subsection (2) above “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to any other court, the clerk of the court, his deputy or any other person having custody of the court record.”

*The Prosecution of Offences Act 1985 (c.23)*

129 **F355** .....

**Status:** Point in time view as at 01/04/2009. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Access to Justice Act 1999 is up to date with all changes known to be in force on or before 28 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)

**Textual Amendments**

**F355** Sch. 13 para. 129 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

130 **F356** .....

**Textual Amendments**

**F356** Sch. 13 para. 130 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

131 **F357** .....

**Textual Amendments**

**F357** Sch. 13 para. 131 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

*The Sporting Events (Control of Alcohol etc.) Act 1985 (c.57)*

132 **F358** .....

**Textual Amendments**

**F358** Sch. 13 para. 132 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201, **Sch. 7** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, arts. 1(2), 2(2) (with art. 4)

*The Insolvency Act 1986 (c.45)*

133 In sections 9(1) and 124(1) of the Insolvency Act 1986 (applications for administration order and winding up), for “the clerk of a magistrates’ court” substitute “ a justices’ chief executive ”.

*The Public Order Act 1986 (c.64)*

134 In section 34(1) and (2) of the Public Order Act 1986 (notification by clerk of making or termination of exclusion order), for “clerk of” substitute “ justices’ chief executive for ”.

*The Coroners Act 1988 (c.13)*

135 **F359** .....

**Textual Amendments**

**F359** Sch. 13 para. 135 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)



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### *The Criminal Justice Act 1988 (c.33)*

136 F360 .....

#### **Textual Amendments**

**F360** Sch. 13 para. 136 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

137 F361 .....

#### **Textual Amendments**

**F361** Sch. 13 para. 137 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb); and this same provision expressed to be repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 4**; S.I. 2012/1320, art. 4(1)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(d), **Sch.** (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(d)(2)(3) (with arts 3, 4)

138 F362 .....

#### **Textual Amendments**

**F362** Sch. 13 para. 138 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)(bb)

139 F363 .....

#### **Textual Amendments**

**F363** Sch. 13 para. 139 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458, **Sch. 12**; S.I. 2003/333, art. 2, **Sch.** (subject to arts. 3-14 (as amended by S.I. 2003/531, arts. 3, 4))

### *The Road Traffic Offenders Act 1988 (c.53)*

140 The Road Traffic Offenders Act 1988 has effect subject to the following amendments.

141 (1) Section 7 (duty of accused to provide licence to clerk of court) is amended as follows.

(2) Number the existing provision as subsection (1) and, in paragraph (a) of that provision, for “clerk” substitute “proper officer”.

(3) After that provision insert—

“(2) In subsection (1) above “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”

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142 In sections 8(a) and 25(2)(a) (notification to clerk of date of birth and sex), for “to the clerk of a court in pursuance of section 12(2)” substitute “ to a justices’ chief executive in pursuance of section 12(4) ”.

143 (1) Section 26 (interim disqualification) is amended as follows.

(2) In subsection (7), in paragraph (b) (licence of person subject to interim disqualification to be sent to clerk), for “clerk” substitute “ proper officer ”.

(3) After that subsection insert—

“(2) In subsection (7) above “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”

144 (1) Section 27 (production of licence) is amended as follows.

(2) In subsection (4) (exceptions), for “clerk” (in both places) substitute “ proper officer ”.

(3) After that subsection insert—

“(5) In subsection (4) above “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”

145 (1) Section 34B (certificate of completion of course) is amended as follows.

(2) In subsections (1), (2) (in both places), (6) and (7), for “clerk” substitute “ proper officer ”.

(3) In subsection (9)—

- (a) for “clerk of a court” substitute “ proper officer of a court ”, and
- (b) for “clerk or” substitute “ officer or ”.

146 In section 34C(2) (interpretation), after the definition of “petty sessions area” insert—

““proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to a sheriff court in Scotland, the clerk of the court;”.

147 F364 .....

**Textual Amendments**  
F364 Sch. 13 para. 147 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

148 F365 .....

**Status:** Point in time view as at 01/04/2009. This version of this Act contains provisions that are not valid for this point in time.  
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**Textual Amendments**

**F365** Sch. 13 para. 148 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

149 **F366** .....

**Textual Amendments**

**F366** Sch. 13 para. 149 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

- 150 (1) Section 71 (registration of sums payable in default) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) Where, in England and Wales, a justices’ chief executive receives a registration certificate issued under section 70 of this Act in respect of any sum payable in default—
- (a) if it appears to him that the defaulter resides in a petty sessions area for which he is the justices’ chief executive, he must register that sum for enforcement as a fine in that area by entering it in the register of a magistrates’ court acting for that area,
  - (b) if it appears to him that the defaulter resides in any other petty sessions area in England and Wales, he must send the certificate to the justices’ chief executive for that area, or
  - (c) if it appears to him that the defaulter resides in Scotland, he must send the certificate to the clerk of the court of summary jurisdiction for the area in which the defaulter appears to him to reside.
- (2) Where, in Scotland, the clerk of a court receives a registration certificate issued under section 70 of this Act in respect of any sum payable in default—
- (a) if it appears to him that the defaulter resides in the area of the court, he must register that sum for enforcement as a fine by that court,
  - (b) if it appears to him that the defaulter resides in the area of any other court of summary jurisdiction in Scotland, he must send the certificate to the clerk of that court, or
  - (c) if it appears to him that the defaulter resides in England and Wales, he must send the certificate to the justices’ chief executive for the petty sessions area in which the defaulter appears to him to reside.
- (2A) Subsections (1) and (2) apply to executives and clerks who receive certificates pursuant to the provision they contain as they apply to the original recipients.”
- (3) **F367** .....

**Textual Amendments**

**F367** Sch. 13 para. 150(3) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

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- 151 In sections 72(1) and (6) and 73(1)(b) and (7) (invalidity of registration notice), for “clerk” substitute “ proper officer ”.
- 152 (1) Section 74 (supplementary) is amended as follows.
  - (2) In subsection (4) (service of statutory declaration), for “clerk” substitute “ proper officer ”.
  - (3) In subsection (5) (interpretation), for paragraph (b) substitute—
    - “(b) references to the proper officer of the relevant court are—
      - (i) in the case of a magistrates’ court, references to the justices’ chief executive for that court, and
      - (ii) in the case of a court of summary jurisdiction in Scotland, references to the clerk of the court, and”.
- 153 In section 75(6) (definition of “fixed penalty clerk” for purposes of conditional offers)—
  - (a) <sup>F368</sup> .....
  - (b) for “that clerk” substitute “ he ”.

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**Textual Amendments**  
**F368** Sch. 13 para. 153(a) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

154 <sup>F369</sup> .....

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**Textual Amendments**  
**F369** Sch. 13 para. 154 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

155 <sup>F370</sup> .....

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**Textual Amendments**  
**F370** Sch. 13 para. 155 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

156 <sup>F371</sup> .....

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**Textual Amendments**  
**F371** Sch. 13 para. 156 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Prevention of Terrorism (Temporary Provisions) Act 1989 (c.4)*

- 157 (1) Schedule 4 to the Prevention of Terrorism (Temporary Provisions) Act 1989 (forfeiture orders) is amended as follows.

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- (2) In paragraph 1(5) (meaning of “proper officer”), for “clerk of”, in the first three places, substitute “justices’ chief executive for”.
- (3) In paragraph 9(4) (functions of clerk to be exercised by appropriate officer of High Court in case of order made elsewhere in British Islands), for “the clerk of a magistrates’ court” substitute “a justices’ chief executive”.

*The Football Spectators Act 1989 (c.37)*

158 In sections <sup>F372</sup> . . . 18(1) of the Football Spectators Act 1989 (duties of clerk in relation to notices of conviction and restriction orders), for “clerk of” substitute “justices’ chief executive for”.

**Textual Amendments**  
F372 Words in Sch. 13 para. 158 repealed (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 65, 66(2), Sch. 5; S.I. 2007/858, art. 2

*The Children Act 1989 (c.41)*

159 <sup>F373</sup> . . . . .

**Textual Amendments**  
F373 Sch. 13 para. 159 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

160 <sup>F374</sup> . . . . .

**Textual Amendments**  
F374 Sch. 13 para. 160 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

161 <sup>F375</sup> . . . . .

**Textual Amendments**  
F375 Sch. 13 para. 161 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

162 <sup>F376</sup> . . . . .

