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SCHEDULES

SCHEDULE 4 U.K.

OTHER FUNCTIONS OF THE LORD CHANCELLOR AND ORGANISATION OF THE COURTS

PART 1 U.K.

AMENDMENTS

Ecclesiastical Licences Act 1533 (c. 21)

- 1 (1) In section 11 of the Ecclesiastical Licences Act 1533 (refusal of archbishop to grant licences etc.) any reference to the Lord Chancellor or Lord Keeper of the Great Seal (however expressed) is to be read as a reference to the Chancellor of the High Court.
- (2) The Chancellor of the High Court may nominate another judge of that court to exercise his functions under that section.

Habeas Corpus Act 1679 (c. 2)

- 2 The Habeas Corpus Act 1679 is amended as follows.
- 3 In section 1 (bringing before Lord Chancellor or other judges) omit “the lord chauncelior or lord keeper of the great seale of England for the time being or”.
- 4 In section 2 (appeal to Lord Chancellor or other judges) omit—
- (a) “the lord chauncellour or lord keeper or” in each place;
 - (b) “lord chauncellor lord keeper”;
 - (c) “the said lord chauncellor or lord keeper or” in the first and second places;
 - (d) “lord chauncellor or lord keeper or” in the last place.
- 5 In section 9 (Lord Chancellor or other judge unduly denying writ) omit “the said lord chauncellor or lord keeper or”.

Cestui que Vie Act 1707 (c. 72)

- 6 Any reference to the Lord Chancellor and keeper or commissioners for the custody of the great seal of Great Britain for the time being in section 1 of the Cestui que Vie Act 1707 is to be construed as a reference to a judge of the Chancery Division of the High Court.

PROSPECTIVE

Pluralities Act 1838 (c. 106)

- 7 The Pluralities Act 1838 is amended as follows.

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- 8 (1) Section 126 (consent of patron etc. where patronage in the Crown) is amended as follows.
 - (2) For the words from “if such benefice shall be above” to “great seal” substitute “unless such benefice shall be within the patronage of the crown in right of the duchy of Lancaster, the instrument by which the power shall be exercised shall be executed by, and any such notice shall be given to, the Prime Minister”.
 - (3) Omit “or persons”.
- 9 (1) Section 128 (consent of patron etc. where patronage attached to duchy of Cornwall) is amended as follows.
 - (2) For the words from “the same” to “benefice in the patronage of the crown” substitute “the Prime Minister, in accordance with section 126”.
 - (3) Omit “or persons” in the second place.

PROSPECTIVE

F1 ...

Textual Amendments

F1 Sch. 4 paras. 10-12 and cross-heading repealed (E.) (1.7.2018) by [Statute Law \(Repeals\) Measure 2018 \(No. 1\)](#), s. 2(3), [Sch. Pt. 3](#); [S.I. 2018/718](#), art. 2

- F1**10
- F1**11
- F1**12

Public Notaries Act 1843 (c. 90)

- 13 (1) Section 5 of the Public Notaries Act 1843 (refusal of master of faculties to grant a faculty) is amended as follows.
 - (2) For “chancellor of England or the lord keeper of the great seal” substitute “Chancellor of the High Court”.
 - (3) At the end of that section insert— “The Chancellor of the High Court may nominate another judge of that court to exercise his functions under this section.”
 - (4) This paragraph is subject to section 2(3) and (4) of the Statute Law (Repeals) Act 1998 (repeals relating to Isle of Man and Channel Islands).

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PROSPECTIVE

Inclosure Act 1859 (22 & 23 Vict. c. 43)

- 14 In section 12 of the Inclosure Act 1859 (adaptation of references to patron where patronage is in the Crown) for the words from “Lord High” to “Great Seal” substitute “ Prime Minister ”.

British Law Ascertainment Act 1859 (c. 63)

- 15 In section 5 of the British Law Ascertainment Act 1859 (interpretation) omit “the Lord Chancellor,”.

Promissory Oaths Act 1871 (c. 48)

- 16 (1) Section 2 of the Promissory Oaths Act 1871 (persons before whom oaths to be taken) (as amended by paragraph 51 of Schedule 8 to the Courts Act 2003 (c. 39)) is amended as follows.
- (2) In the paragraph beginning “In England and Wales” for “Lord Chancellor” substitute “ Lord Chief Justice of England and Wales ”.
- (3) After that paragraph insert— “ 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 the preceding paragraph. ”
- (4) After the paragraph beginning “In Ireland” insert—
- “The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under the preceding paragraph—
- (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).”

Stannaries Court (Abolition) Act 1896 (c. 45)

- 17 (1) Section 1 of the Stannaries Court (Abolition) Act 1896 (abolition of Vice-Warden's Court) is amended as follows.
- (2) In subsection (1) after “may” insert “ , after consulting the Lord Chief Justice, ”.
- (3) After subsection (2) insert—
- “(3) 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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PROSPECTIVE

Judicial Committee Act 1915 (c. 92)

- 18 (1) Section 1 of the Judicial Committee Act 1915 (power of Judicial Committee of the Privy Council to sit in more than one division at the same time) is amended as follows.
- (2) In subsection (1) for “Lord Chancellor” substitute “ President of the Supreme Court of the United Kingdom ”.

Administration of Justice Act 1925 (c. 28)

- 19 (1) Section 22 of the Administration of Justice Act 1925 (registration of deeds of arrangement) is amended as follows.
- (2) In subsection (5) for “by the Lord Chancellor with the concurrence” substitute “ by the Lord Chief Justice with the concurrence of the Lord Chancellor and ”.
- (3) After subsection (5) insert—
- “(5A) 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 (5).”

Children and Young Persons Act 1933 (c. 12)

- 20 (1) Section 45 of the Children and Young Persons Act 1933 (youth courts) (as amended by section 50 of the Courts Act 2003 (c. 39)) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor or a person acting on his behalf” substitute “ Lord Chief Justice, with the concurrence of the Lord Chancellor, ”.
- (3) In subsection (4) for “Lord Chancellor may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”.
- (4) In subsection (5) after “Lord Chancellor” insert “ or Lord Chief Justice ”.
- (5) After subsection (8) insert—
- “(9) 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 (3) or (4) or his powers under rules under subsection (4).”

Compensation (Defence) Act 1939 (c. 75)

- 21 (1) The Compensation (Defence) Act 1939 is amended as follows.
- (2) For the title to section 9 substitute “ Incidental powers of tribunals and rules of procedure ”.
- (3) Omit section 9(1)(a) (powers of tribunals to make rules of procedure).
- (4) After section 9(1) insert—

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“(1A) Rules prescribing the procedure for notifying, presenting and hearing claims and all matters incidental thereto may be made in relation to each of the tribunals constituted under this Act.

(1B) Such rules are to be made as follows—

- (a) if the rules relate to proceedings in England and Wales, they are to be made by the Lord Chancellor;
- (b) if the rules relate to proceedings in Scotland, they are to be made by the Lord President of the Court of Session;
- (c) if the rules relate to proceedings in Northern Ireland, they are to be made by the Lord Chancellor with the concurrence of the Lord Chief Justice of Northern Ireland.”

(5) In subsection (2) for the words from the beginning to “subsection” substitute “ Such rules ”.

(6) After subsection (3) insert—

“(4) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.

(5) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

- (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).”

22 In section 18 (application to Scotland and Northern Ireland)—

- (a) omit subsection (2);
- (b) for subsection (4) substitute—

“(4) Sections seven and nine of this Act shall have effect with these modifications—

- (a) in their application to proceedings in Scotland before a tribunal constituted under this Act, for references to the High Court there shall be substituted references to the Court of Session;
- (b) in their application to proceedings in Northern Ireland before a tribunal constituted under this Act, for references to the High Court there shall be substituted references to the High Court of Justice in Northern Ireland.”

London Building Acts (Amendment) Act 1939 (c. xcvi)

23 (1) Section 109 of the London Building Acts (Amendment) Act 1939 (constitution etc of tribunal appeal) is amended as follows.

(2) In subsection (1)(i) for “if he thinks fit” substitute “ , if he thinks fit and if the Lord Chief Justice agrees, ”.

(3) After subsection (2) insert—

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“(3) 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.”

Pensions Appeal Tribunals Act 1943 (c. 39)

- 24 The Pension Appeal Tribunals Act 1943 is amended as follows.
- 25 In section 6D (procedure in proceedings before Commissioner), after subsection (8) insert—
- “(9) In the application of this section to Northern Ireland—
- (a) for any reference to the Social Security Act 1998 there shall be substituted a reference to the Social Security (Northern Ireland) Order 1998;
- (b) for any reference to section 16 of that Act there shall be substituted a reference to Article 16 of that Order.”
- 26 Omit section 13 (application to Scotland).
- 27 Omit section 14 (application to Northern Ireland).
- 28 (1) The Schedule (constitution, jurisdiction and procedure of Tribunals) is amended as follows.
- (2) For paragraph 1 substitute—
- “1 (1) There shall be constituted in England and Wales such number of Pensions Appeal Tribunals as the Lord Chancellor may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (2) There shall be constituted in Scotland such number of Pensions Appeal Tribunals as the Lord President of the Court of Session may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (3) There shall be constituted in Northern Ireland such number of Pensions Appeal Tribunals as the Lord Chancellor may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (4) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before exercising any functions under sub-paragraph (1).
- (5) The Lord Chancellor must consult the Lord Chief Justice of Northern Ireland before exercising any functions under sub-paragraph (3).”
- (3) In paragraph 2 (membership)—
- (a) in sub-paragraph (1) for “appointed by the Lord Chancellor” substitute “appointed—
- (a) in relation to England and Wales, by the Lord Chancellor;

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- (b) in relation to Scotland, by the Lord President of the Court of Session;
 - (c) in relation to Northern Ireland, by the Lord Chancellor”;
 - (b) in sub-paragraph (2A) for “sub-paragraphs (3)” substitute “ sub-paragraphs (3A), (3B) ”;
 - (c) for sub-paragraph (3) substitute—
 - “(3A) The Lord Chancellor may, with the concurrence of the Lord Chief Justice of England and Wales, remove any member of a Tribunal appointed under sub-paragraph (1)(a).
 - (3B) The Lord President of the Court of Session may remove any member of a Tribunal appointed under sub-paragraph (1)(b).”;
 - (d) in sub-paragraph (4) for “sub-paragraph (3)” substitute “ sub-paragraphs (3A) and (3B) ”.
- (4) In paragraph 2A (persons to be appointed to Tribunals)—
- (a) in sub-paragraph (1) for the words from “The Lord Chancellor” to “paragraph 2 above” substitute “ Any person making appointments under paragraph 2 shall ensure that the appointments ”;
 - (b) in sub-paragraph (4) for the words from “In making” to “the Lord Chancellor” substitute “ It shall be the duty of any person making an appointment under paragraph 2 ”.
- (5) In paragraph 2B (President and Deputy President of Pension Appeal Tribunals), in sub-paragraph (2)(c) for “Lord Chief Justice of Northern Ireland” substitute “ Lord Chancellor ”.
- (6) In paragraph 5 (rules)—
- (a) in sub-paragraph (1) for “the Lord Chancellor may make rules” substitute “ rules may be made ”;
 - (b) for “Lord Chancellor” in the second place substitute “person making them”;
 - (c) after sub-paragraph (1) insert—
 - “(1A) Such rules are to made by the following person—
 - (a) if the rules relate to England and Wales, by the Lord Chancellor;
 - (b) if the rules relate to Scotland, by the Lord President of the Court of Session;
 - (c) if the rules relate to Northern Ireland, by the Lord Chief Justice of Northern Ireland.”;
 - (d) in sub-paragraph (4)(b) after “Lord Chancellor” insert “ , or in relation to Scotland by the Lord President of the Court of Session, in either case ”.
- (7) Before paragraph 8 insert—
- “7B (1) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under paragraph 1.
 - (2) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner

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House of that Court to exercise his functions under any of the provisions listed in sub-paragraph (3).

