

COURTS ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS: PART 4

Section 51: Court security officers

130. This section establishes that every court security officer must be so designated by the Lord Chancellor. It is envisaged that there will be a period of training. Subsection (2) enables the Lord Chancellor to make provision for training by regulations and to specify the conditions which must be met before a person can be designated as a court security officer by him. Subsection (3) makes it clear that court security officers must be identifiable as such.

Section 52: Powers of search

131. This section gives a court security officer power to search a person who is entering, or who is already in, a court building and also any article in such a person's possession. This power is similar to the existing powers enjoyed by court security officers in the magistrates' courts under section 77 of the CJA 1991 and court security officers under section 80(1)(c) of the Justice (Northern Ireland) Act 2002 (J (NI) A 2002), although the power goes slightly further (see para 132)
132. Court security officers may require only removal of a coat, jacket, headgear, gloves or footwear. This is slightly wider than the articles that can be requested to be removed under section 77(2) of the CJA 1991 or section 80(2) of the J(NI)A 2002 which authorise removal of coat, jacket, gloves or hat and enables proportionate searching to take place which does not fall foul of human rights legislation. A search may only take place in a "court building". This will include places such as Probate sub-registries and offices where members of the public are interviewed in connection with probate matters.

Section 53: Powers to exclude, remove or restrain persons

133. This section gives court security officers powers to restrain persons or exclude, or remove them from a court building. Officers may exclude or remove where a person has refused to submit to a search, or has refused the officer's request for surrender of an article where the officer reasonably believes that the article ought to be surrendered on the grounds that it may jeopardise the maintenance of order in the court building, may risk the safety of a person in that building, or because the article may be evidence of or in relation to an offence. They also have the power to restrain, exclude or remove a person if it is reasonably necessary to do so to maintain order, secure the safety of people in the court building and to enable court business to be conducted without disruption. Subsection (4) provides that a court security officer may also remove any person from a courtroom at the request of a judge or a justice of the peace.
134. Subsection (5) provides that the powers to exclude, remove and restrain persons include the power to use reasonable force.

Section 54: Surrender and seizure of articles

135. This section requires a court security officer to request the surrender of any article that the officer reasonably believes ought to be surrendered. Specific grounds for surrender and seizure are laid out in subsection (3)(a) to (c); because possession of the article may jeopardise the maintenance of order in the court building, or may risk the safety of a person in that building or because the article may be evidence of or in relation to an offence. This extends the current powers of court security officers in the magistrates' courts, who may only request the surrender of any article which the officer reasonably believes may jeopardise the maintenance of order in the court house under CJA 1991, section 77(1)(b). A further extension is the power conferred on a court security officer to seize an article where the officer has requested its surrender but the request has been refused.

Section 55: Powers to retain articles surrendered or seized

136. This section introduces another new statutory power for court security officers, namely to retain an article surrendered or seized until the person from whom it was taken is leaving the court building. However, where the officer reasonably believes that the article may be evidence of or in relation to an offence, he may retain it until the person from whom it was taken is leaving the court building, or, for a limited period of up to 24 hours from the time the article was surrendered or seized, to enable the officer to draw it to the attention of a police constable (subsection (2)(b)).

Section 56: Regulations about retention of articles

137. In conjunction with court security officers' powers to retain an article surrendered or seized under section 55 it is important that any items so retained are suitably recorded. The person from whom the article is taken must also be provided with adequate information about the terms of retention and given notice that when an article becomes unclaimed it will be disposed of. This section provides the Lord Chancellor with a power to make regulations which include provision of written information about the powers of retention; the keeping of records; the period of retention; and the disposal of articles after this period. This section defines an unclaimed article as one that has been retained and which a person is entitled to have returned to him but which he has not requested and which has not been returned.

Section 57: Assaulting and obstructing court security officers

138. This section provides that assaulting a court security officer in the execution of his duty is an offence punishable on summary conviction with a fine not exceeding level 5 on the standard scale or imprisonment for up to six months. It also provides that resisting or wilfully obstructing a court security officer in the execution of his duty is an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

Part 5: Inspectors of Court Administration

Summary

139. This Part contains provisions for the establishment of a new inspectorate to be known as Her Majesty's Inspectorate of Court Administration. It will replace and build upon the work of Her Majesty's Magistrates' Courts Service Inspectorate. The new inspectorate will have the power to inspect the system that supports the carrying on of the business of all magistrates' courts, county courts and the Crown Court. The same inspectorate will continue to report on the performance by the Children and Family Court Advisory and Support Service (CAFCASS) and its officers of their functions.