**Textual Amendments**  
F376 Sch. 13 para. 162 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

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*The Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c.25)*

- 163 (1) Schedule 2 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (supervision and treatment orders) is amended as follows.
  - (2) In paragraph 3(4) (clerk to receive copy of supervision and treatment order), for “clerk to the justices” substitute “ justices’ chief executive ”.
  - (3) In paragraph 10(1) (clerk to send copy of revocation of supervision and treatment order to supervising officer), for “clerk to” substitute “ justices’ chief executive for ”.
  - (4) In paragraph 11 (amendment of orders), in sub-paragraph (1), for “clerk to the justices” (in both places) substitute “ justices’ chief executive ” and after that sub-paragraph insert—
    - “(1A) Where the justices’ chief executive for the court making the order is also the justices’ chief executive for the new petty sessions area—
      - (a) sub-paragraph (1)(b) above does not apply; but
      - (b) the justices’ chief executive shall give copies of the amending order to the supervising officer.”
  - (5) In that paragraph, in sub-paragraph (2), after “(1)” insert “ or (1A) ”.

*The Criminal Justice Act 1991 (c.53)*

164 The Criminal Justice Act 1991 has effect subject to the following amendments.  
165 F377 .....

**Textual Amendments**  
F377 Sch. 13 para. 165 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

F378 166 .....

**Textual Amendments**  
F378 Sch. 13 para. 166 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Social Security Administration Act 1992 (c.5)*

167 F379 .....

**Textual Amendments**  
F379 Sch. 13 para. 167 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

168 F380 .....

**Status:** Point in time view as at 01/04/2009. This version of this Act contains provisions that are not valid for this point in time.  
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**Textual Amendments**

**F380** Sch. 13 para. 168 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

169 **F381** .....

**Textual Amendments**

**F381** Sch. 13 para. 169 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

*The Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9)*

170 In section 14(5)(b) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (Secretary of State to send supervised release order to clerk to the justices), for “clerk” substitute “ chief executive ”.

*The Pension Schemes Act 1993 (c.48)*

171 **F382** .....

**Textual Amendments**

**F382** Sch. 13 para. 171 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art. 3(aa)(bb)**

*The Drug Trafficking Act 1994 (c.37)*

172 **F383** .....

**Textual Amendments**

**F383** Sch. 13 para. 172 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458, **Sch. 12**; S.I. 2003/333, **art. 2**, **Sch.** (subject to arts. 3-14 (as amended by S.I. 2003/531, arts. 3, 4))

*The Road Traffic (New Drivers) Act 1995 (c.13)*

- 173 (1) Paragraph 3 of Schedule 1 to the Road Traffic (New Drivers) Act 1995 (duty to provide test certificate) is amended as follows.
- (2) In sub-paragraph (3), in paragraph (b) (certificate not previously supplied to clerk), for “clerk” substitute “ proper officer ”.
- (3) After that sub-paragraph insert—
- “(3A) In sub-paragraph (3) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
  - (b) in relation to any other court, the clerk of the court.”

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*The Merchant Shipping Act 1995 (c.21)*

- 174 (1) Section 68 of the Merchant Shipping Act 1995 (power to summon witness) is amended as follows.
- (2) In subsection (4) (particulars of fine to be given to clerk), for “clerk” substitute “proper officer”.
- (3) After that subsection insert—
- “(4A) In subsection (1) above “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to a magistrates’ court in Northern Ireland, the clerk of the court.”

*The Criminal Procedure (Scotland) Act 1995 (c.46)*

- 175 In section 234(9) of the Criminal Procedure (Scotland) Act 1995 (copies of probation order relating to person resident in England and Wales to be sent to clerk of relevant area), for “clerk to the justices” substitute “justices’ chief executive”.

*The Reserve Forces Act 1996 (c.14)*

- 176 The Reserve Forces Act 1996 has effect subject to the following amendments.
- 177 (1) Paragraph 7 of Schedule 2 (delivery into military, air-force or naval custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.
- (2) In sub-paragraph (3) (fee payable to clerk of the court), for “clerk” substitute “proper officer”.
- (3) After that sub-paragraph insert—
- “(3A) In sub-paragraph (3) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court.”
- 178 (1) Paragraph 9 of Schedule 3 (proof of outcome of civil trial) is amended as follows.
- (2) In sub-paragraphs (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “proper officer”.
- (3) For sub-paragraph (4) substitute—
- “(4) In this paragraph “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

*The Crime and Disorder Act 1998 (c.37)*

- 179 (1) Schedule 3 to the Crime and Disorder Act 1998 (procedure where no committal proceedings for indictable-only offence) is amended as follows.



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- (2) In paragraph 4(9), (10) and (11) (power of justice to take depositions etc), for “clerk of” substitute “ chief executive to ”.
- (3) In paragraph 6(7) (Crown Court to inform clerk of magistrates’ court of outcome of trial), for “clerk of” substitute “ justices’ chief executive for ”.

## SCHEDULE 14

Section 105.

### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART I

##### GENERAL

- 1 (1) The Lord Chancellor [<sup>F384</sup>or Secretary of State] may by order made by statutory instrument make such transitional provisions and savings he considers appropriate in connection with the coming into force of any provision of this Act.
- (2) Nothing in the following provisions of this Schedule limits sub-paragraph (1).
- (3) Nothing in this Schedule limits the operation of sections 16 and 17 of the <sup>M123</sup>Interpretation Act 1978 (effect of repeals).

#### Textual Amendments

**F384** Words in Sch. 14 para. 1(1) inserted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, Sch. 2 para. 11(4)

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

**C21** Sch. 14 para. 1(1): certain functions transferred (28.2.2003) to the Scottish Ministers by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2003 (S.I. 2003/415), arts. 1, 2, Sch. (with art. 5)

#### Marginal Citations

**M123** 1978 c.30.

#### PART II

##### LEGAL SERVICES COMMISSION

##### *Replacement of Legal Aid Board by Legal Services Commission*

- 2 (1) When section 1 of this Act comes into force—
  - (a) the functions of the Legal Aid Board, and
  - (b) the property, rights and liabilities of the Board,shall by virtue of this paragraph be transferred to the Legal Services Commission.

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- (2) Sub-paragraph (1)(b) has effect in relation to any property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would otherwise prevent or restrict their transfer.
- 3 (1) Anything which, immediately before section 1 of this Act comes into force, is in the process of being done by or in relation to the Legal Aid Board may, if it relates to anything transferred by paragraph 2(1), be continued by or in relation to the Legal Services Commission.
- (2) Anything done (or having effect as if done) by or in relation to the Legal Aid Board before the time when section 1 of this Act comes into force for the purpose of, or in connection with, anything transferred by paragraph 2(1) shall, so far as is required for continuing its effect after that time, have effect as if done by or in relation to the Legal Services Commission.
- (3) Any reference to the Legal Aid Board in any document, including any enactment, constituting or relating to anything transferred by paragraph 2(1) shall, so far as is required for giving effect to that paragraph, be construed as a reference to the Legal Services Commission.
- 4 Where rights and liabilities under a contract of employment are transferred under paragraph 2(1)(b)—
- (a) for the purposes of Part XI of the <sup>M124</sup>Employment Rights Act 1996 (redundancy payments etc.), the employee shall not be regarded as having been dismissed by virtue of the transfer, and
- (b) for the purposes of that Act, the employee's period of employment with the Legal Aid Board shall count as a period of employment with the Legal Services Commission and the change of employment shall not break the continuity of the period of employment.

**Marginal Citations**

[M124 1996 c.18.](#)

- 5 (1) Any arrangements made by the Legal Aid Board under paragraph 10(2) of Schedule 1 to the <sup>M125</sup>Legal Aid Act 1988 (power to provide for pensions) before the time when section 1 of this Act comes into force shall be treated after that time (so far as may be necessary to preserve their effect) as having been made by the Legal Services Commission under paragraph 10(1) of Schedule 1 to this Act.
- (2) For the purposes of any such arrangement as it has effect after section 1 of this Act comes into force, a person's period of employment with the Legal Aid Board shall count as a period of employment with the Legal Services Commission.