- (3) Those provisions are—
- (a) paragraph 3C(2)(b);
 - (b) paragraph 5(1A)(b).
- (4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under any of the provisions listed in sub-paragraph (5)—
- (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).
- (5) Those provisions are—
- (a) paragraph 1;
 - (b) paragraph 3C(2)(c);
 - (c) paragraph 5(1A)(c).”

Agriculture Act 1947 (c. 48)

- 29 The Agriculture Act 1947 is amended, or has effect, as follows.
- 30 In section 73 (establishment, constitution and procedure of Agricultural Land Tribunals), in subsection (1) for the words before “by order” substitute “ For the purposes of this section the Lord Chancellor shall, after consulting the Chairman of the Agricultural Land Tribunals, ”.
- 31 (1) The functions of the Lord Chancellor under section 75 (provisions as to land lying partly in one area and partly in another) are exercisable only after consultation with the Lord Chief Justice.
- (2) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of this Act) to exercise his functions under sub-paragraph (1).
- 32 In section 108 (regulations and orders), in subsection (1) omit “by the Minister” in the second place.
- 33 (1) Schedule 9 (constitution of Agricultural Land Tribunals) is amended as follows.
- (2) In paragraph 13 (chairman of each Tribunal), in sub-paragraph (4)—
- (a) for “is” substitute “ and Lord Chief Justice are both ”;
 - (b) after “may” insert “ , with the concurrence of the Lord Chief Justice, ”.
- (3) In paragraph 16A (discharge of chairman's duties)—
- (a) that paragraph becomes sub-paragraph (1) of paragraph 16A;
 - (b) in that sub-paragraph for “Lord Chancellor” substitute “ Lord Chief Justice, after consulting the Lord Chancellor ”;
 - (c) after that sub-paragraph insert—
- “(2) 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 sub-paragraph (1).”

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Lands Tribunal Act 1949 (c. 42)

- 34 (1) Section 2 of the Lands Tribunal Act 1949 (members, officers and expenses of Lands Tribunal) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor may” substitute “ Lord Chief Justice of England and Wales may, after consulting the Lord Chancellor, ”.
- (3) In subsection (4) after “Lord Chancellor” insert “ and the Lord Chief Justice of England and Wales ”.
- (4) In subsection (9)(a) after “Lord Chancellor” insert “ and the Lord Chief Justice of England and Wales ”.
- (5) After subsection (10) insert—
- “(11) 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 subsections (3) and (9A).”

Registered Designs Act 1949 (c. 88)

- 35 The Registered Designs Act 1949 is amended as follows.
- 36 (1) Section 27 (meaning of the court) is amended as follows.
- (2) In subsection (2) for “Lord Chancellor may select” substitute “ Lord Chief Justice of England and Wales may, after consulting the Lord Chancellor, select ”.
- (3) After subsection (2) insert—
- “(3) 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 (2).”
- 37 (1) Section 28 (the Appeal Tribunal) is amended as follows.
- (2) In subsection (2)(a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”.
- (3) After subsection (10) insert—
- “(11) 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 (2)(a).”

Courts-Martial (Appeals) Act 1951 (c. 46)

- 38 The Courts-Martial (Appeals) Act 1951 is amended as follows.
- 39 In section 28 (provisions with respect to office of Judge Advocate of fleet), after subsection (3) insert—
- “(3A) The Lord Chancellor may make a recommendation under subsection (3) only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
 - (b) the Lord President of the Court of Session;

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(c) the Lord Chief Justice of Northern Ireland.”

40 In section 32 (tenure of office of Judge Advocate General and assistants), for subsection (1) substitute—

“(1) The Judge Advocate General shall be removable by Her Majesty on the ground of inability or misbehaviour upon a recommendation in that behalf made by the Lord Chancellor with the concurrence of all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(1A) The Vice Judge Advocate General may be removed for inability or misbehaviour by the Lord Chancellor with the concurrence of all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(1B) An Assistant Judge Advocate General may be removed for inability or misbehaviour by the Lord Chancellor with the concurrence of the appropriate senior judge.

(1C) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the Assistant Judge Advocate General exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the Assistant Judge Advocate General exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

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

41 (1) Section 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (appropriate courts and procedure) is amended as follows.

(2) After subsection (5) insert—

“(5A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before making rules under subsection (1) that relate to England and Wales.

(5B) 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 (5A).”

PROSPECTIVE

City of London (Guild Churches) Act 1952 (c. xxxviii)

42 In Schedule 1 to the City of London (Guild Churches) Act 1952, for the entries in column 2 (patrons) relating to each of—

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- (a) All Hallows London Wall,
 - (b) St. Margaret Pattens, and
 - (c) St. Mary Aldermary,
- substitute “ Her Majesty ”.

Pharmacy Act 1954 (c. 61)

- 43 (1) In Schedule 1C to the Pharmacy Act 1954 (appeal tribunals), paragraph 3 (appointments) is amended as follows.
- (2) In sub-paragraph (4) for “by the Lord Chancellor and” substitute “ by the Lord Chief Justice, after consulting the Lord Chancellor, and by ”.
- (3) After sub-paragraph (5) insert—
- “(6) 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 paragraph.”

Mines and Quarries Act 1954 (c. 70)

- 44 (1) Section 170 of the Mines and Quarries Act 1954 (provisions as to references upon notices) is amended as follows.
- (2) In subsection (9) after “Lord Chancellor” insert “ , the Lord Chief Justice ”.
- (3) After subsection (9) insert—
- “(10) 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 (9).”

Land Powers (Defence) Act 1958 (c. 30)

- 45 Schedule 2 to the Land Powers (Defence) Act 1958 (provisions with respect to making certain orders under the Act) is amended as follows.
- 46 (1) Paragraph 4 (inquiries into objections) is amended as follows.
- (2) In sub-paragraph (1) for “by the Lord Chancellor” substitute “ in accordance with sub-paragraph (1A) ”.
- (3) After sub-paragraph (1) insert—
- “(1A) A person to hold an inquiry for the purposes of sub-paragraph (1) is to be appointed as follows—
- (a) if the inquiry relates to land in England and Wales, the person is to be appointed by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor;
 - (b) if the inquiry relates to land in Scotland, the person is to be appointed by the Lord President of the Court of Session;
 - (c) if the inquiry relates to land in Northern Ireland, the person is to be appointed by the Lord Chief Justice of Northern Ireland after consulting Lord Chancellor.”

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- (4) In sub-paragraph (3) for “The Lord Chancellor shall by statutory instrument make rules of procedure” substitute “ Rules of procedure shall be made by statutory instrument in accordance with sub-paragraph (3A) ”.
- (5) After sub-paragraph (3) insert—
- “(3A) Rules under sub-paragraph (3) are to be made as follows—
- (a) if the rules are for the purposes of inquiries held in relation to land in England and Wales, they are to be made by the Lord Chancellor;
- (b) if the rules are for the purposes of inquiries held in relation to land in Scotland, they are to be made by the Secretary of State after consultation with the Lord President of the Court of Session;
- (c) if the rules are for the purposes of inquiries held in relation to land in Northern Ireland, they are to be made by the Lord Chancellor after consultation with the Lord Chief Justice of Northern Ireland.”
- (6) In sub-paragraph (4) for the words from “as the Lord Chancellor” to the end substitute “as may be determined, with the approval of the Treasury—
- (a) by the Lord Chancellor, or
- (b) in a case where the Lord President of the Court of Session appointed the person, by the Secretary of State.”
- (7) After sub-paragraph (4) insert—
- “(5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (6) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (7) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (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).”
- 47 (1) Paragraph 8 (application to court to challenge order) is amended as follows.
- (2) That paragraph becomes sub-paragraph (1) of paragraph 8.
- (3) In that sub-paragraph “for High Court” substitute “ appropriate court ”.
- (4) After that sub-paragraph insert—
- “(2) In this paragraph “appropriate court” means—
- (a) if the order relates to land in England and Wales, the High Court in England and Wales;
- (b) if the order relates to land in Scotland, the Court of Session;
- (c) if the order relates to land in Northern Ireland, the High Court in Northern Ireland.”
- 48 Omit paragraphs 10 and 11 (modifications for application to Scotland and Northern Ireland).

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Agriculture Act 1958 (c. 71)

- 49 In the Agriculture Act 1958, in section 5 (functions under section 73 of the Agriculture Act 1947) for “by the Lord Chancellor and not by the Minister” substitute “ as provided for in that section ”.

Land Powers (Defence) Act (Inquiries) Rules 1958 (S.I. 1958/2231)

- 50 (1) Rule 2 of the Land Powers (Defence) Act (Inquiries) Rules 1958 (interpretation) is amended as follows.
- (2) In paragraph (1), in the definition of “appointed person” for the words from “appointed by” to the end substitute “ appointed in accordance with subparagraph (1A) of paragraph 4 of the Second Schedule to the Act to hold an inquiry pursuant to that paragraph; ”.

Mental Health Act 1959 (c. 72)

- 51 In section 145 of the Mental Health Act 1959 (general provisions as to regulations, orders and rules) omit “or the Lord Chancellor”.

Administration of Justice Act 1960 (c. 65)

- 52 In section 14 of the Administration of Justice Act 1960 (procedure on application for habeas corpus), in subsection (2) omit “; and no such application shall in any case be made to the Lord Chancellor”.

Transport Act 1962 (c. 46)

- 53 The Transport Act 1962 is amended as follows.
- 54 (1) Section 74 (Minister's power to make orders about pensions) is amended as follows.
- (2) In subsection (6)(c) after “Lord Chancellor” insert “ and the Lord Chief Justice of England and Wales ”.
- (3) After subsection (9) insert—
- “(10) 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.”
- 55 (1) Section 81 (compensation to officers and servants of the Commission) is amended as follows
- (2) In subsection (4)(b) after “Lord Chancellor” insert “ and the Lord Chief Justice of England and Wales ”.
- (3) After subsection (10) insert—
- “(11) 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.”
- 56 (1) In Schedule 7 (transitional provisions) paragraph 17 is amended as follows.

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- (2) In sub-paragraph (3) after “Lord Chancellor” insert “ and the Lord Chief Justice of England and Wales ”.
- (3) After sub-paragraph (6) insert—
- “(7) 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 paragraph.”
- 57 Schedule 11 (application to Northern Ireland) is amended as follows.
- 58 (1) Paragraph 6 (appointment of referee or board of referees) is amended as follows.
- (2) That paragraph becomes sub-paragraph (1) of paragraph 6.
- (3) After that sub-paragraph insert—
- “(2) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (1)—
- (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).”
- 59 Omit paragraph 10.

City of London (Courts) Act 1964 (c. iv)

- 60 (1) Section 15 of the City of London (Courts) Act 1964 (oaths) is amended as follows.
- (2) That section becomes subsection (1) of section 15.
- (3) In that subsection for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (4) After that subsection insert—
- “(2) 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).”

Finance Act 1966 (c. 18)

- 61 (1) In Schedule 1 to the Finance Act 1966 (reliefs for shipbuilders), paragraph 6 is amended as follows.
- (2) In sub-paragraph (2)—
- (a) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice of England and Wales ”;
- (b) before “the Lord Chief Justice of Northern Ireland” insert “ by the Lord Chancellor with the concurrence of ”.
- (3) After sub-paragraph (4) insert—
- “(5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

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(6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (2)—

- (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)."

