



Courts Act 2003

2003 CHAPTER 39

PART 2

JUSTICES OF THE PEACE

[^{F1}Legal advice]

Textual Amendments

- F1** Ss. 28, 29 and crossheading substituted for ss. 27-29 (10.1.2020 for specified purposes, 6.4.2020 in so far as not already in force) by [Courts and Tribunals \(Judiciary and Functions of Staff\) Act 2018 \(c. 33\)](#), s. 4(3), [Sch. para. 26](#); S.I. 2020/24, regs. 2(b)(ii), 3(b)

^{F127} **Justices' clerks and assistant clerks**

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^{F128} **Function of giving legal advice to justices of the peace**

- (1) The Lord Chief Justice may authorise a person—
 - (a) to give advice to justices of the peace about matters of law (including procedure and practice) on questions arising in connection with the discharge of their functions, including questions arising when the person is not personally attending on them, and
 - (b) to bring to the attention of justices of the peace, at any time when the person thinks appropriate, any point of law (including procedure and practice) that is or may be involved in any question so arising.
- (2) For the purposes of subsection (1), the functions of justices of the peace do not include functions as a judge of the family court or the Crown Court.
- (3) The Lord Chief Justice may authorise a person under subsection (1) only if the person—

Changes to legislation: Courts Act 2003, Cross Heading: Legal advice is up to date with all changes known to be in force on or before 19 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) View outstanding changes

- (a) is appointed under section 2(1) of this Act or section 40(1) of the Tribunals, Courts and Enforcement Act 2007, and
 - (b) has such qualifications as may be prescribed by regulations made by the Lord Chancellor with the agreement of the Lord Chief Justice.
- (4) An authorisation under subsection (1)—
- (a) may be subject to conditions, and
 - (b) may be varied or revoked by the Lord Chief Justice at any time.
- (5) The Lord Chief Justice may nominate one or more of the following to exercise the Lord Chief Justice's functions under the preceding provisions of this section—
- (a) a judicial office holder;
 - (b) a person appointed under section 2(1) of the Courts Act 2003 or section 40(1) of the Tribunals, Courts and Enforcement Act 2007.
- (6) A person nominated under subsection (5)(b) to exercise functions of the Lord Chief Justice is not subject to the direction of any person other than—
- (a) the Lord Chief Justice, or
 - (b) a judicial office holder nominated by the Lord Chief Justice, when exercising the functions.
- (7) In this section “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.]

[^{F1}29 Directions and independence

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

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 75(6) inserted by [2022 c. 35 Sch. 4 para. 3\(2\)](#)
- s. 76(2B) inserted by [2010 c. 26 Sch. 3 para. 14](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22](#), s. 17(4) ; S.I. 2013/2200 art. 2(a))
- s. 81(6) inserted by [2022 c. 35 Sch. 4 para. 3\(3\)](#)
- s. 85EA(5) words substituted by [2022 c. 32 Sch. 11 para. 29](#)
- Sch. 5 para. 13(1)(ca) inserted by [2013 c. 22 s. 26\(3\)](#)

Commencement Orders yet to be applied to the Courts Act 2003

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2005/547 art. 2](#) commences ([2003 c. 39](#))