**Marginal Citations**

[M125 1988 c.34.](#)

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### *Winding-down of Legal Aid Board*

- 6 (1) The Legal Aid Board shall give to the Legal Services Commission all the information, prepare all the documents and do all other things which appear to the Commission appropriate for the purpose of facilitating—
- (a) the carrying into effect of the transfers effected by paragraph 2(1), and
  - (b) the exercise of any functions transferred by paragraph 2(1)(a) or conferred or imposed on the Commission by this Schedule;
- and the Legal Aid Board may do anything else which appears to it appropriate for that purpose.
- (2) The Legal Aid Board shall, as soon as possible after the time when section 1 of this Act comes into force, prepare a report in accordance with section 5(3) of the <sup>M126</sup>Legal Aid Act 1988—
- (a) in relation to the last financial year ending before that time (if it has not done so before then), and
  - (b) in relation to the period between the end of that financial year and that time (as if that period were a financial year).
- (3) The Legal Aid Board shall, as soon as possible after the time when section 1 of this Act comes into force, prepare a statement of accounts in accordance with section 7(1) of the Legal Aid Act 1988—
- (a) in relation to the last financial year ending before that time (if it has not done so before then), and
  - (b) in relation to the period between the end of that financial year and that time (as if that period were a financial year).
- (4) Subsections (2) to (7) of section 7 to the Legal Aid Act 1988 shall, after section 1 of this Act comes into force, apply in relation to—
- (a) the preparation of a statement under sub-paragraph (3)(a) or (b), and
  - (b) the auditing of accounts kept under that section for the periods mentioned in sub-paragraph (3)(a) and (b).
- (5) From the time when section 1 of this Act comes into force, the Legal Services Commission shall make available to the Legal Aid Board such facilities as it may reasonably require for exercising its functions under this paragraph.
- (6) The Lord Chancellor may pay to members of the Legal Aid Board—
- (a) any remuneration which he considers appropriate in respect of the performance of their duties as members of the Board after the time when section 1 of this Act comes into force, and
  - (b) any allowances which he determines should be paid to them in respect of expenses properly incurred by them in the performance of those duties after that time.
- (7) The Lord Chancellor may determine that, as from the coming into force of section 1 of this Act, the number of members of the Legal Aid Board shall be reduced to a number which he considers appropriate (and may, accordingly, remove any such members from office).
- (8) The Lord Chancellor shall meet the costs of remunerating auditors and any other costs incurred by the Legal Aid Board in connection with the exercise of any of its functions under this paragraph.

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#### Marginal Citations

M126 1988 c.34.

#### *Abolition of Legal Aid Board*

- 7 (1) The Legal Aid Board shall cease to exist when the Lord Chancellor, being satisfied that its duties under paragraph 6 have been discharged, by order made by statutory instrument so specifies.
- (2) Nothing in this Schedule, and no amendment or repeal made by this Act, affects—
- (a) the continuance of the Legal Aid Board for the purpose of exercising its functions under paragraph 6, or
  - (b) the continued operation for that purpose of any enactment relating to the Board.

#### *Further provision for Legal Aid Board and Legal Services Commission*

- 8 (1) The Lord Chancellor may by order made by statutory instrument make any consequential, incidental, supplementary or transitional provisions, and any savings, which appear to him to be appropriate in consequence of or otherwise in connection with—
- (a) the transfers effected by paragraph 2(1), or
  - (b) the abolition of the Legal Aid Board.
- (2) An order under sub-paragraph (1) may include provisions in the form of amendments or repeals of this Part of this Schedule or any other enactment.

#### *Funding of representation by Lord Chancellor*

- 9 (1) Until such date as the Lord Chancellor may by order made by statutory instrument appoint, the duty of the Commission under section 14(1) of this Act shall have effect as a duty of the Commission or the Lord Chancellor, as the Lord Chancellor may specify.
- (2) To the extent that that duty has effect as a duty of the Lord Chancellor he shall comply with it by making payments to persons or bodies in respect of the provision of representation by them; and, accordingly, references in this Act and any other enactment to representation (or services) funded by the Commission as part of the Criminal Defence Service include representation funded by the Lord Chancellor under this sub-paragraph.
- (3) The Lord Chancellor shall by order made by statutory instrument make provision about such payments (including provision for reviews of, or appeals against, determinations required for the purposes of the order); and subsections (2) and (3) of section 25 of this Act shall apply to it (as if it were a remuneration order as defined by subsection (4) of that section).

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### PART III

#### LEGAL SERVICES

##### *Conditional fee agreements*

- 10 Any order made under section 58(4) or (5) of the <sup>M127</sup>Courts and Legal Services Act 1990 and in force immediately before the time when section 27 of this Act comes into force shall have effect after that time (until revoked) as if made under section 58(4) as substituted by that section.

#### Marginal Citations

[M127 1990 c.41.](#)

- 11 Any regulations made under section 58(1)(c) of the Courts and Legal Services Act 1990 and in force immediately before the time when section 27 of this Act comes into force shall have effect after that time (until revoked) as if made under section 58(3)(c) as substituted by that section.

##### *Legal aid in Scotland*

- 12 If section 33 of this Act comes into force before section 1 of the <sup>M128</sup>Tax Credits Act 1999, the reference in section 33 to disabled person's tax credit shall, until section 1 of the Tax Credits Act 1999 comes into force, have effect as a reference to disability working allowance.

#### Marginal Citations

[M128 1999 c.10.](#)

##### *Abolition of ACLEC*

- 13 The Lord Chancellor may by order made by statutory instrument make provision in connection with the abolition of the Lord Chancellor's Advisory Committee on Legal Education and Conduct (including, in particular, provision about its staff and property).

##### *Regulations and rules for barristers and solicitors*

- 14 (1) For the purposes of section 27 of the <sup>M129</sup>Courts and Legal Services Act 1990—
- (a) the qualification regulations and rules of conduct of the General Council of the Bar at the time when section 36 of this Act comes into force shall (so far as relating to rights of audience) be deemed to have been approved in relation to the right specified in section 31(1) of that Act (as substituted by that section), and
  - (b) the qualification regulations and rules of conduct of the Law Society at that time shall (so far as relating to rights of audience) be deemed to have been

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approved in relation to the right specified in section 31(2)(a) of that Act (as so substituted).

- (2) For the purposes of section 28 of that Act, the qualification regulations and rules of conduct of the Law Society at that time shall (so far as relating to rights to conduct litigation) be deemed to have been approved in relation to the right specified in section 31(2)(b) of that Act (as substituted by section 36 of this Act).

**Marginal Citations**

**M129** 1999 c.41.

- 15 Where a person was called to the Bar or admitted as a solicitor before the coming into force of section 36 of this Act, he shall be taken for the purposes of determining for how many years he has had one of the qualifications listed in section 71(3) of the Courts and Legal Services Act 1990 as having been granted a right of audience before every court in relation to all proceedings on his call or admission.

*Existing rights of solicitors in certain Crown Court centres*

- 16 (1) If section 36 of this Act comes into force before the repeal by this Act of section 83 of the <sup>M130</sup>Supreme Court Act 1981, section 83 shall have effect until that repeal comes into force subject to the modifications specified in sub-paragraphs (2) and (3).
- (2) Subsection (1) shall have effect as if for “may have rights of audience in the Crown Court” there were substituted “ shall be entitled to exercise their right of audience in the Crown Court even though they do not satisfy the regulations of the Law Society relating to the education and training which solicitors must receive in order to exercise their right of audience in the Crown Court ”.
- (3) Subsection (3) shall have effect as if for “with” there were substituted “ who may exercise ”.

**Marginal Citations**

**M130** 1981 c.54.

*Authorised bodies*

- 17 (1) An Order in Council made pursuant to a recommendation under section 29 of the Courts and Legal Services Act 1990 and in force immediately before the time when Schedule 5 to this Act comes into force shall have effect after that time (unless revoked) as if made pursuant to a recommendation under Part I of Schedule 4 to that Act as substituted by Schedule 5 to this Act.
- (2) Any approval under Part II of Schedule 4 to the Courts and Legal Services Act 1990 in force immediately before the time when Schedule 5 to this Act comes into force shall have effect after that time as an approval under that Part of that Schedule as substituted by Schedule 5 to this Act.

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## PART IV

### REPORTING OF PROCEEDINGS ABOUT CHILDREN

- 18 Section 97(2) of the <sup>M131</sup>Children Act 1989 (as amended by section 72 of this Act) shall not apply in relation to proceedings before a county court or the High Court which have begun before the coming into force of that section.

#### Marginal Citations

[M131 1989 c.41.](#)

## PART V

### MAGISTRATES AND MAGISTRATES' COURTS

#### *Commission areas*

- 19 The first order under section 1 of the <sup>M132</sup>Justices of the Peace Act 1997, as substituted by section 74 of this Act, shall specify each of the areas which was a commission area immediately before the time when that section comes into force; and those areas shall continue to be commission areas from that time until the coming into force of that first order.

#### Marginal Citations

[M132 1997 c.25.](#)

#### *Petty sessions areas*

- 20 The first order under section 4 of the Justices of the Peace Act 1997, as substituted by section 75 of this Act, shall specify each of the areas which was a petty sessions area immediately before the time when that section comes into force; and those areas shall continue to be petty sessions areas from that time until the coming into force of that first order.

#### *Lord Mayor and aldermen of City of London*

- 21 The person who is the Lord Mayor of London, and the persons who are aldermen of the City of London, at the end of the period of two months beginning with the day on which this Act is passed shall be treated as having at that time been appointed in accordance with section 5 of the Justices of the Peace Act 1997 as justices of the peace for the commission area which includes the City of London; and, accordingly, subsection (1A) of section 6 of that Act (inserted by paragraph 48 of Schedule 10 to this Act) has effect in relation to them.