Courts-Martial (Appeals) Act 1968 (c. 20)

62 (1) Section 5 of the Courts-Martial (Appeals) Act 1968 (constitution of court for particular sittings) is amended as follows.

(2) In subsection (4) after “expedient to do so” insert “ after consulting the Lord Chief Justice ”.

(3) After subsection (5) insert—

“(6) 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.”

Taxes Management Act 1970 (c. 9)

63 The Taxes Management Act 1970 is amended as follows.

64 In section 2 (General Commissioners), after subsection (6) insert—

“(6A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales or, in Northern Ireland, the Lord Chief Justice of Northern Ireland before exercising any function conferred on him by subsection (1) or (6).

(6B) The Lord Chief Justice of England and Wales 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.

(6C) The Lord Chief Justice of Northern Ireland may nominate one of the following to exercise his functions under this section—

- (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)."

65 (1) Section 4 (Special Commissioners) is amended as follows.

(2) After subsection (3) insert—

“(3A) The Lord Chancellor may designate a person under subsection (3) only with the concurrence of all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.”

(3) After subsection (4) insert—

“(4A) The Lord Chancellor may remove a Special Commissioner from office under subsection (4) only with the concurrence of the appropriate senior judge.

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(4B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the Special Commissioner exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the Special Commissioner exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

(4) After subsection (7) insert—

“(8) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (3A).

(9) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (3A).

(10) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (3A)—

- (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).”

Administration of Justice Act 1970 (c. 31)

66 (1) Section 10 of the Administration of Justice Act 1970 (temporary additional judges of the Registered Designs Appeal Tribunal) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies if both of the following conditions are met—

- (a) the Lord Chancellor thinks that it is expedient, having regard to the state of business pending before the Registered Designs Appeal Tribunal and after consulting the Lord Chief Justice, for a person to be appointed to sit and act as an additional judge of the Tribunal (either alone or with a judge of the High Court who is a judge of the Tribunal);
- (b) the Lord Chancellor requests the Lord Chief Justice to make such an appointment.

(1A) The Lord Chief Justice may, after consulting the Lord Chancellor, appoint one of the following persons as mentioned in subsection (1)(a)—

- (a) a judge of the Court of Appeal;
- (b) a person who has held office as a judge of the Court of Appeal or of the High Court;
- (c) one of Her Majesty's Counsel.

(1B) An appointment under this section is—

- (a) for such period, or
- (b) for the purpose of hearing such appeals,

as the Lord Chief Justice determines, after consulting the Lord Chancellor.”

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(3) After subsection (4) insert—

“(4A) 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.”

Courts Act 1971 (c. 23)

67 The Courts Act 1971 is amended as follows.

68 In section 17 (retirement, removal and disqualification of Circuit judges), in subsection (4) after “fit” insert “ and if the Lord Chief Justice agrees ”.

69 (1) Section 21 (appointment of Recorders) is amended as follows.

(2) For subsections (3) and (4) substitute—

“(3) The appointment of a person as a Recorder shall specify the following—

- (a) the term for which he is appointed;
- (b) the frequency and duration of the occasions during that term on which he will be required to be available to undertake the duties of a Recorder;
- (c) the circumstances in which the Lord Chancellor may—
 - (i) decline to extend the term of the appointment, or
 - (ii) terminate the appointment,
 (other than those in subsection (4C)(a) or (b) and subsection (6)(a) or (b)).

(4) Circumstances may be specified under subsection (3)(c) in an appointment only if the Lord Chief Justice agrees.

(4A) Subject to subsections (4B) to (5), the Lord Chancellor must extend the term of a Recorder's appointment (including a term already extended under this subsection) before its expiry, for such term as the Lord Chancellor thinks appropriate.

(4B) The Lord Chancellor must not extend the term of a Recorder's appointment unless the Recorder agrees to the extension.

(4C) The Lord Chancellor may, with the agreement of the Lord Chief Justice, decline to extend the term of a Recorder's appointment on any of these grounds—

- (a) the incapacity or misbehaviour of the Recorder;
- (b) a failure of the Recorder to comply with any requirement specified under subsection (3)(b) in the terms of his appointment;
- (c) one or more of the circumstances specified under subsection (3)(c) in his appointment applies.”

(3) For subsection (6) substitute—

“(6) The Lord Chancellor may, with the agreement of the Lord Chief Justice, terminate the appointment of a Recorder on any of these grounds—

- (a) the incapacity or misbehaviour of the Recorder;

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- (b) a failure of the Recorder to comply with any requirement specified under subsection (3)(b) in the terms of his appointment;
 - (c) one or more of the circumstances specified under subsection (3)(c) in his appointment applies.”
- 70 (1) Section 22 (oaths to be taken by Circuit judges and Recorders) is amended as follows.
- (2) In subsection (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) After subsection (3) insert—
- “(3A) 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 (2).”
- 71 (1) Section 24 (deputy Circuit judges and assistant Recorders) is amended as follows.
- (2) In subsection (1)—
- (a) for “the Lord Chancellor” substitute “ him ”;
 - (b) omit “, he may”;
 - (c) in paragraph (a), before “appoint” insert “ the Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”, and omit the word “or” in the last place where it occurs;
 - (d) in paragraph (b), before “appoint” insert “ the Lord Chancellor may ”.
- (3) After subsection (5) insert—
- “(6) 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)(a).”
- 72 In the table in paragraph 2 of Schedule 8 (general rules of construction), in the second column of entry 7 and of entry 14 for “Lord Chancellor” in each place substitute “ Lord Chief Justice ”.
- 73 In Schedule 10 (transitional provisions), omit paragraphs 3 and 4.

Misuse of Drugs Act 1971 (c. 38)

- 74 (1) Schedule 3 to the Misuse of Drugs Act 1971 (tribunal, advisory bodies and professional panels) is amended as follows.
- (2) In the table in paragraph 21 (application of Parts 1 to 3 to Northern Ireland), in the entry for paragraph 1—
- (a) for “the references to the Lord Chancellor and” substitute “ any reference to ”;
 - (b) for “respectively references to the Lord Chief Justice of Northern Ireland and” substitute “ a reference to ”.
- (3) In that table, in the entry for paragraph 13—
- (a) for “the references to the Lord Chancellor and” substitute “ any reference to the ”;
 - (b) for “respectively references to the Lord Chief Justice of Northern Ireland and” substitute “ a reference to ”;
 - (c) at the end of that entry insert—

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“

After sub-paragraph (2) there shall be inserted—

“(3) The Lord Chancellor must obtain the concurrence of the Lord Chief Justice of Northern Ireland before exercising his functions under sub-paragraph (1)(a).

(4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (3)

- (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).”

Land Charges Act 1972 (c. 61)

75 In section 16 of the Land Charges Act 1972 (general rules), in subsection (2) omit “of the Lord Chancellor, with the concurrence of the Secretary of State.”

Matrimonial Causes Act 1973 (c. 18)

76 (1) Section 10A of the Matrimonial Causes Act 1973 (proceedings after decree nisi: religious marriage) is amended as follows.

(2) In subsection (6) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.

(3) After subsection (7) insert—

“(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.”

Juries Act 1974 (c. 23)

77 The Juries Act 1974 is amended as follows.

78 In section 5 (panels of persons summoned as jurors), after subsection (4) insert—

“(5) The Lord Chancellor must consult the Lord Chief Justice before giving any direction under subsection (1).

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(6) 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.”

79 (1) Section 9AA (requirement to issue guidance) is amended as follows.

(2) In subsection (1) after “shall” insert “, after consulting the Lord Chief Justice, ”.

(3) After subsection (2) insert—

“(3) 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.”

Plant Varieties and Seeds Tribunal Rules 1974 (S.I. 1974/1136)

80 (1) Rule 2 of the Plant Varieties and Seeds Tribunals Rules 1974 (interpretation) is amended as follows.

(2) In paragraph (1), in the definition of “the chairman” for the words from “appointed” to “Northern Ireland” in the second place substitute “ appointed in accordance with paragraph 2, 3 or 4 of Schedule 3 to the Plant Varieties Act 1997 ”.

Industry Act 1975 (c. 68)

81 (1) Schedule 3 to the Industry Act 1975 (tribunals to arbitrate disputes relating to vesting and compensation orders) is amended as follows.

(2) In paragraph 4 (constitution and sittings)—

(a) that paragraph becomes sub-paragraph (1) of paragraph 4;

(b) in that sub-paragraph after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice of England and Wales, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland, ”;

(c) after that sub-paragraph insert—

“(2) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

(3) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.

(4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

(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).”

(3) In paragraph 5 (Scottish proceedings) for “paragraph 4” substitute “ paragraph 4(1) ”.

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(4) In paragraph 8(a) (meaning of “appointor”) for “paragraph 4” substitute “ paragraph 4(1) ”.

(5) After paragraph 8 insert—

“8A Where the appointor is, by virtue of paragraph 8(a), the Lord Chancellor, the power conferred by paragraph 6(1)(b) may be exercised only with the concurrence of the appropriate senior judge.

8B The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the member to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

Local Land Charges Act 1975 (c. 76)

82 The Local Land Charges Act 1975 is amended as follows.

83 After section 13 insert—

“13A Specification of fees by registering authorities in England

- (1) Each registering authority in England must specify fees which are to be payable by persons for services relating to local land charges which are provided to them by the authority.
- (2) This section does not apply to any fees payable for the making of a personal search (for which see section 14(1)(h)(i) below).
- (3) Different fees may be specified for different services or descriptions of service.
- (4) A registering authority may provide for there to be services or descriptions of service in respect of which no fees are to be payable.
- (5) In specifying fees, a registering authority must secure that, taking one financial year with another, the income from fees for each service or description of service, or for each group of services or descriptions of service that they think appropriate, does not exceed the costs of its provision.
- (6) When exercising the duty under subsection (1) above, a registering authority must specify the date on or after which the fees specified under that subsection are to be payable.
- (7) Where the duty under subsection (1) above is exercised by a registering authority, they must publish details of the fees specified under that subsection before the date mentioned in subsection (6) above.
- (8) If any fees specified under subsection (1) above are to be the same immediately before as immediately after the beginning of a financial year, a registering authority must publish details of those fees shortly before the beginning of the financial year.
- (9) In specifying fees or publishing details of fees, a registering authority must have regard to such guidance as the Lord Chancellor may issue.
- (10) That guidance—

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- (a) may also include provision concerning the manner in which fees are to be paid, and
 - (b) may be framed by reference to guidance issued by a person other than the Lord Chancellor.
- (11) The Lord Chancellor must lay before both Houses of Parliament any guidance that he issues under this section.
- (12) In this section “financial year” means a period of 12 months beginning with 1st April.”
- 84 (1) Section 9 (official searches) is amended as follows.
- (2) For subsection (3) substitute—
- “(3) In relation to England, the fee (if any) specified by a registering authority under section 13A below shall be payable, in such manner as the authority may specify, in respect of any requisition made under this section to that authority.
- (3A) In relation to Wales, the prescribed fee (if any) shall be payable in the prescribed manner in respect of any requisition made under this section.”
- (3) In subsection (4)—
- (a) after “fee” insert “ (if any) ”;
 - (b) after “(3)” insert “ or (3A) ”.
- 85 (1) In section 14 (rules), for subsection (1)(h) substitute—
- “(h) for prescribing—
- (i) in relation to England, the fees, if any, to be paid for the making of any personal search;
 - (ii) in relation to Wales, the fees, if any, to be paid for the filing of documents with a registering authority, the making of any entry on a register, the supply of copies of, or the variation or cancellation of, any such entry, and the making of any search of a register.”
- (2) The reference to that section in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044) is to be treated as referring to that section as amended by this paragraph.