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

- 22 Any person who is a stipendiary magistrate or a metropolitan stipendiary magistrate immediately before the time when section 78 of this Act comes into force shall be

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treated as having been appointed to be a District Judge (Magistrates' Courts) at that time (unless he would have been required by reason of age to vacate his office at that time).

- 23 Any person who, immediately before the time when section 78 of this Act comes into force, is authorised under section 13(1)(a) or 19 of the Justices of the Peace Act 1997 to act as a stipendiary magistrate or metropolitan stipendiary magistrate shall be treated as having been appointed to be a Deputy District Judge (Magistrates' Courts) at that time for the remainder of the period for which he is so authorised.

*District Judges (Magistrates' Courts): pensions*

- 24 (1) For the purposes specified in sub-paragraph (2), a person who—
- (a) is a stipendiary magistrate or metropolitan stipendiary magistrate immediately before the time when section 78 of this Act comes into force, and
  - (b) is at that time a member of a judicial pension scheme constituted by the <sup>M133</sup>Judicial Pensions Act 1981,
- shall not be regarded as having been appointed (by virtue of paragraph 22) to be a District Judge (Magistrates' Courts) but shall instead be regarded as if he continued to be a stipendiary magistrate or metropolitan stipendiary magistrate.
- (2) The purposes referred to in sub-paragraph (1) are those of—
- (a) the Judicial Pensions Act 1981,
  - (b) any scheme constituted by that Act, and
  - (c) any enactment made by or under an Act which applies to such a scheme or to rights arising under such a scheme.

**Marginal Citations**

[M133 1981 c.20.](#)

*District Judges (Magistrates' Courts): retirement*

- 25 For the purposes of section 26 of and Schedule 7 to the <sup>M134</sup>Judicial Pensions and Retirement Act 1993 (date of retirement for holders of a relevant office immediately before the time when section 26 came into force) a person who held the office of stipendiary magistrate or metropolitan stipendiary magistrate at any time during the period beginning when section 26 came into force and ending when Schedule 11 to this Act comes into force shall be treated as having held a relevant office at that time in spite of the amendment made to Schedule 5 to the Judicial Pensions and Retirement Act 1993 by Schedule 11 to this Act.

**Marginal Citations**

[M134 1993 c.8.](#)



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### *District Judges (Magistrates' Courts): legal aid*

- 26 If paragraph 36 of Schedule 11 to this Act comes into force before the repeal by this Act of section 19(5) of the <sup>M135</sup>Legal Aid Act 1988, that provision shall have effect as if, in the definition of “proceedings for dealing with an offender as a fugitive offender”, the reference to a metropolitan stipendiary magistrate were to a District Judge (Magistrates' Courts).

#### **Marginal Citations**

**M135** 1988 c.34.

### *Committals for sentence*

- 27 Section 79 of, and Part V(4) of Schedule 15 to, this Act do not apply to any hearing of proceedings on committal to the Crown Court if those proceedings have begun before the coming into force of that section and that Part of that Schedule.

### *Youth courts*

- 28 (1) Subject to any order under paragraph 6 of the Second Schedule to the <sup>M136</sup>Children and Young Persons Act 1933 (as amended by this Act), there shall from the coming into force of section 77 of this Act be a combined youth court panel for the area consisting of the inner London boroughs and the City of London (in spite of paragraph 3 of that Schedule).
- [<sup>F385</sup>(2) If section 77 of this Act comes into force before section 83 of this Act, then until section 83 comes into force paragraph 9 of the Second Schedule to the Children and Young Persons Act (as amended by this Act) shall not prevent there being a combined youth panel for the City of London and any other area.]

#### **Textual Amendments**

**F385** Sch. 14 para. 28(2) repealed (1.4.2001) by 1999 c.22, ss. 106, 108(1), Sch. 15 Pt. V(6); S.I. 2001/916, art. 2(c)(i)

#### **Marginal Citations**

**M136** 1933 c.12.

### *Magistrates' courts committee areas*

- 29 The first order under section 27A(2) of the <sup>M137</sup>Justices of the Peace Act 1997, as substituted by section 81 of this Act, shall specify each of the areas outside Greater London which was a magistrates' courts committee area immediately before the time when that section comes into force; and those areas shall continue to be magistrates' courts committee areas from that time until the coming into force of that first order.

#### **Marginal Citations**

**M137** 1997 c.25.

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*Magistrates' courts committees in Greater London*

- 30 (1) From the end of the period of two months beginning with the day on which this Act is passed until the Greater London Magistrates' Courts Authority becomes the magistrates' courts committee for Greater London, the Justices of the Peace Act 1997 shall continue to have effect in relation to magistrates' courts committees in Greater London without—
- (a) the amendments made by sections 81 and 82 of this Act, and
  - (b) the repeal of sections 32 and 38(6) of that Act made by Part V(5) of Schedule 15 to this Act,
- but subject to the modifications specified in sub-paragraphs (2) to (5).
- (2) Section 28 shall have effect as if—
- (a) in subsection (1), for “to (4)” there were substituted “ and (3) ”,
  - (b) in subsection (2), for “Not more than two other” there were substituted “ Other ”,
  - (c) for subsections (3) and (4) there were substituted—
    - “(3) The inner London magistrates' courts committee shall include either—
      - (a) the Senior District Judge (Chief Magistrate) and two District Judges (Magistrates' Courts) appointed by him; or
      - (b) (if he decides not to be a member) three District Judges (Magistrates' Courts) appointed by him.”,
 and
    - (d) in subsection (5), for “subsections (3) and (4)” there were substituted “ subsection (3) ”.
- (3) Section 29 shall have effect as if—
- (a) in subsection (3), for “, (3) and (4)” there were substituted “ and (3) ”, and
  - (b) after that subsection there were inserted—
    - “(3A) The regulations may make provision for the payment of remuneration to members of a magistrates' courts committee co-opted or appointed under section 28(2) above.”
- (4) Section 30 shall have effect as if the words “Subject to subsection (2) below,” in subsection (1) and subsection (2) were omitted.
- (5) Section 38(6) shall have effect as if—
- (a) for the words “chief metropolitan stipendiary magistrate” there were substituted “ Senior District Judge (Chief Magistrate) (if he is a member) ”, and
  - (b) for “28(3) and (4)” there were substituted “ 28(3) ”.
- (6) This paragraph has effect subject to paragraph 31.
- 31 (1) If section 78 of this Act has not come into force at the end of the period of two months beginning with the day on which this Act is passed, paragraph 30 shall apply as follows until that section comes into force.
- (2) The subsection (3) treated as substituted by sub-paragraph (2)(c) of that paragraph shall have effect as if—

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- (a) for “Senior District Judge (Chief Magistrate)” there were substituted “ chief metropolitan stipendiary magistrate ”, and
  - (b) for “District Judges (Magistrates’ Courts)” (in both places) there were substituted “ metropolitan stipendiary magistrates ”.
- (3) Sub-paragraph (5) of that paragraph shall have effect as if paragraph (a) read—
- “(a) after the words “chief metropolitan stipendiary magistrate” there were inserted “(if he is a member)”, and”.

*The Greater London Magistrates’ Courts Authority*

- 32 (1) The Lord Chancellor may by order made by statutory instrument make provision in connection with the establishing of the Greater London Magistrates’ Courts Authority, including—
- (a) provision for the Authority to incur liabilities and to exercise any function before the time when it becomes the magistrates’ courts committee for Greater London, and
  - (b) provision for the abolition of the magistrates’ courts committees for areas in Greater London immediately before that time.
- (2) For the purposes of sections 39A and 39B of the <sup>M138</sup>Justices of the Peace Act 1997 (inserted by section 86 of this Act) the Authority shall be treated as a magistrates’ courts committee until it actually becomes the magistrates’ courts committee for Greater London.

**Marginal Citations**

M138 1997 c.25.

*Schemes for transfer of property etc. to GLMCA*

- 33 (1) The Lord Chancellor may make one or more schemes for the transfer to the Greater London Magistrates’ Courts Authority of such of the property, rights and liabilities of—
- (a) a magistrates’ courts committee,
  - (b) the Receiver for the Metropolitan Police District,
  - (c) the council of an outer London borough, or
  - (d) the Common Council of the City of London,
- as appear to him to be appropriate to be transferred for the performance of the Authority’s functions.
- (2) In this paragraph references to the “transferor”, in relation to a scheme, are to the person mentioned in sub-paragraph (1) from whom property is transferred under the scheme.
- (3) A scheme under this paragraph may—
- (a) provide for transfers under the scheme to be on such terms (including terms requiring payment to the transferor) as the Lord Chancellor thinks fit,
  - (b) apportion or create rights and liabilities in relation to any property transferred, and

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- (c) make any appropriate, consequential, incidental or supplementary provisions.
- (4) On the day appointed by a scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this sub-paragraph, and in spite of any provision (of whatever nature) which would otherwise prevent or restrict the transfer, be transferred in accordance with the scheme.
- (5) Anything done (or having effect as if done) by or in relation to the transferor before the time when a scheme comes into effect for the purposes of, or in connection with, anything transferred under the scheme shall, so far as is required for continuing its effect after that time, have effect as if done by or in relation to the Authority.
- (6) Any reference to the transferor in any document, including any enactment, constituting or relating to anything transferred under a scheme shall, so far as is required for giving effect to the scheme, be construed as a reference to the Authority.
- (7) Where rights and liabilities under a contract of employment are transferred under a scheme under this paragraph—
  - (a) for the purposes of Part XI of the <sup>M139</sup>Employment Rights Act 1996 (redundancy payments etc.), the employee shall not be regarded as having been dismissed by virtue of the transfer, and
  - (b) for the purposes of that Act, the employee's period of employment with the transferor shall count as a period of employment with the Authority, and the change of employment shall not break the continuity of the period of employment.

**Marginal Citations**

**M139** 1996 c.18.

*Stamp duty on transfer schemes*

- 34 (1) Stamp duty shall not be chargeable—
- (a) on any scheme under paragraph 33, or
  - (b) on any instrument or agreement which is certified to the Commissioners of Inland Revenue by the Lord Chancellor as made in pursuance of such a scheme.
- (2) No such scheme, and no instrument or agreement which is certified as mentioned in sub-paragraph (1)(b), shall be taken to be duly stamped unless—
- (a) it has, in accordance with section 12 of the <sup>M140</sup>Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with that duty or that it is duly stamped, or
  - (b) it is stamped with the duty to which it would be liable, apart from this paragraph.
- (3) Section 12 of the <sup>M141</sup>Finance Act 1895 shall not operate to require—
- (a) the delivery to the Inland Revenue of a copy of this Act, or
  - (b) the payment of stamp duty under that section on any copy of this Act,
- and shall not apply in relation to any instrument on which, by virtue of sub-paragraph (1), stamp duty is not chargeable.

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#### Marginal Citations

M140 1891 c.39.

M141 1895 c.16.

#### [<sup>F386</sup>Transfer schemes: stamp duty land tax

#### Textual Amendments

**F386** Sch. 14 para. 34A and heading inserted (1.12.2003) by The Stamp Duty Land Tax (Consequential Amendment of Enactments) Regulations 2003 (S.I. 2003/2867), reg. 2, Sch. para. 29

- 34A (1) For the purposes of stamp duty land tax, a land transaction effected by or in pursuance of a scheme under paragraph 33 is exempt from charge.
- (2) Relief under this paragraph must be claimed in a land transaction return or an amendment of such a return.
- (3) In this paragraph—
- “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
- “land transaction return” has the meaning given by section 76(1) of that Act.]

#### *Continuing provision of court-houses, accommodation etc*

- 35 (1) The Lord Chancellor may by regulations provide that any petty sessional court-house or other accommodation specified in the regulations which immediately before the time when paragraph 33 comes into force was provided by—
- (a) the council of an outer London borough, or
- (b) the Common Council of the City of London,
- pursuant to section 55 of the <sup>M142</sup>Justices of the Peace Act 1997 (and is not transferred under a scheme under paragraph 33) shall after that time be provided by that council to the Greater London Magistrates’ Courts Authority for the performance of the functions referred to in section 59A(1) of that Act.
- (2) Regulations under sub-paragraph (1) may—
- (a) prescribe terms and conditions, including conditions as to payment, on which any court-house or other accommodation is to be provided, and
- (b) prohibit a council providing a court-house or other accommodation under sub-paragraph (1) from altering or extending it without the consent of the Lord Chancellor.
- (3) Any duty imposed on a council by regulations under sub-paragraph (1) may at any time be—
- (a) varied or restricted by agreement between the council and the Lord Chancellor, or
- (b) terminated by the Lord Chancellor after consulting the council.

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- (4) Regulations under sub-paragraph (1) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Marginal Citations**

M142 1997 c.25.

*Pensions of inner London court staff*

- 36 (1) The Lord Chancellor may by order made by statutory instrument make provision about the provision of pensions for or in respect of persons who are or have been members of the inner London court staff.
- (2) An order under this paragraph may include provision for, or in connection with—
- (a) enabling persons to participate, or continue to participate, in any pension scheme and requiring their employers to make contributions under that scheme, and
  - (b) the administration or management of pension schemes or pension funds.
- (3) Provision of the kind specified in sub-paragraph (2)(a) may—
- (a) with the consent of the Minister for the Civil Service, include provision for section 1 of the <sup>M143</sup>Superannuation Act 1972 (pensions of civil servants etc.) to apply to persons who are or have been members of the inner London court staff, or
  - (b) include provision for persons who have been members of the inner London court staff but who are employees of the Greater London Magistrates' Courts Authority by virtue of a scheme under paragraph 33 to be regarded as continuing to be members of the metropolitan civil staffs for the purposes of section 15 of the <sup>M144</sup>Superannuation (Miscellaneous Provisions) Act 1967 (pensions of metropolitan civil staffs).
- (4) An order under this paragraph containing provision of the kind specified in sub-paragraph (3)(a) may also contain provision for such body or person as may be specified in the order to pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to such provision (so far as referable to that body or person) in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.
- (5) Where an order is made under this paragraph containing provision of the kind specified in sub-paragraph (3)(a), the Minister for the Civil Service may, to such extent and subject to such conditions as he thinks fit—
- (a) delegate to any person the function of administering a scheme made under section 1 of the Superannuation Act 1972, so far as relating to persons who are or have been members of the inner London court staff, or
  - (b) authorise the exercise of that function (so far as so relating) by, or by employees of, any person.
- (6) A person to whom the function of administering a scheme made under section 1 of the Superannuation Act 1972 is delegated under sub-paragraph (5)(a) may, to such extent and subject to such conditions as he may determine, authorise the exercise of that function by, or by employees of, any person.

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- (7) Where a person is authorised under sub-paragraph (5)(b) or (6) to exercise the function of administering a scheme made under section 1 of the Superannuation Act 1972, anything done or omitted to be done by or in relation to him (or an employee of his) in, or in connection with, the exercise or purported exercise of the function shall be treated for all purposes as done or omitted to be done by the person who authorised him.
- (8) Sub-paragraph (7) does not apply for the purposes of—
- (a) any criminal proceedings against the authorised person (or any employee of his), or
  - (b) any contract between him and the person who authorised him, so far as relating to the function.
- (9) An order under this paragraph may provide that any enactment repealed by this Act shall continue to have effect for any purpose specified in the order with such modifications as may be so specified.
- (10) A statutory instrument containing an order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this paragraph the “inner London court staff” means—
- (a) the justices’ chief executive employed by the magistrates’ courts committee for the area consisting of the inner London boroughs,
  - (b) any justices’ clerk for that area, and
  - (c) staff of the magistrates’ courts committee for that area.

**Marginal Citations**

[M143 1972 c.11.](#)

[M144 1967 c.28.](#)

*Justices’ chief executives*

- 37 (1) If section 90 of this Act comes into force before the repeal by this Act of Schedule 3 to the <sup>M145</sup>Legal Aid Act 1988, that Schedule shall have effect until that repeal comes into force subject to the modifications specified in sub-paragraphs (2) and (3).
- (2) Paragraphs 3(1) and (2) and 4(1) shall have effect as if for “clerk of” there were substituted “justices’ chief executive for”.
- (3) Paragraph 4(2) shall have effect—
- (a) as if for “clerk of” there were substituted “justices’ chief executive for”, and
  - (b) as if the words from “and section” to the end were omitted.

**Marginal Citations**

[M145 1988 c.34.](#)

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## SCHEDULE 15

Section 106.

## REPEALS AND REVOCATIONS

## PART I

## LEGAL SERVICES COMMISSION

**Commencement Information**

**I8** Sch. 15 Pt. I wholly in force; Sch. 15 Pt. I not in force at Royal Assent see s. 108; Sch. 15 Pt. I in force for specified purposes (1.4.2000) by S.I. 2000/774, art. 2(c)(i), Sch.; Sch. 15 Pt. I in force insofar as not already in force at 2.4.2001 by S.I. 2001/916, art. 3(b)

Reference	Short title or title	Extent of repeal or revocation
1967 c. 13.	The Parliamentary Commissioner Act 1967.	In Schedule 2, the entry relating to the Legal Aid Board.
1971 c. 32.	The Attachment of Earnings Act 1971.	In section 25(1), the definition of “legal aid contribution order”.
1973 c. 62.	The Powers of Criminal Courts Act 1973.	In section 21(2), the words from “, and in subsection” to the end.
1974 c. 47.	The Solicitors Act 1974.	In section 47, in subsection (2C), the words “excluding any person from legal aid work”, in subsection (2D), the words “from such work” and subsection (6).
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part III, the entries relating to the chairman of the Legal Aid Board and a member of the Legal Aid Board.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part III, the entries relating to the chairman of the Legal Aid Board and a member of the Legal Aid Board.
1982 c. 48.	The Criminal Justice Act 1982.	In section 3(2), the words from “, and in subsection” to the end.
1985 c. 61.	The Administration of Justice Act 1985.	Section 41(3).