Armed Forces Act 1976 (c. 52)

- 86 (1) Section 6 of the Armed Forces Act 1976 (establishment of Standing Civilian Courts) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) The Lord Chancellor may give approval to an order under subsection (3) only after consulting the relevant judges.”
- (3) After subsection (4) insert—
- “(4A) The Lord Chancellor may make an appointment under subsection (4) only with the concurrence of the relevant judges.”
- (4) In subsection (7) after “Lord Chancellor” insert “ and the relevant judges ”.

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(5) After subsection (8) insert—

“(8A) The Lord Chancellor may give his approval under section (8) only with the concurrence of the relevant judges.”

(6) After subsection (11) insert—

“(11A) The Lord Chancellor may give his approval to the removal of a member under subsection (11) only with the concurrence of the Lord Chief Justice of England and Wales.”

(7) After subsection (17) insert—

“(18) References in this section to the relevant judges are references to all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(19) The Lord Chief Justice of England and Wales 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, except his functions under subsection (11A).

(20) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.

(21) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

- (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).”

Race Relations Act 1976 (c. 74)

87 (1) Section 67 of the Race Relations Act 1976 (sheriff courts and designated county courts) is amended as follows.

(2) In subsection (1) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice ”.

(3) After subsection (5) insert—

“(6) 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.”

Rent (Agriculture) Act 1976 (c. 80)

88 In section 26 of the Rent (Agriculture) Act 1976 (jurisdiction and procedure), omit subsection (5).

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Aircraft and Shipbuilding Industries Act 1977 (c. 3)

- 89 (1) Section 42 of the Aircraft and Shipbuilding Industries Act 1977 (the arbitration tribunal) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The arbitration tribunal shall either sit as a single tribunal or sit in two or more divisions, as the Lord Chancellor may direct after consulting all of the following—
- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.”
- (3) In subsection (3) for the words from the beginning to “consist of” substitute “ For the hearing of any proceedings, the arbitration tribunal shall, subject to subsection (4) below, consist of”.
- (4) After subsection (8) insert—
- “(8A) Where the appointor is, by virtue of subsection (8)(a), the Lord Chancellor, the power conferred by subsection (5)(b) may be exercised only with the concurrence of the appropriate senior judge.
- (8B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the member whose office is to be declared vacant exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”
- (5) At the end insert—
- “(11) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (2A)(a).
- (12) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (2A)(b).
- (13) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (2A)(c)—
- (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).”

Patents Act 1977 (c. 37)

- 90 The Patents Act 1977 is amended as follows.
- 91 (1) Section 97 (appeals from the comptroller) is amended as follows.
- (2) In subsection (2) for “or on behalf of the Lord Chancellor” substitute “ the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”.
- (3) After subsection (3) insert—

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“(4) 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 (2).”

92 (1) Section 102A (right of audience etc in proceedings on appeal from the comptroller) is amended as follows.

(2) In subsection (3) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice of England and Wales,”.

(3) After subsection (6) insert—

“(7) 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.”

Administration of Justice Act 1977 (c. 38)

93 (1) Section 23 of the Administration of Justice Act 1977 (jurisdiction of ancient courts) is amended as follows.

(2) In subsection (4) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.

(3) After subsection (5) insert—

“(6) 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.”

Rent Act 1977 (c. 42)

94 Omit section 142 of the Rent Act 1977 (rules as to procedure).

National Health Service Act 1977 (c. 49)

95 In Schedule 9A to the National Health Service Act 1977 (Family Health Services Appeal Authority), in paragraph 5 (appointment of members of Authority) after “by the Lord Chancellor” insert “, with the concurrence of the Lord Chief Justice,”.

Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)

96 (1) Section 2 of the Domestic Proceedings and Magistrates' Courts Act 1978 (powers of court to make orders for financial provision) is amended as follows.

(2) In subsection (3) omit the second paragraph.

(3) After subsection (3) insert—

“(4) An order made by the Lord Chancellor under this section—

(a) shall be made only after consultation with the Lord Chief Justice;

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Changes to legislation: Constitutional Reform Act 2005, Part 1 is up to date with all changes known to be in force on or before 23 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)

(b) shall be made by statutory instrument and be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) 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.”

Customs and Excise Management Act 1979 (c. 2)

97 In Schedule 3 to the Customs and Excise Management Act 1979 (provisions relating to forfeiture), after paragraph 17(4) insert—

“(5) The Lord Chancellor may make an appointment under sub-paragraph (4) only with the concurrence—

- (a) where the proceedings referred to in sub-paragraph (1) were taken in England and Wales, of the Lord Chief Justice of England and Wales;
- (b) where those proceedings were taken in Scotland, of the Lord President of the Court of Session;
- (c) where those proceedings were taken in Northern Ireland, of the Lord Chief Justice of Northern Ireland.

(6) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

(7) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.

(8) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

- (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).”

Tobacco Products Duty Act 1979 (c. 7)

98 (1) Section 5 of the Tobacco Products Duty Act 1979 (retail price of cigarettes) is amended as follows.

(2) In subsection (4) for the words from “by the Lord Chancellor” to the end substitute “in accordance with subsections (7) to (9).”

(3) After subsection (6) insert—

“(7) The Lord Chancellor is to appoint the referee.

(8) The appointment is to be made only with the concurrence of—

- (a) the Lord Chief Justice of England and Wales, if the determination of the Commissioners was made in relation to England and Wales;
- (b) the Lord President of the Court of Session, if the determination was made in relation to Scotland; or

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- (c) the Lord Chief Justice of Northern Ireland, if the determination was made in relation to Northern Ireland.
- (9) None of the following may be appointed—
 - (a) an official of any government department;
 - (b) an office holder in, or a member of the staff of, the Scottish Administration.
- (10) The Lord Chief Justice of England and Wales 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.
- (11) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.
- (12) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
 - (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)."

Magistrates' Courts Act 1980 (c. 43)

99 The Magistrates' Courts Act 1980 is amended as follows.

- 100 (1) Section 3B (transfer of trials of summary offences) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”.
 - (3) After subsection (4) insert—
 - “(5) 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 (3).”
- 101 (1) Section 67 (Family Proceedings Courts) (as substituted by section 49(1) of the Courts Act 2003 (c. 39)) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor or a person acting on his behalf” substitute “ Lord Chief Justice ”.
 - (3) In subsection (4) for “Lord Chancellor may by rules” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, by rules ”.
 - (4) In subsection (5) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
 - (5) After subsection (8) insert—
 - “(9) 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 (3) or (4) or the powers conferred on him by rules under subsection (4).”

102 (1) Section 144 (rule committee and rules of procedure) is amended as follows.

- (2) Before subsection (1) insert—

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“(A1) The Lord Chancellor may appoint a rule committee for magistrates' courts.”

(3) In subsection (1)—

- (a) for the words from the beginning to “and may on” substitute “ The Lord Chief Justice may on ”;
- (b) after “consultation with the rule committee” insert “ , and with the concurrence of the Lord Chancellor, ”.

(4) After subsection (1) insert—

“(1A) If the Lord Chancellor does not agree rules made by the Lord Chief Justice, the Lord Chancellor must give the Lord Chief Justice and the rules committee written reasons for doing so.”

(5) In subsection (2) for “he may determine” substitute “ he may, after consulting the Lord Chief Justice, determine ”.

(6) After subsection (4) insert—

“(4A) 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.”

103 After section 144 insert—

“144A Rules to be made if required by Lord Chancellor

- (1) This section applies if the Lord Chancellor gives the Lord Chief Justice written notice that he thinks it is expedient for rules made under section 144 to include provision that would achieve a purpose specified in the notice.
- (2) The Lord Chief Justice must make such rules as he considers necessary to achieve the specified purpose.
- (3) Those rules must be—
 - (a) made within a reasonable period after the Lord Chancellor gives notice to the Lord Chief Justice;
 - (b) made in accordance with section 144.
- (4) 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.”

Housing Act 1980 (c. 51)

104 In section 86 of the Housing Act 1980 (jurisdiction of county court), omit subsections (4) to (6) (rules and directions).

Pensions Appeal Tribunals (Posthumous Appeals) Order 1980 (S.I. 1980/1082)

105 The Pensions Appeal Tribunals (Posthumous Appeals) Order 1980 is amended as follows.

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- 106 In Article 6 (directions in relation to appeals brought or continued under the Order) for “judge of the High Court nominated by the Lord Chancellor in accordance with” substitute “ relevant judicial authority for the purposes of ”.
- 107 In Article 10 (application to Scotland), omit paragraphs (b) and (c).
- 108 In Article 11 (application to Northern Ireland)—
- (a) omit paragraphs (b) and (c);
 - (b) in paragraph (d) for “Chairman” substitute “ President ”.

Judicial Pensions Act 1981 (c. 20)

- 109 The Judicial Pensions Act 1981 is amended as follows.
- 110 In section 1 (interpretation) in the entry beginning “Judge of the Supreme Court” in the first column of the table omit “, other than the Lord Chancellor”.
- 111 (1) Section 5 (Circuit Judge in England and Wales) is amended as follows.
- (2) After subsection (1) insert—

“(1A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before making a recommendation in a case that falls within subsection (1)(b) or (c).”
 - (3) After subsection (6) insert—

“(7) 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.”
- 112 (1) Section 7 (stipendiary magistrates in England and Wales) is amended as follows.
- (2) After subsection (1) insert—

“(1A) The Lord Chancellor must consult the Lord Chief Justice before making a recommendation in a case that falls within subsection (1)(b).”
 - (3) After subsection (6) insert—

“(7) 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.”
- 113 (1) Section 13 (Social Security Commissioners) is amended as follows.
- (2) After subsection (1) insert—

“(1A) In a case that falls within subsection (1)(c), the Lord Chancellor must consult—

 - (a) the Lord Chief Justice of England and Wales before making a recommendation in relation to a Commissioner who holds office in England and Wales;
 - (b) the Lord President of the Court of Session before making a recommendation in relation to a Commissioner who holds office in Scotland;

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- (c) the Lord Chief Justice of Northern Ireland before making a recommendation in relation to a Commissioner who holds office in Northern Ireland.”

(3) After subsection (6)—

“(7) 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.

(8) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.

(9) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

- (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).”

Supreme Court Act 1981 (c. 54)

114 The Supreme Court Act 1981 is amended as follows.

115 (1) Section 2 (membership of the Court of Appeal) is amended as follows.

(2) In subsection (2)—

- (a) omit paragraph (a);
 (b) in paragraph (b) for “has been Lord Chancellor” substitute “ was Lord Chancellor before 12 June 2003 ”;
 (c) for paragraphs (f) and (g) substitute—
 “(f) the President of the Queen's Bench Division;
 (g) the President of the Family Division;
 (h) the Chancellor of the High Court;”
 (d) for “Lord Chancellor's request” substitute “ request of the Lord Chief Justice ”.

(3) After subsection (2) insert—

“(2A) 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 function under subsection (2) of making requests to persons within paragraphs (b) and (c) of that subsection.”

(4) After subsection (4) insert—

“(4A) It is for the Lord Chancellor to recommend to Her Majesty the making of an Order under subsection (4).”

(5) In subsection (6)—

- (a) omit “Lord Chancellor;”;
 (b) for “President of the Family Division or Vice-Chancellor” substitute “ President of the Queen's Bench Division, President of the Family Division or Chancellor of the High Court ”.

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Commencement Information

- II** Sch. 4 para. 115 wholly in force at 3.4.2006; Sch. 4 para. 115 not in force at Royal Assent see s. 148; Sch. 4 para. 115(2)(c)(5)(b) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 115 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para 11(f)

- 116 (1) Section 3 (Divisions of Court of Appeal) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor may” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor ”.
- (3) After subsection (5) insert—
- “(6) 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 (3).”
- 117 (1) Section 4 (membership of the High Court) is amended as follows.
- (2) In subsection (1)—
- (a) omit paragraph (a);
- (b) for paragraphs (c) and (d) substitute—
- “(ba) the President of the Queen's Bench Division;
- (c) the President of the Family Division;
- (d) the Chancellor of the High Court;”.
- (3) After subsection (4) insert—
- “(4A) It is for the Lord Chancellor to recommend to Her Majesty the making of an Order under subsection (4).”
- (4) In subsection (6)—
- (a) omit “Lord Chancellor;”;
- (b) for “President of the Family Division, Vice-Chancellor” substitute “ President of the Queen's Bench Division, President of the Family Division, Chancellor of the High Court ”.

Commencement Information

- I2** Sch. 4 para. 117 wholly in force at 3.4.2006; Sch. 4 para. 117 not in force at Royal Assent see s. 148; Sch. 4 para. 117(2)(b)(4)(b) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 117 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(h)

- 118 (1) Section 5 (divisions of the High Court) is amended as follows.
- (2) In subsection (1)(a) for the words from “the Lord Chancellor” to “vice-president thereof,” substitute “ the Chancellor of the High Court, who shall be president thereof, ”.
- (3) In subsection (1)(b) for “who shall be president thereof” substitute “ , the President of the Queen's Bench Division ”.
- (4) In subsection (2) for “of the Lord Chancellor” in each place substitute “ given by the Lord Chief Justice after consulting the Lord Chancellor ”.

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(5) In subsection (3) for the words from “with the concurrence of” to the end substitute “with the concurrence of both of the following—

- (a) the senior judge of the Division to which the judge is attached;
- (b) the senior judge of the Division of which the judge is to act as an additional judge.”

(6) After subsection (5) insert—

“(6) 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 (2).”

Commencement Information

I3 Sch. 4 para. 118 wholly in force at 3.4.2006; Sch. 4 para. 118 not in force at Royal Assent see s. 148; Sch. 4 para. 118(3) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 118 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(i)

119 (1) Section 6 (the Patents, Admiralty and Commercial Courts) is amended as follows.

(2) In subsection (2) for “Lord Chancellor may” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, ”.

(3) After subsection (2) insert—

“(3) 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 (2).”

120 (1) Section 7 (power to alter Divisions etc) is amended as follows.

(2) In subsection (1) after “recommendation of” insert “ the Lord Chancellor and ”.

(3) In subsection (2)—

- (a) omit “the Lord Chancellor,”;
- (b) for “the President of the Family Division and the Vice-Chancellor” substitute “ the President of the Queen's Bench Division, the President of the Family Division and the Chancellor of the High Court ”.

Commencement Information

I4 Sch. 4 para. 120 wholly in force at 3.4.2006; Sch. 4 para. 120 not in force at Royal Assent see s. 148; Sch. 4 para. 120(3)(b) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 120 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(k)

121 (1) Section 9 (assistance for transaction of judicial business of Supreme Court) is amended as follows.

(2) In subsection (2)—

- (a) for the definition of “the appropriate authority” substitute—

““the appropriate authority” means—

- (a) the Lord Chief Justice or a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005)

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- nominated by him to exercise his functions under this section, or
- (b) at any time when the Lord Chief Justice or the nominated judicial office holder is unable to make such a request himself, or there is a vacancy in the office of Lord Chief Justice, the Master of the Rolls;”
- (b) omit the words after the definition of “relevant court”.
- (3) After subsection (2) insert—
- “(2A) The power of the appropriate authority to make a request under subsection (1) is subject to subsections (2B) to (2D).
- (2B) In the case of a request to a person within entry 1, 3, 5 or 6 in column 1 of the Table, the appropriate authority may make the request only after consulting the Lord Chancellor.
- (2C) In any other case the appropriate authority may make a request only with the concurrence of the Lord Chancellor.
- (2D) In the case of a request to a Circuit judge or Recorder to act as a judge of the High Court, the appropriate authority may make the request only with the concurrence of the Judicial Appointments Commission.”
- (4) In subsection (4)—
- (a) for “appears to the Lord Chancellor” substitute “ appears to the Lord Chief Justice, after consulting the Lord Chancellor, ”;
- (b) for “Lord Chancellor thinks fit” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, think fit ”.
- (5) After subsection (8) insert—
- “(9) 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 (4).”

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- 122 (1) Section 10 (appointment of judges of Supreme Court) is amended as follows.
- (2) In subsection (1)—
- (a) for “President of the Family Division or Vice-Chancellor” substitute “ President of the Queen's Bench Division, President of the Family Division or Chancellor of the High Court ”;
- (b) after “may” insert “ , on the recommendation of the Lord Chancellor, ”.
- (3) In subsection (2) after “may” insert “ , on the recommendation of the Lord Chancellor, ”.
- (4) In subsection (3)(a) for “President of the Family Division or Vice-Chancellor” substitute “ President of the Queen's Bench Division, President of the Family Division or Chancellor of the High Court ”.
- (5) For subsection (4) substitute—
- “(4) A person appointed—

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- (a) to any of the offices mentioned in subsection (1),
 - (b) as a Lord Justice of Appeal, or
 - (c) as a puisne judge of the High Court,
- shall take the required oaths as soon as may be after accepting office.
- (5) In the case of a person appointed to the office of Lord Chief Justice, the required oaths are to be taken in the presence of all of the following—
- (a) the Master of the Rolls;
 - (b) the President of the Queen's Bench Division;
 - (c) the President of the Family Division;
 - (d) the Chancellor of the High Court.
- (6) Where subsection (5) applies but there is a vacancy in one or more (but not all) of the offices mentioned in that subsection, the required oaths are to be taken in the presence of the holders of such of the offices as are not vacant.
- (7) In the case of a person appointed other than to the office of Lord Chief Justice, the required oaths are to be taken in the presence of—
- (a) the Lord Chief Justice, or
 - (b) a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) nominated by him for this purpose.
- (8) In this section “required oaths” means—
- (a) the oath of allegiance, and
 - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.”

Commencement Information

I5 Sch. 4 para. 122 wholly in force at 3.4.2006; Sch. 4 para. 122 not in force at Royal Assent see s. 148; Sch. 4 para. 122(2)(a)(4) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para 122 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(m)

- 123 (1) Section 11 (tenure of office) is amended as follows.
- (2) In subsection (1) omit “except the Lord Chancellor”.
- (3) After subsection (3) insert—
- “(3A) It is for the Lord Chancellor to recommend to Her Majesty the exercise of the power of removal under subsection (3).”
- (4) In subsection (9)(a) for “the President of the Family Division and the Vice-Chancellor,” substitute “ the President of the Queen's Bench Division, the President of the Family Division and the Chancellor of the High Court, ”.

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Commencement Information

I6 Sch. 4 para. 123 wholly in force at 3.4.2006; Sch. 4 para. 123 not in force at Royal Assent see s. 148; Sch. 4 para. 123(4) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 123 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(n)

- 124 In section 12 (salaries etc of judges of Supreme Court), in subsection (1) omit “, other than the Lord Chancellor,”.
- 125 (1) Section 13 (precedence of judges of Supreme Court) is amended as follows.
- (2) For subsections (2) and (3) substitute—
- “(2) Subject to subsection (1)(b), the President of the Queen's Bench Division shall rank next after the Master of the Rolls.
- (2A) The President of the Family Division shall rank next after the President of the Queen's Bench Division.
- (3) The Chancellor of the High Court shall rank next after the President of the Family Division.”
- (3) In subsection (4) for “Vice-Chancellor” substitute “ Chancellor of the High Court ”.
- 126 In section 44 (extraordinary functions of judges of High Court), in subsection (2) omit “the Lord Chancellor,”.
- 127 In section 56B (allocation of cases in criminal division), in subsection (1) for “with the concurrence of the Lord Chancellor” substitute “ after consulting the Lord Chancellor ”.
- 128 (1) Section 57 (Court of Appeal: sittings and vacations) is amended as follows.
- (2) In subsection (2) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.
- (3) After subsection (4) insert—
- “(5) 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.”
- 129 (1) Section 61 (distribution of business among Divisions) is amended as follows).
- (2) In subsection (3)—
- (a) for “Lord Chancellor may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”;
- (b) in paragraph (b) for “appears to him” substitute “ appears to the Lord Chief Justice and the Lord Chancellor ”.
- (3) After subsection (8) insert—
- “(9) 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 (3).”
- 130 (1) Section 63 (business assigned to specially nominated judges) is amended as follows.

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- (2) In subsection (1) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice after consulting the Lord Chancellor ”.
- (3) In subsection (2) for “Lord Chancellor” substitute “ Lord Chief Justice, after consulting the Lord Chancellor, to be ”.
- (4) After subsection (3) insert—
- “(4) 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) or (2).”
- 131 (1) Section 68 (exercise of jurisdiction of High Court otherwise than by judges of that court) is amended as follows.
- (2) In subsection (1)(a) for “Lord Chancellor may” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, ”.
- (3) In subsection (6) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice after consulting the Lord Chancellor ”.
- (4) After subsection (7) insert—
- “(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 subsections (1)(a) and (6).”
- 132 (1) Section 71 (High Court: sittings and vacations) is amended as follows.
- (2) In subsection (2) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.
- (3) After subsection (5) insert—
- “(6) 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.”
- 133 (1) Section 74 (appeals and committals for sentence) is amended as follows.
- (2) After subsection (5) insert—
- “(5A) Before exercising any functions under subsection (4), the Lord Chancellor must consult the Lord Chief Justice.”
- (3) After subsection (7) insert—
- “(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.”
- 134 (1) Section 78 (Crown Court: sittings) is amended as follows.
- (2) In subsection (3) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.
- (3) After subsection (3) insert—

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- “(4) 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.”
- 135 (1) Section 82 (duties of officers of Crown Court) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.
- (3) After subsection (2) insert—
- “(3) 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.”
- 136 Omit section 84(8) (rules of court for Crown Court etc to be made by statutory instrument).
- 137 (1) Section 86 (the Crown Court Rule Committee) is amended as follows.
- (2) In subsection (1) for “by the Lord Chancellor together with any four or more of the following persons, namely—” substitute “ by a committee known as the Crown Court Rule Committee, which is to consist of the following persons— ”.
- (3) For subsections (2) to (4) substitute—
- “(2) The members of the Crown Court Rule Committee, other than those eligible to act by virtue of their office, are appointed under subsection (3) or (4).
- (3) The Lord Chief Justice must appoint the persons referred to in paragraphs (b), (c) and (e) of subsection (1), after consulting the Lord Chancellor.
- (4) The Lord Chancellor must appoint the persons referred to in paragraphs (f) and (g) of subsection (1), after consulting the following—
- (a) the Lord Chief Justice;
- (b) any authorised body with members who are eligible for appointment under the relevant paragraph.
- (5) A person is to be appointed under subsection (3) or (4) for such period as the Lord Chancellor determines after consulting the Lord Chief Justice.
- (6) 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.”
- 138 After section 86 insert—

“86A Process for making rules of court under section 84

- (1) Crown Court rules must be—
- (a) signed by a majority of the members of the Crown Court Rule Committee, and
- (b) submitted to the Lord Chancellor.
- (2) The Lord Chancellor may allow or disallow rules so made.