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		In section 42, in subsection (3), the words “from such work” and subsection (4)(b) and the preceding “and”. Section 43(4). Section 44(4).
1988 c. 34.	The Legal Aid Act 1988.	Sections 1 to 32. Sections 34 to 43. Section 45. Section 46. Schedules 1 to 3. In Schedule 5, paragraphs 2, 3, 4, 5, 6(a), 7(a), 8, 9, 10, 12, 16, 18, 19(b) and the preceding “and”, 20, 21 and 22. Schedules 6 to 8.
1989 c. 41.	The Children Act 1989.	Section 99. In Schedule 12, paragraph 45. In Schedule 14, paragraph 40.
S.I. 1989/549.	The Civil Legal Aid (Matrimonial Proceedings) Regulations 1989.	The whole instrument.
1990 c. 41.	The Courts and Legal Services Act 1990.	Section 59. In Schedule 17, paragraph 19. In Schedule 18, paragraphs 59 to 63.
1991 c. 53.	The Criminal Justice Act 1991.	In Schedule 6, paragraph 9. In Schedule 11, paragraph 40(2)(q).
S.I. 1991/1924.	The Legal Aid Act 1988 (Children Act 1989) Order 1991.	The whole instrument.
S.I. 1991/1997.	The Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991.	In the Schedule, paragraph 69.
S.I. 1991/2036.	The Civil Legal Aid (General) (Amendment) (No.2) Regulations 1991.	Regulation 3.
1992 c. 6.	The Social Security (Consequential Provisions) Act 1992.	In Schedule 2, paragraph 97.
1992 c. 53.	The Tribunals and Inquiries Act 1992.	In Schedule 3, paragraph 21.

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1993 c. 19.	The Trade Union Reform and Employment Rights Act 1993.	In Schedule 8, paragraph 39.
S.I. 1993/1354.	The Civil Legal Aid (Scope) Regulations 1993.	The whole instrument.
S.I. 1994/2768.	The Legal Aid (Scope) Regulations 1994.	Regulation 2.
1995 c. 35.	The Criminal Appeal Act 1995.	In Schedule 2, paragraph 17.
1996 c. 18.	The Employment Rights Act 1996.	In Schedule 1, paragraph 36.
1996 c. 25.	The Criminal Procedure and Investigations Act 1996.	Section 46(2).
1996 c. 27.	The Family Law Act 1996.	Section 23(9). Part III. In Schedule 8, in Part I, paragraph 39 and Part II.
1997 c. 25.	The Justices of the Peace Act 1997.	In Schedule 5, paragraph 24.
1998 c. 37.	The Crime and Disorder Act 1998.	Section 49(1)(j). Section 50(5). In Schedule 8, paragraph 67.
1999 c. 23.	The Youth Justice and Criminal Evidence Act 1999.	Section 40(2).

## PART II

### PROVISION OF LEGAL SERVICES

#### Commencement Information

**I9** Sch. 15 Pt. II wholly in force at 31.7.2000; Sch. 15 Pt. II not in force at Royal Assent see s. 108(1); Sch. 15 Pt. II in force for certain purposes at 27.9.1999 and for certain further purposes at 1.11.1999 by S.I. 1999/2657, arts. 2(d)(ii)(a), 3(b), Sch. 2 Pt. II; Sch. 15 Pt. II in force for certain further purposes at 1.1.2000 by S.I. 1999/3344, art. 2(d), Sch. 1 (with art. 4); Sch. 15 Pt. II in force at 31.7.2000 insofar as not already in force by S.I. 2000/1920, art. 2(c)

Chapter	Short title	Extent of repeal
41 Geo. 3 c. 79.	The Public Notaries Act 1801.	Section 13.
6 & 7 Vict. c. 90.	The Public Notaries Act 1843.	Section 6.
1974 c. 47.	The Solicitors Act 1974.	In section 32(4), the words “to the Director of Public

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		Prosecutions” and the words “, if the Director thinks fit,”. In section 87(1), in the definition of “building society”, the words “; and a reference to an account with a building society is a reference to a deposit account”.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entry relating to the Lord Chancellor’s Advisory Committee on Legal Education and Conduct.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part II, the entry relating to the Lord Chancellor’s Advisory Committee on Legal Education and Conduct.
1 1981 c. 54.	The Supreme Court Act 1981.	Section 83.
1985 c. 23.	The Prosecution of Offences Act 1985.	Section 4(1) to (3E).
1985 c. 61.	The Administration of Justice Act 1985.	Section 9(2)(g). Section 65. In Schedule 2, in paragraph 3, the words “to the Director of Public Prosecutions” and the words “, if the Director thinks fit,” and, in paragraph 11(2), the words from the beginning to “those provisions,”.
1987 c. 38.	The Criminal Justice Act 1987.	Section 1(9) to (11).
1990 c. 41.	The Courts and Legal Services Act 1990.	Sections 19 and 20 (and the heading preceding section 19). Section 24(3). Section 27, in subsection (2) (a)(ii), the words “the granting of” and subsections (3) and (6). In section 28, in subsection (2)(a)(ii), the words “the granting of”, subsection (3) and, in subsection (5), in the definition of “authorised body”, the word “and” at the end of paragraph (a).

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1996 c. 27.	The Family Law Act 1996.	<p>Section 57(11).  Section 67.  Section 71(7) and (8).  In section 113, in subsection (1), in the definition of “general notary”, paragraph (b) and the preceding “or” and, in subsection (10), paragraph (d) and the preceding “and”.  Section 123(1)(f) and (2)(e).  Schedules 1 and 2.  In Schedule 3—  in paragraph 3, in subparagraph (1) the words “with the approval of the Treasury” and, in subparagraph (2), the words “, with the consent of the Treasury,”,  in paragraph 4(2), the words “given with the consent of the Treasury”, and  in paragraph 9(3), the words “with the approval of the Treasury”.  In Schedule 18, paragraph 51.  In Schedule 19, paragraphs 2 and 3.</p>
1996 c. 27.	The Family Law Act 1996.	In Schedule 8, paragraph 61.

### PART III

#### APPEALS, COURTS, JUDGES AND COURT PROCEEDINGS

Chapter	Short title	Extent of repeal
23 Geo.5 c. 12.	The Children and Young Persons Act 1933.	In section 36, the proviso.
8 & 9 Eliz.2 c. 65.	The Administration of Justice Act 1960.	In section 13(2)(a), the words “a Divisional Court of”. Section 14(1). Section 15(2). In the Second Schedule, in Part I, paragraph 2.
1981 c. 54.	The Supreme Court Act 1981.	Section 18(1A) and (1B). Section 54(6), (7) and (10). In Schedule 2, in Part II of the list, the entry 10 relating

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		to the Registrar of Civil Appeals.
1984 c. 28.	The County Courts Act 1984.	In section 77, subsections (2) to (4) and, in subsection (8), the definition of “the relevant county court limit” and the preceding “and”.
1985 c. 61.	The Administration of Justice Act 1985.	In section 53, subsection (3) and, in subsection (6), the words “(except subsection (3))”.
1986 c. 45.	The Insolvency Act 1986.	In section 375(2), the words “, with the leave of the judge or of the Court of Appeal,”.
1990 c. 41.	The Courts and Legal Services Act 1990.	Section 7(3) and (4). Section 42(3).
1993 c. 50.	The Statute Law (Repeals) Act 1993.	In Schedule 2, paragraph 9.
1996 c. 25.	The Criminal Procedure and Investigations Act 1996.	Section 13(1)(cc).
1997 c. 12.	The Civil Procedure Act 1997.	In Schedule 2, paragraph 1(2).
1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 3, in paragraph 1(1), the words “on or before the relevant date”. In Schedule 8, paragraph 127(a).

## PART IV

### ENFORCEMENT OF COMMUNITY ORDERS

Chapter	Short title	Extent of repeal
1991 c. 53.	The Criminal Justice Act 1991.	In Schedule 2, paragraph 7(6) and, in paragraph 8A— in sub-paragraph (3), the words “and the probation order was made by a magistrates’ court”, sub-paragraphs (4) and (5), and in sub-paragraph (6), in the words treated as substituted in section 1A(1) of the Powers of Criminal Courts Act 1973, the words “or (5)”.