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- (3) If the Lord Chancellor disallows rules, he must give the Committee written reasons for doing so.
- (4) Rules so made and allowed by the Lord Chancellor—
 - (a) come into force on such day as the Lord Chancellor directs, and
 - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by a Minister of the Crown.
- (5) A statutory instrument containing Crown Court rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section and section 86B “Crown Court rules” means rules of court made under section 84.

86B Rules to be made if required by Lord Chancellor

- (1) This section applies if the Lord Chancellor gives the Crown Court Rule Committee written notice that he thinks it is expedient for Crown Court rules to include provision that would achieve a purpose specified in the notice.
- (2) The Committee must make such Crown Court rules as it considers necessary to achieve the specified purpose.
- (3) Those rules must be—
 - (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
 - (b) made in accordance with section 86A.”

139 (1) Section 91 (deputies and temporary appointments) is amended as follows.

- (2) In subsection (1)—
 - (a) for “Lord Chancellor” in the first place substitute “ Lord Chief Justice, after consulting the Lord Chancellor, ”;
 - (b) in paragraph (a) omit “or III”;
 - (c) for “Lord Chancellor thinks fit” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, think fit ”.
- (3) After subsection (1) insert—

“(1A) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business in the Senior Courts, he may appoint a person—

 - (a) to act as a deputy for any person holding an office listed in column 1 of Part 3 of Schedule 2; or
 - (b) to act as a temporary additional officer in any such office, during such period or on such occasions as the Lord Chancellor may think fit.”
- (4) After subsection (6) insert—

“(7) 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).”

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- 140 (1) Section 92 (tenure of office) is amended as follows.
- (2) In subsection (5) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice ”.
- (3) In subsection (6) after “also” insert “ , with the concurrence of the Lord Chief Justice, ”.
- (4) After subsection (7) insert—
- “(8) It is for the Lord Chancellor to recommend to Her Majesty the exercise of any power under subsection (7).”
- 141 (1) Section 96 (Central Office) is amended as follows.
- (2) In subsection (1) leave out “Lord Chancellor may” and insert “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”.
- (3) In subsection (2) for “of the Lord Chancellor under this section” substitute “ under subsection (1) ”.
- (4) After subsection (2) insert—
- “(3) 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.”
- 142 In section 98 (judges' clerks and secretaries), in subsection (1) for “the President of the Family Division and the Vice-Chancellor” substitute “ the President of the Queen's Bench Division, the President of the Family Division and the Chancellor of the High Court ”.
- 143 (1) Section 99 (district registries) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (3) After subsection (2) insert—
- “(3) 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.”
- 144 (1) Section 104 (district probate registries) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (3) After subsection (2) insert—
- “(3) 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.”
- 145 (1) Section 131 (conveyancing counsel of Supreme Court) is amended as follows.
- (2) In subsection (2) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice ”.
- (3) After subsection (2) insert—

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“(3) 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.”

146 In section 151 (interpretation), in subsection (1) for the definition of “senior judge” substitute—

““senior judge”, where the reference is to the senior judge of a Division, means the president of that Division;”.

Administration of Justice Act 1982 (c. 53)

147 The Administration of Justice Act 1982 is amended as follows.

148 (1) Section 25 (regulations as to deposit and registration of wills) is amended as follows.

(2) In subsection (4) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice of England and Wales ”.

(3) After subsection (8) insert—

“(9) 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 (4).”

Representation of the People Act 1983 (c. 2)

149 In section 161 of the Representation of the People Act 1983 (justices of the peace guilty of corrupt practice)—

(a) after “Lord Chancellor” insert “ and the Lord Chief Justice ”;

(b) after “Scotland,” insert “ to ”.

Mental Health Act 1983 (c. 20)

150 The Mental Health Act 1983 is amended as follows.

151 (1) Section 93 (judicial authorities and Court of Protection) is amended as follows.

(2) In subsection (1) for “Lord Chancellor shall” substitute “ Lord Chief Justice shall, after consulting the Lord Chancellor, ”.

(3) In subsection (3) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(4) In subsection (4) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

(5) After subsection (4) insert—

“(5) 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), (3) or (4).”

152 In section 94 (exercise of the judge's functions: the patient), in subsection (1) omit “by the Lord Chancellor or”.

153 In section 96 (powers of the judge as to the patient's property and affairs), in subsection (3) omit “the Lord Chancellor or”.

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- 154 In section 104 (general powers of the judge with respect to proceedings), in subsection (3) omit “the Lord Chancellor or” in both places.
- 155 In section 105 (appeals), in subsection (2) omit “from any decision of the Lord Chancellor or”.
- 156 (1) Section 108 (general provisions as to rules under Part 7) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Rules under section 106(5) are to be made by the Lord Chancellor after consulting the Lord Chief Justice.”
- (3) After subsection (2) insert—
- “(3) 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.”
- (4) Paragraph 16 of Schedule 1 also amends section 108.
- 157 (1) Section 111 (construction of references in other Acts) is amended as follows.
- (2) In subsection (1) omit “by the Lord Chancellor or”.
- (3) In subsection (2) omit “the Lord Chancellor”.
- (4) In subsection (4)—
- (a) in paragraph (a) omit “the Lord Chancellor or”;
- (b) in paragraph (b) omit “the Lord Chancellor”.
- 158 (1) Schedule 2 (mental health review tribunals) is amended as follows.
- (2) In paragraph 1(b) and (c) omit “after consultation with the Secretary of State”.
- (3) After paragraph 1 insert—
- “1A As part of the selection process for an appointment under paragraph 1(b) or (c) the Judicial Appointments Commission shall consult the Secretary of State.”

PROSPECTIVE

Pastoral Measure 1983 (1983 No. 1)

- 159 (1) Section 81(2) of the Pastoral Measure 1983 (application to benefices in the patronage of the Crown or the Duke of Cornwall) is amended as follows.
- (2) In paragraph (a)—
- (a) for the words from the beginning to “benefices” substitute “any consent under the foregoing subsection in respect of a benefice or benefices”;
- (b) omit the words from “; or a” to “books”;
- (c) omit “last-mentioned”.
- (3) Omit paragraph (b).

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County Courts Act 1984 (c. 28)

- 160 The County Courts Act 1984 is amended as follows.
- 161 (1) Section 2 (county court districts etc) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.
- (3) In subsection (3) after “given” insert “, after consulting the Lord Chief Justice, ”.
- (4) After subsection (4) insert—
- “(5) 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) or (3).”
- 162 (1) Section 3 (places and times of sittings) is amended as follows.
- (2) In subsection (1) after “given” insert “, after consulting the Lord Chief Justice, ”.
- (3) After subsection (4) insert—
- “(5) 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).”
- 163 (1) Section 5 (judges of county courts) is amended as follows.
- (2) In subsection (1) for “Lord Chancellor shall” substitute “ Lord Chief Justice shall, after consulting the Lord Chancellor, ”.
- (3) In subsection (2) for “or on behalf of the Lord Chancellor” substitute “ the Lord Chief Justice after consulting the Lord Chancellor ”.
- (4) In subsection (3) for “Lord Chancellor considers desirable” substitute “ Lord Chief Justice considers desirable after consulting the Lord Chancellor ”.
- (5) In subsection (4)(a) for “Lord Chancellor may direct” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, direct ”.
- (6) After subsection (4) insert—
- “(5) 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.”
- 164 (1) Section 11 (tenure of office) is amended as follows.
- (2) In subsection (5) after “by the Lord Chancellor” insert “, but only with the concurrence of the Lord Chief Justice ”.
- (3) In subsection (6) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice, ”.
- 165 In section 12 (records of proceedings to be kept by district judges), after subsection (2) insert—
- “(3) The Lord Chancellor must consult the Lord Chief Justice before making regulations under this section.

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- (4) 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.”
- 166 (1) Section 26 (districts for Admiralty purposes) is amended as follows.
- (2) In subsection (1)—
- (a) after “Lord Chancellor” insert “ and the Lord Chief Justice ”;
- (b) for “him” substitute “ the Lord Chancellor ”.
- (3) After subsection (4) insert—
- “(5) 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.”
- 167 In section 38 (remedies available in county courts), in subsection (5) for “by the Lord Chancellor under this section” substitute “ under this section by the Lord Chancellor after consulting the Lord Chief Justice ”.
- 168 (1) Section 61 (right of audience by direction) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.
- (3) After subsection (4) insert—
- “(5) 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.”
- 169 Omit section 74A (practice directions).
- 170 In section 145 (power to raise monetary limits), after subsection (2) insert—
- “(2A) It is for the Lord Chancellor to recommend to Her Majesty the making of an Order under subsection (1).”

Matrimonial and Family Proceedings Act 1984 (c. 42)

- 171 The Matrimonial and Family Proceedings Act 1984 is amended as follows.
- 172 (1) Section 33 (jurisdiction of county courts in matrimonial cases) is amended as follows.
- (2) In subsections (1) and (4) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.
- (3) After subsection (5) insert—
- “(6) 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.”
- 173 (1) Section 36 (assignment of circuit judges to family proceedings) is amended as follows.
- (2) That section becomes subsection (1) of section 36.

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- (3) In that subsection, for “Lord Chancellor may direct” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, direct ”.
- (4) After that subsection insert—
- “(2) 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.”
- 174 (1) Section 42 (county court proceedings in principal registry of Family Division) is amended as follows.
- (2) In subsection (2)(a) for “may direct” substitute “ may, after consulting the Lord Chief Justice, direct ”.
- (3) After subsection (6) insert—
- “(7) 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.”
- Inheritance Tax Act 1984 (c. 51)*
- 175 The Inheritance Tax Act 1984 is amended as follows.
- 176 In section 256 (regulations about accounts etc), for subsection (3A) substitute—
- “(3A) Regulations under this section may only be made—
- (a) in relation to England and Wales, after consulting the Lord Chancellor;
- (b) in relation to Scotland, after consulting the Scottish Ministers;
- (c) in relation to Northern Ireland, after consulting the Lord Chief Justice of Northern Ireland.
- (3B) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (3A)—
- (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).”
- 177 (1) Section 257 (form etc of accounts) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor” substitute “ Lord Chief Justice of Northern Ireland ”.
- (3) After subsection (3) insert—
- “(4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (3)—
- (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).”

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Reserve Forces (Safeguard of Employment) Act 1985 (c. 17)

- 178 (1) Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985 (Reinstatement Committees and Umpires) is amended as follows.
- (2) In paragraph 2 (membership of Reinstatement Committees), for “Lord Chief Justice of Northern Ireland” substitute “ Lord Chancellor ”.

Transport Act 1985 (c. 67)

- 179 (1) Schedule 4 to the Transport Act 1985 (constitution, powers and proceedings of the Transport Tribunal) is amended as follows.
- (2) In paragraph 3 (tenure of office), after sub-paragraph (3) insert—
- “(3A) The Lord Chancellor may remove a judicial member from office under sub-paragraph (3) only with the concurrence of the appropriate senior judge.
- (3B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the judicial member who is to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.”
- (3) In paragraph 10 (the president)—
- (a) in sub-paragraph (1) for “Lord Chancellor” substitute “ Lord Chief Justice ”;
- (b) after sub-paragraph (1) insert—
- “(1A) Before exercising his functions under sub-paragraph (1) the Lord Chief Justice must—
- (a) consult the Lord Chancellor, and
- (b) obtain the agreement of the Lord President of the Court of Session.”;
- (c) after sub-paragraph (3) insert—
- “(4) 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 sub-paragraph (1).
- (5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under sub-paragraph (1A)(b).”

Housing Act 1985 (c. 68)

- 180 The Housing Act 1985 is amended as follows.
- 181 Omit section 111 (secure tenancies: county court rules and directions).
- 182 In section 181 (right to buy: jurisdiction of county court), omit subsections (4) and (5) (rules and directions).
- 183 In section 572 (assistance for owners of defective housing: jurisdiction of county court), omit subsections (4) to (6) (rules and directions).

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Merchant Shipping (Formal Investigations) Rules 1985 (S.I. 1985/1001)

- 184 In rule 17 of the Merchant Shipping (Formal Investigations) Rules 1985 (application to Northern Ireland), omit sub-paragraph (a).

Insolvency Act 1986 (c. 45)

- 185 The Insolvency Act 1986 is amended as follows.
- 186 (1) Section 117 (High Court and county court jurisdiction) is amended as follows.
- (2) In subsection (4) for “may by order” substitute “ may, with the concurrence of the Lord Chief Justice, by order ”.
- (3) After subsection (7) insert—
- “(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.”
- 187 (1) Section 374 (insolvency districts) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.
- (3) In subsection (2) after “Lord Chancellor” insert “ and the Lord Chief Justice ”.
- (4) After subsection (4) insert—
- “(5) 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.”
- 188 (1) Section 411 (company insolvency rules) is amended as follows.
- (2) In subsection (1)(a) after “Secretary of State” insert “ and, in the case of rules that affect court procedure, with the concurrence of the Lord Chief Justice ”.
- (3) After subsection (6) insert—
- “(7) 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.”
- 189 (1) Section 412 (individual insolvency rules (England and Wales)) is amended as follows.
- (2) In subsection after “Secretary of State” insert “ and, in the case of rules that affect court procedure, with the concurrence of the Lord Chief Justice ”.
- (3) After subsection (5) insert—
- “(6) 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.”
- 190 (1) Section 413 (Insolvency Rules committee) is amended as follows.
- (2) In subsection (3) for “by the Lord Chancellor” substitute “ in accordance with subsection (3A) or (3B) ”.
- (3) After subsection (3) insert—

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“(3A) The Lord Chief Justice must appoint the persons referred to in paragraphs (a) to (d) of subsection (3), after consulting the Lord Chancellor.

(3B) The Lord Chancellor must appoint the persons referred to in paragraphs (e) to (g) of subsection (3), after consulting the Lord Chief Justice.”

(4) After subsection (4) insert—

“(5) 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.”

191 (1) Section 420 (insolvent partnerships) is amended as follows.

(2) In subsection (1) after “Secretary of State” insert “ and the Lord Chief Justice ”.

(3) In subsection (2) after “Lord Chancellor” insert “ and the Lord Chief Justice ”.

(4) After subsection (3) insert—

“(4) 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.”

192 (1) Section 421 (insolvent estates of deceased persons) is amended as follows.

(2) In subsection (1) after “Secretary of State” insert “ and the Lord Chief Justice ”.

(3) In subsection (2) after “Lord Chancellor” insert “ and the Lord Chief Justice ”.

(4) After subsection (4) insert—

“(5) 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.”

Coroners Act 1988 (c. 13)

193 The Coroners Act 1988 is amended as follows.

194 (1) Section 3 (terms on which coroners hold office) is amended as follows.

(2) For subsection (4) substitute—

“(4) The Lord Chancellor may, with the agreement of the Lord Chief Justice, remove any coroner from office for inability or misbehaviour.”

(3) In subsection (5) for “, wilful neglect of his duty or misbehaviour in the discharge of his duty” substitute “ or wilful neglect of his duty ”.

195 In section 33 (savings), in subsection (2)(a) omit “the Lord Chancellor or”.

Criminal Justice Act 1988 (c. 33)

196 In Schedule 12 to the Criminal Justice Act 1988 (assessors of compensation for miscarriages of justice), for paragraph 6 (power of removal) substitute—

“6 (1) The exercise of the power conferred by paragraph 5 is subject to the following provisions of this paragraph.

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- (2) In the case of a person who qualifies for appointment under—
- (a) paragraph (1)(a), or
 - (b) paragraph (1)(d) by virtue of holding or having held judicial office in England and Wales,
- that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of England and Wales.
- (3) In the case of a person who qualifies for appointment under—
- (a) paragraph (1)(b), or
 - (b) paragraph (1)(d) by virtue of holding or having held judicial office in Scotland,
- that power shall only be exercisable with the consent of the Lord President of the Court of Session.
- (4) In the case of a person who qualifies for appointment under—
- (a) paragraph (1)(c), or
 - (b) paragraph (1)(d) by virtue of holding or having held judicial office in Northern Ireland,
- that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of Northern Ireland.”

Finance Act 1988 (c. 39)

197 In section 134 (General Commissioners for Northern Ireland), omit subsection (4).

Copyright, Designs and Patents Act 1988 (c. 48)

198 The Copyright, Designs and Patents Act 1988 is amended as follows.

199 (1) Section 146 (membership of the copyright tribunal) is amended as follows.

(2) After subsection (6) insert—

“(7) The Lord Chancellor may exercise his powers to remove a person under subsection (3) or to appoint a person under subsection (4) only with the concurrence of the appropriate senior judge.

(8) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the person to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.

(9) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4).

Status: Point in time view as at 03/04/2006. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Constitutional Reform Act 2005, Part 1 is up to date with all changes known to be in force on or before 23 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)

- (10) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4).
- (11) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4)—
- (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)."
- 200 (1) Section 287 (patents county courts: special jurisdiction) is amended as follows.
- (2) In subsection (1) after "Lord Chancellor may" insert " , with the concurrence of the Lord Chief Justice, ".
- (3) After subsection (5) insert—
- “(6) The Lord Chief Justice of England and Wales 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.”
- 201 (1) Section 291 (proceedings in patents county court) is amended as follows.
- (2) In subsection (1) for "Lord Chancellor shall" substitute " Lord Chief Justice shall, after consulting the Lord Chancellor, ".
- (3) After subsection (5) insert—
- “(6) 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).”
- 202 (1) Section 292 (rights and duties of registered patent agents in relation to proceedings in patents courts) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The Lord Chancellor may make regulations under subsection (2) only with the concurrence of the Lord Chief Justice.”
- (3) After subsection (6) insert—
- “(7) 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.”

Children Act 1989 (c. 41)

203 The Children Act 1989 is amended as follows.

204 (1) Section 7 (welfare reports) is amended as follows.

- (2) In subsection (2) after "Lord Chancellor may" insert " , after consulting the Lord Chief Justice, ".

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- (3) After subsection (5) insert—
- “(6) 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 (2).”
- 205 (1) Section 92 (jurisdiction of the courts) is amended as follows.
- (2) In subsection (9) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.
- (3) In subsection (10) after “Lord Chancellor thinks expedient” insert “, after consulting the Lord Chief Justice, ”.
- (4) After subsection (10) insert—
- “(10A) 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 (9) or (10).”
- 206 (1) Section 94 (appeals) is amended as follows.
- (2) In subsection (10) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.
- (3) After subsection (11) insert—
- “(12) 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 (10).”
- 207 In section 96 (evidence given by, or with respect to, children), in subsection (3) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice, ”.
- 208 (1) In section 97 (privacy for children involved in certain proceedings).
- (2) In subsection (4) after “requires it” insert “ and, in the case of the Lord Chancellor, if the Lord Chief Justice agrees ”.
- (3) After subsection (8) insert—
- “(9) 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 (4).”
- 209 (1) In Schedule 1 (financial provision for children), paragraph 5 (maximum lump sum payable for maintenance of child by order of magistrates court) is amended as follows.
- (2) In sub-paragraph (2) after “Lord Chancellor may” substitute “, after consulting the Lord Chief Justice, ”.
- (3) After sub-paragraph (6) insert—
- “(7) 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 paragraph.”
- 210 (1) Schedule 11 (jurisdiction) is amended as follows.

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- (2) In paragraph 1 (commencement of proceedings) after “Lord Chancellor may” in each place insert “, after consulting the Lord Chief Justice, ”.
- (3) In paragraph 2 (transfer of proceedings)—
- (a) in sub-paragraph (1) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”;
 - (b) in sub-paragraph (5) after “Lord Chancellor thinks appropriate” insert “, after consulting the Lord Chief Justice, ”.
- (4) In paragraph 3 (hearings by a single justice), in sub-paragraph (1) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.
- (5) In paragraph 4 (general)—
- (a) in sub-paragraph 5(a) after “Lord Chancellor considers expedient” insert “, after consulting the Lord Chief Justice, ”.
 - (b) after sub-paragraph (5) insert—

“(6) 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 Part of this Schedule.”

Courts and Legal Services Act 1990 (c. 41)

211 The Courts and Legal Services Act 1990 is amended as follows.

- 212 (1) Section 1 (allocation of business between High Court and county courts) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) An order under subsection (1)(a) or (b) may be made only with the concurrence of the Lord Chief Justice.”
- (3) In subsection (9) for “the President of the Family Division, the Vice-Chancellor” substitute “the President of the Queen's Bench Division, the President of the Family Division, the Chancellor of the High Court ”.
- (4) After subsection (12) insert—
- “(13) 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.”

Commencement Information

I7 Sch. 4 para. 212 wholly in force at 3.4.2006; Sch. 4 para. 212 not in force at Royal Assent see s. 148; Sch. 4 para. 212(3) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 212 in force at 3.4.2006 in so far already not in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(s)

213 In section 9 (allocation of family proceedings which are within the jurisdiction of the county courts), in subsection (1) for the words from the beginning to “Family Division,” substitute “The President of the Family Division may, after consulting the Lord Chancellor, ”.

214 (1) Section 11 (representation in certain county court cases) is amended as follows.

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- (2) In subsection (1) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice,”.
- (3) Omit subsection (10).
- (4) After subsection (11) insert—
- “(12) 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) or (2).”
- 215 (1) Section 73 (delegation of certain administrative functions of Master of the Rolls) is amended as follows.
- (2) In subsection (3)—
- (a) for “Lord Chancellor may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”;
- (b) for “Lord Chancellor considers” substitute “ Lord Chief Justice and Lord Chancellor consider ”.
- (3) After subsection (5) insert—
- “(6) 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 (3).”
- 216 In section 119 (interpretation), in subsection (1) in the definition of “designated judge” for “the President of the Family Division or the Vice-Chancellor” substitute “ the President of the Queen's Bench Division, the President of the Family Division or the Chancellor of the High Court ”.

Armed Forces Act 1991 (c. 62)

- 217 In Schedule 1 to the Armed Forces Act 1991 (assessors of compensation for miscarriages of justice) for paragraph 6 (power of removal) substitute—
- “6 (1) The exercise of the power conferred by paragraph 5 is subject to the following provisions of this paragraph.
- (2) In the case of a person who qualifies for appointment under—
- (a) paragraph (1)(a), or
- (b) paragraph (1)(d) by virtue of holding or having held judicial office in England and Wales,
- that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of England and Wales.
- (3) In the case of a person who qualifies for appointment under—
- (a) paragraph (1)(b), or
- (b) paragraph (1)(d) by virtue of holding or having held judicial office in Scotland,
- that power shall only be exercisable with the consent of the Lord President of the Court of Session.
- (4) In the case of a person who qualifies for appointment under—

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- (a) paragraph (1)(c), or
- (b) paragraph (1)(d) by virtue of holding or having held judicial office in Northern Ireland,

that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of Northern Ireland.”