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1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 4, paragraphs 3 and 7(1).
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## PART V

### MAGISTRATES AND MAGISTRATES' COURTS

#### Commencement Information

**I10** Sch. 15 Pt. V partly in force; Sch. 15 Pt. V not in force at Royal Assent see s. 108(1); Sch. 15 Pt. V(1)(5) in force for certain purposes at 27.9.1999 see s. 108(3)(f)(4); Sch. 15 Pt. V(7) in force for certain purposes at 27.9.1999 by S.I. 1999/2657, art. 2(d)(ii)(c); Sch. 15 Pt. V(4) in force for certain purposes at 12.11.1999 by S.I. 1999/2657, art. 4; Sch. 15 Pt. V(6) in force for certain purposes at 1.3.2000 by S.I. 1999/3344, art. 3(b) (with art. 4); Sch. 15 Pt. V(3) in force at 31.8.2000 by S.I. 2000/1920, art. 3(c); Sch. 15 Pt. V(8) in force for certain purposes at 8.1.2001 by S.I. 2000/3280, art. 2(c); Sch. 15 Pt. V(8) in force insofar as not already in force at 19.2.2001 by S.I. 2001/168, art. 2(b); Sch. 15 Pt. V(6)(7) in force insofar as not already in force at 1.4.2001 by S.I. 2001/916, art. 2(c)(i)(ii)

(1)

#### Areas

Reference	Short title or title	Extent of repeal or revocation
6 & 7 Vict. c. 86.	The London Hackney Carriages Act 1843.	In section 24, the words from “, or, if he shall dwell” to “the said city,” the words “or justice” and the words “, or to some justice as aforesaid,”.
16 & 17 Vict. c. 33.	The London Hackney Carriage Act 1853.	In section 18, the words from “or if the offence,” in the second place, to the end.
31 & 32 Vict. c. 72.	The Promissory Oaths Act 1868.	In the Second Part of the Schedule, the words “for counties and boroughs”.
50 & 51 Vict. c. 55.	The Sheriffs Act 1887.	In section 38, the words from “(within” to “1997)”.
60 & 61 Vict. c. 26.	The Metropolitan Police Courts Act 1897.	Section 7(1).
10 & 11 Geo.5 c. 33.	The Maintenance Orders (Facilities for Enforcement) Act 1920.	In section 3(4), the words from “(within” to “1997)”.
23 Geo.5 c. 12.	The Children and Young Persons Act 1933.	Section 48(5). In the Second Schedule, in Part I, paragraph 8A.
2 & 3 Geo.6 c. xcvi.	The London Building Acts (Amendment) Act 1939.	In section 151(1)(bb), the word “the” immediately

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		preceding “magistrates’ courts”, the words from “in the inner” to “London)” and the words “in that area”.
11 & 12 Geo.6 c. 29.	The National Assistance Act 1948.	In section 43(4), the words from “(within” to “1997)”.
12, 13 & 14 Geo.6 c. 76.	The Marriage Act 1949.	In section 3(5), the words from “(within” to “1997)”.
14 & 15 Geo.6 c. 65.	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In Part II of Schedule 2, paragraph 5(b) and, in paragraph 6(b), in the third column, the words from “and where” to the end.
7 & 8 Eliz.2 c. 7.	The Manœuvres Act 1958.	In section 9, the definition of “petty sessions area”.
1964 c. 26.	The Licensing Act 1964.	In section 2, in subsection (1), the words from “, within” to the end and subsection (2A).
1964 c. 42.	The Administration of Justice Act 1964.	In section 12(1), the words from the beginning to “reference to the inner London area,”. In section 38(1), the definition beginning “London commission areas”. In Schedule 3, paragraph 29.
1969 c. 54.	The Children and Young Persons Act 1969.	In section 70(1), in the definition of “petty sessions area”, the words “has the same meaning as in the Magistrates’ Courts Act 1980, except that” and the word “it”.
1973 c. 18.	The Matrimonial Causes Act 1973.	In section 35(3), the words from “(within” to “1997)”.
1974 c. 47.	The Solicitors Act 1974.	Section 38(4).
1978 c. 22.	The Domestic Proceedings and Magistrates’ Courts Act 1978.	In section 88(1), the definitions of “commission area” and “petty sessions area”.
1980 c. 43.	The Magistrates’ Court Act 1980.	In section 52, the second sentence. In section 67, in subsection (4), the second sentence and subsection (8).

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		In section 150(1), the definitions of “commission area”, “London commission area” and “petty sessions area”.
		In Schedule 7, paragraphs 27 and 85.
1980 c. 66.	The Highways Act 1980.	In section 329(1), the definition of “petty sessions area”.
1984 c. 37.	The Child Abduction Act 1984.	In the Schedule, in paragraph 5(b), the words from “(within” to “1997)”.
S.I. 1985/1383.	The Local Government (Magistrates’ Courts etc.) Order 1985.	In the Schedule, paragraphs 1 and 2.
1988 c. 52.	The Road Traffic Act 1988.	In section 192(1), the definition of “petty sessions area”.
1988 c. 53.	The Road Traffic Offenders Act 1988.	In section 34C(2), the definition of “petty sessions area”.
		In section 89(1), the definition of “petty sessions area”, apart from the word “and” at the end.
1989 c. 41.	The Children Act 1989.	In Schedule 1, in paragraph 10(6), the words from “(within” to “1997)”.
		In Schedule 11, in paragraph 8(d), the words “and (8)”.
1990 c. 18.	The Computer Misuse Act 1990.	Section 11(6).
1992 c. 19.	The Local Government Act 1992.	In section 19(2)(d)(i), the words from “(within” to “1997)”.
1993 c. 47.	The Probation Service Act 1993.	In Schedule 1, paragraph 6(4).
1994 c. 19.	The Local Government (Wales) Act 1994.	In section 55(2)(a), the words from “(within” to “1997)”.
1994 c. 29.	The Police and Magistrates’ Courts Act 1994.	In Schedule 8, paragraph 35.
S.I. 1996/674.	The Local Government Changes for England (Magistrates’ Courts) Regulations 1996.	In the Schedule, paragraphs 2(1), (3) and (7) and 5.



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S.I. 1996/675.	The Magistrates' Courts (Wales) (Consequences of Local Government Changes) Order 1996.	In Part II of the Schedule, paragraph 7.
1997 c. 25.	The Justices of the Peace Act 1997.	Section 5(2)(b) and the preceding "and". In section 7(3), the words from "(whether" to "acting Chief Magistrate)". Section 21 (and the preceding heading). Section 23. In section 25, in subsection (1), the words " , other than the City of London," and subsection (3). In section 34(1)(a)(ii) and (3) (c), the words "any existing petty sessional division in". Sections 35 and 36. Section 68(2). In section 70, in subsection (1), the words from the beginning to "above," , the words "or to county justices" and the words "or justices for the City" and, in subsection (2), the words "or to justices or magistrates for a county or non-metropolitan county" and the words "or to justices or magistrates for the City". Section 71. In section 72, in subsection (1), the definition of "commission area", the definition of "London commission areas", "inner London area" and "outer London areas" and the definitions of "petty sessions areas", "preserved county" and "retained county", and subsection (2). Schedules 1 and 2. In Schedule 4, paragraph 6. In Schedule 5, paragraphs 1 to 8, 14, 16(b) and the preceding "and", 18, 19(3)(a) and (b) and (5), 20, 27, 28, 30, 31, 34 and 35.

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## (2)

## Constitution of youth courts

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
23 Geo.5 c. 12.	The Children and Young Persons Act 1933.	In the Second Schedule, in Part I, the headings “Outside Metropolitan Area” and “Youth court panels”, paragraph 1 and, in paragraph 10(a), the words “(except where the committee’s area is a borough)” and Part II.
1964 c. 42.	The Administration of Justice Act 1964.	Section 12.
1969 c. 54.	The Children and Young Persons Act 1969.	In section 70(1), the definition of “petty sessions area”.
1980 c. 43.	The Magistrates’ Courts Act 1980.	In section 146, in subsection (4), the words from “with respect to the making” to the end and subsection (5).
1985 c. 61.	The Administration of Justice Act 1985.	Section 61.
1991 c. 53.	The Criminal Justice Act 1991.	In Schedule 11, paragraph 40(2)(f) and (p).
1998 c. 37.	The Crime and Disorder Act 1998.	Section 48.
1999 c. 22.	The Access to Justice Act 1999.	In Schedule 10, paragraphs 16(2) and (4) and 35.

## (3)

## Unification and renaming of stipendiary bench

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
3 & 4 Vict. c. 84.	The Metropolitan Courts Act 1840.	Section 6.
16 & 17 Vict. c. 33.	The London Hackney Carriage Act 1853.	In section 18, the words from “or if the offence,” in the second place, to “for the county;”.
33 & 34 Vict. c. 78.	The Tramways Act 1870.	In section 3, the words from “The term “two justices”” to the end.

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34 & 35 Vict. c. 78.	The Regulation of Railways Act 1871.	In section 2, the words “metropolitan police magistrate,”.
35 & 36 Vict. c. 50.	The Railway Rolling Stock Protection Act 1872.	In section 2, the words “metropolitan police magistrate,”.
46 & 47 Vict. c. 3.	The Explosive Substances Act 1883.	In section 6(1), the words “police court, or”.
57 & 58 Vict. c. 2.	The Behring Sea Award Act 1894.	Section 519 of the Merchant Shipping Act 1854 set out in the Second Schedule.
8 Edw.7 c. 53.	The Law of Distress Amendment Act 1908.	In section 4, in the proviso, the words from “a stipendiary magistrate” to “magistrate for”.
1964 c. 42.	The Administration of Justice Act 1964.	In section 38(1), the definition of “stipendiary magistrates”. In Schedule 3, in Part I, paragraphs 2 to 4.
1980 c. 43.	The Magistrates’ Courts Act 1980.	Section 67(7). Section 137(6).
1985 c. 23.	The Prosecution of Offences Act 1985.	In section 21(6)(a), the words “for any area”.
1989 c. 33.	The Extradition Act 1989.	Section 8(1)(b)(i) and (2). In section 9(1), the words from “consisting” to the end. In section 35(1), the definitions of “designated metropolitan magistrate” and “metropolitan magistrate”. In Schedule 1, in paragraph 5(1)(b), the words “a metropolitan magistrate or” and paragraph 13(2).
1989 c. 41.	The Children Act 1989.	In Schedule 11, in paragraph 8, in sub-paragraph (c), the words “66(1) and (2),” and, in sub-paragraph (d), the words “66(2),” and “and (7)”.
1994 c. 19.	The Local Government (Wales) Act 1994.	In section 55(2)(a), the words “stipendiary magistrate,”.
1997 c. 25.	The Justices of the Peace Act 1997.	Section 22(5). In section 24(1), the words “(other than metropolitan stipendiary magistrates)”.

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1997 c. 50.	The Police Act 1997.	<p>In section 55(8), the words “Subject to section 14(1) above,”.</p> <p>In section 72(1), the definition of “stipendiary magistrate”.</p> <p>In Schedule 4, in Part II, paragraphs 9 and 12.</p> <p>In Schedule 5, paragraphs 13(3) and 17.</p> <p>In section 6(5), the words “appointed for an area”.</p> <p>In section 52(5), the words “appointed for an area”.</p>
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(4)

Justices not to sit on committal for sentence

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1981 c. 54.	The Supreme Court Act 1981.	In section 74, in subsection (1), paragraph (b) and the preceding “or” and, in subsection (7), paragraph (b) and, in paragraph (c), the words “or on committal to the Crown Court for sentence”.

(5)

Magistrates’ courts committees

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1972 c. 70.	The Local Government Act 1972.	In Schedule 12A, in Part I, in paragraph 2(a), the words “, within the meaning of the Justices of the Peace Act 1997”.
1997 c. 25.	The Justices of the Peace Act 1997.	Section 32. Section 38(6). Section 49. In section 72(1), the definition of “magistrates’ courts committee areas”. In Schedule 5, paragraph 11.

(6)

Greater London Magistrates’ Courts Authority

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
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60 & 61 Vict. c. 26.	The Metropolitan Police Courts Act 1897.	Sections 3 and 4.
2 & 3 Geo.6 c. xcvi.	The London Building Acts (Amendment) Act 1939.	In section 151(1)(bb), the words “magistrates’ courts”.
1965 c. 63.	The Public Works Loans Act 1965.	In section 2(1)(a), the word “and” at the end of sub-paragraph (iii).
1967 c. 28.	The Superannuation (Miscellaneous Provisions) Act 1967.	Section 15(1)(a)(ii) and (9).
1968 c. 13.	The National Loans Act 1968.	In Schedule 4, in paragraph 1(a), the word “and” at the end of sub-paragraph (iii).
1971 c. 56.	The Pensions (Increase) Act 1971.	In Schedule 6, paragraph (d).
1991 c. 53.	The Criminal Justice Act 1991.	Section 76(5).
1994 c. 29.	The Police and Magistrates’ Courts Act 1994.	In Schedule 8, paragraphs 24, 25 and 33(5).
1997 c. 25.	The Justices of the Peace Act 1997.	In section 10(8), the words “the City of London, a London borough,” and the words from “and for” to the end. In section 54(9), the definition of “local funds”. In section 55, subsection (8) and, in subsection (10), in the definition of “responsible authority”, paragraph (d) and the words from “or the” to the end. Section 56(4). In section 72(1), the definition of “inner London area”. Schedule 3. In Schedule 4, paragraphs 7, 8, 10 and 11.
1999 c. 22.	The Access to Justice Act 1999.	In Schedule 10, paragraphs 39, 40(2)(a), 51, 52(2) and 53. In Schedule 11, paragraph 10. In Schedule 14, paragraph 28(2).

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## (7)

## Justices' chief executives

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
10 & 11 Geo.5 c. 33.	The Maintenance Orders (Facilities for Enforcement) Act 1920.	In section 4(6A)(b), the words from “and as if” to the end.
14 Geo.6 c. 37.	The Maintenance Orders Act 1950.	In section 22(1E)(a), the words from “and as if” to the end. In section 28(1), in the definition of “collecting officer”, the words from “in”, in the first place, to “and”.
6 & 7 Eliz.2 c. 39.	The Maintenance Orders Act 1958.	In section 4(5B)(a), the words from “and as if” to the end. In section 21(1), the definition of “proper officer”.
1964 c. 26.	The Licensing Act 1964.	In section 22(4), the words from ““as in” to “magistrates’ court”. Section 30(2).
1968 c. 65.	The Gaming Act 1968.	In Schedule 2, in paragraph 2(2), the definition of “the clerk to the licensing authority”.
1971 c. 32.	The Attachment of Earnings Act 1971.	In section 25(1), the words from “and, in relation to” to the end.
1972 c. 18.	The Maintenance Orders (Reciprocal Enforcement) Act 1972.	In section 9(1ZA)(b), the words from “and as if” to the end.
1986 c. 64.	The Public Order Act 1986.	Section 34(3).
1988 c. 33.	The Criminal Justice Act 1988.	Section 41(13). Section 81(10).
1988 c. 53.	The Road Traffic Offenders Act 1988.	In section 34C(2), the words from “and any reference” to the end. Section 71(4) and (5). In section 89(1), the definition of “justices’ clerk”.
1989 c. 4.	The Prevention of Terrorism (Temporary Provisions) Act 1989.	In Schedule 4, in paragraph 1(5), the words from “and in this sub-paragraph” to the end.

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1994 c. 37.	The Drug Trafficking Act 1994.	Section 30(9).
1997 c. 25.	The Justices of the Peace Act 1997.	Section 31(2). Section 40(5). Section 46. In section 60, in subsection (1), paragraph (b) (ii) and the preceding “and” and subsection (4). In Schedule 4, in Part II, paragraphs 15 and 18. In Schedule 5, in paragraph 23, paragraph (b) and the preceding “and” and, in paragraph 36, paragraph (b) and the preceding “and”.
1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 3, paragraph 6(11).

(8)

#### Warrants

Reference	Short title or title	Extent of repeal or revocation
6 & 7 Eliz.2 c. 39.	The Maintenance Orders Act 1958.	In section 2(4), paragraph (b), apart from the word “and” at the end. In section 5(4), paragraph (b), apart from the word “and” at the end.
1980 c. 43.	The Magistrates’ Courts Act 1980.	Section 83(4). In section 125, in subsection (2), the second paragraph and subsections (3) and (4).
1984 c. 60.	The Police and Criminal Evidence Act 1984.	Section 33.
1988 c. 33.	The Criminal Justice Act 1988.	Section 65.
1990 c. 41.	The Courts and Legal Services Act 1990.	In Schedule 17, paragraph 11.
1996 c. 14.	The Reserve Forces Act 1996.	In Schedule 10, paragraph 18.
S.I.1997/1898.	The Family Law Act 1996 (Modification of Enactments) Order 1997.	Article 3.

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1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 8, paragraph 44.
1999 c. 23.	The Youth Justice and Criminal Evidence Act 1999.	In Schedule 4, paragraph 8.

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## PART VI

### IMMUNITY AND INDEMNITY

Chapter	Short title	Extent of repeal
1997 c. 25.	The Justices of the Peace Act 1997.	In section 54(1)(a)(i), the words “against him”.

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