Child Support Act 1991 (c. 48)

218 The Child Support Act 1991 is amended as follows.

219 (1) Section 8 (role of the courts with respect to maintenance of children) is amended as follows.

(2) After subsection (5) insert—

“(5A) The Lord Chancellor may make an order under subsection (5) only with the concurrence of the Lord Chief Justice.”

(3) After subsection (11) insert—

“(12) 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.”

220 In section 45 (jurisdiction of courts in certain proceedings under the Act), after subsection (7) insert—

“(8) The functions of the Lord Chancellor under this section may be exercised only after consultation with the Lord Chief Justice.

(9) 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.”

221 (1) Schedule 4 (Child Support Commissioners) is amended as follows.

(2) In paragraph 1 (tenure of office), after sub-paragraph (3) insert—

“(3A) The Lord Chancellor may remove a Child Support Commissioner under sub-paragraph (3) only with the concurrence of the appropriate senior judge.

(3B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the Commissioner exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.”

(3) In paragraph 8 (application of Schedule to Northern Ireland), before sub-paragraph (b) insert—

“(ab) paragraph 1(3A) and (3B) were omitted;”.

Land Drainage Act 1991 (c. 59)

222 (1) Section 31 of the Land Drainage Act 1991 (composition and incidental powers of the Agricultural Land Tribunal) is amended as follows.

(2) After subsection (1) insert—

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“(1A) Before drawing up, or revising, a panel under subsection (1), the Lord Chancellor must consult the Lord Chief Justice.”

(3) After subsection (5) insert—

“(6) 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.”

Tribunals and Inquiries Act 1992 (c. 53)

223 The Tribunals and Inquiries Act 1992 is amended as follows.

224 In section 6 (appointment of chairmen of certain tribunals), omit subsection (9).

225 (1) In section 7 (concurrence required for removal of members of certain tribunals), subsection (1) is amended as follows.

(2) Omit “, other than the Lord Chancellor,”.

(3) In paragraphs (a) to (c) after “Lord Chancellor” in each place insert “ (unless he is the Minister terminating the person's membership), the Lord Chief Justice of England and Wales, ”.

(4) In paragraph (d) after “Lord Chancellor” insert “ (unless he is the Minister terminating the person's membership) and the Lord Chief Justice of England and Wales ”.

Judicial Pensions and Retirement Act 1993 (c. 8)

226 The Judicial Pensions and Retirement Act 1993 is amended as follows.

227 (1) Section 2 (the judicial officer's entitlement to a pension) is amended as follows.

(2) After subsection (3) insert—

“(3A) Where the appropriate minister is the Lord Chancellor, he must, before satisfying himself as mentioned in subsection (3)(b)—

(a) consult the Lord Chief of Justice of England and Wales, if the person in question holds office in England and Wales;

(b) consult the Lord Chief of Justice of Northern Ireland, if the person in question holds office in Northern Ireland.”

(3) After subsection (8) insert—

“(9) The Lord Chief Justice of England and Wales 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.

(10) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

(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).”

228 (1) Section 26 (retirement date for holders of certain judicial offices) is amended as follows.

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- (2) For “appropriate minister” in subsections (5) and (6) substitute “ appropriate person ”.
- (3) In subsection (7)—
- (a) in paragraph (a) omit “, unless he is the Lord Chancellor”;
 - (b) in paragraph (b) omit “, unless he is the Lord Chancellor”.
- (4) In subsection (12), after the definition of “appointed day” insert—
- ““the appropriate person” means—
- (a) the appropriate Minister in a case which falls within paragraph (a) of the definition of the expression in section 30;
 - (b) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to England and Wales, the Lord Chief Justice of England and Wales;
 - (c) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Northern Ireland, the Lord Chief Justice of Northern Ireland.”
- (5) After subsection (12) insert—
- “(13) Where the Lord Chief Justice of England or Wales or the Lord Chief Justice of Northern Ireland is the appropriate person, he must obtain the concurrence of the Lord Chancellor before exercising any functions under this section.
 - (14) The Lord Chief Justice of England or Wales 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.
 - (15) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
 - (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).”
- 229 In Schedule 1 (offices which may be qualifying judicial offices) in Part 1 (judges) for the entries “President of the Family Division” and “Vice-Chancellor” substitute — “President of the Queen's Bench Division President of the Family Division Chancellor of the High Court ”.
- 230 In Schedule 5 (retirement provisions: the relevant offices), in the second entry omit “, other than the Lord Chancellor”.
- Bail (Amendment) Act 1993 (c. 26)*
- 231 In section 1 of the Bail (Amendment) Act 1993 (prosecution right of appeal), in subsection (12) in the definition of “magistrates' court” and “court” for “designated” to the end substitute “ designated in accordance with section 67 or section 139 of the Extradition Act 2003 ”.
- Welsh Language Act 1993 (c. 38)*
- 232 (1) Section 23 of the Welsh Language Act 1993 (oaths and affirmations) is amended as follows.

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- (2) That section becomes subsection (1) of section 23.
- (3) In that subsection after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice of England and Wales,”.
- (4) After that subsection insert—
- “(2) 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.”
- Local Government (Wales) Act 1994 (c. 19)*
- 233 (1) Section 55 of the Local Government (Wales) Act 1994 (magistrates' courts, justices of the peace etc) is amended as follows.
- (2) In subsection (1)—
- (a) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.
- (b) for “he thinks necessary or expedient” substitute “ the Lord Chancellor thinks necessary or expedient, after consulting the Lord Chief Justice,”.
- (3) In subsection (3)—
- (a) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.
- (b) for “appears to him expedient” substitute “ appears to the Lord Chancellor to be expedient, after consulting the Lord Chief Justice,”.
- 234 After subsection (5) insert—
- “(6) 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.”

Value Added Tax Act 1994 (c. 23)

- 235 The Value Added Tax Act 1994 is amended as follows.
- 236 In section 86 (appeals to the Court of Appeal), after subsection (2) insert—
- “(2A) Before making an order under this section that relates to England and Wales, the Lord Chancellor must consult the Lord Chief Justice of England and Wales.
- (2B) Before making an order under this section that relates to Northern Ireland, the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland.
- (2C) The Lord Chief Justice of England and Wales 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.
- (2D) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

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(b) a Lord Justice of Appeal (as defined in section 88 of that Act).”

237 (1) Schedule 12 (constitution and procedure of VAT tribunals) is amended as follows.

(2) In paragraph 3 (tenure of office of President)—

(a) after sub-paragraph (5) insert—

“(5A) The Lord Chancellor may remove a person from office under sub-paragraph (4), or nominate a person under sub-paragraph (5), only with the concurrence of all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.”;

(b) after sub-paragraph (8) insert—

“(9) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under sub-paragraph (5A) in relation to the nomination of a person under sub-paragraph (5).

(10) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under sub-paragraph (5A) in relation to the nomination of a person under sub-paragraph (5).

(11) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (5A) in relation to the nomination of a person under sub-paragraph (5)—

- (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).”

(3) In paragraph 4—

(a) that paragraph becomes sub-paragraph (1) of paragraph 4;

(b) after that sub-paragraph insert—

“(2) The powers of the Lord Chancellor under sub-paragraph (1) may be exercised—

- (a) in relation to England and Wales only after consulting the Lord Chief Justice of England and Wales;
- (b) in relation to Northern Ireland only after consulting the Lord Chief Justice of Northern Ireland.

(3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

(4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

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- (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).”

(4) In paragraph 7 (membership of panels)—

- (a) in sub-paragraph (3)(c) for “Lord Chief Justice of Northern Ireland” substitute “ Lord Chancellor ”;
- (b) for sub-paragraph (7) substitute—

“(7A) The Lord Chancellor may, with the concurrence of the Lord Chief Justice of England and Wales, remove from office on the ground of incapacity or misbehaviour a chairman of VAT Tribunals appointed under sub-paragraph (3)(a).

(7B) The Lord President of the Court of Session may remove from office on the ground of incapacity or misbehaviour a chairman of VAT Tribunals appointed under sub-paragraph (3)(b).”

Trade Marks Act 1994 (c. 26)

238 In section 77 of the Trade Marks Act 1994 (persons appointed to hear and determine appeals), after subsection (4) insert—

“(5) The Lord Chancellor may remove a person from office under subsection (3) (c) only with the concurrence of the appropriate senior judge.

(6) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the person to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

Merchant Shipping Act 1995 (c. 21)

239 In section 297 of the Merchant Shipping Act 1995 (wreck commissioners), after subsection (3) insert—

“(3A) The Lord Chancellor may remove a wreck commissioner from office only with the concurrence of—

- (a) the Lord Chief Justice of England and Wales, or
- (b) if the commissioner was appointed to act in Northern Ireland, the Lord Chief Justice of Northern Ireland.”

Reserve Forces Act 1996 (c. 14)

240 The Reserve Forces Act 1996 is amended as follows.

241 In section 90 (appointment of panel of chairmen), after subsection (1) insert—

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“(1A) The Lord Chancellor may not appoint a member of the panel unless the appropriate senior judge concurs.”

242 In section 91 (appointment of panel of ordinary members), after subsection (2) insert—

“(2A) The Lord Chancellor may not appoint a member of the panel unless the appropriate senior judge concurs.”

243 (1) Section 92 (membership of tribunals etc) is amended as follows.

(2) In subsection (1) for “by the Lord Chancellor” substitute “ in accordance with subsection (2) ”.

(3) For subsections (2) and (3) substitute—

“(2) The chairman and other members are to be selected as follows—

- (a) in the case of an appeal tribunal which is to sit in England and Wales, by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor;
- (b) in the case of an appeal tribunal which is to sit in Scotland, by the Lord President of the Court of Session;
- (c) in the case of an appeal tribunal which is to sit in Northern Ireland, by the Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor.

(3) Where a tribunal which is hearing an appeal in respect of a determination of an application under regulations under section 78 or 79 requests it, a serving or retired officer of any regular service or reserve force may be appointed in accordance with subsection (4) to advise the tribunal on any relevant service matters.

(4) The officer is to be appointed as follows—

- (a) in the case of an appeal tribunal which is sitting in England and Wales, by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor;
- (b) in the case of an appeal tribunal which is sitting in Scotland, by the Lord President of the Court of Session;
- (c) in the case of an appeal tribunal which is sitting in Northern Ireland, the Lord Chancellor with the concurrence of the Lord Chief Justice of Northern Ireland.”

244 After section 92 insert—

“92A Sections 90 to 92: supplementary

(1) In sections 90 and 91 “appropriate senior judge”, in relation to the appointment of a person to be a member of a panel, means—

- (a) if the person is to be appointed to exercise functions wholly or mainly in relation to England and Wales, the Lord Chief Justice of England and Wales;
- (b) if the person is to be appointed to exercise functions wholly or mainly in relation to Scotland, the Lord President of the Court of Session;

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- (c) if the person is to be appointed to exercise functions wholly or mainly in relation to Northern Ireland, the Lord Chief Justice of Northern Ireland.
- (2) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise any of his functions under sections 90 to 92.
- (3) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise any of his functions under sections 90 to 92.
- (4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise any of his functions under sections 90 to 92—
 - (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)."

Employment Tribunals Act 1996 (c. 17)

245 The Employment Tribunals Act 1996 is amended as follows.

246 (1) Section 22 (membership of appeal tribunal) is amended as follows.

(2) In subsection (1)(a)—

- (a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice, after consulting the Lord Chancellor, ”;
- (b) omit “(other than the Lord Chancellor)”.

(3) In subsection (3) for “Lord Chancellor shall, after consultation with the Lord President of the Court of Session,” substitute “ Lord Chief Justice shall ”.

(4) After subsection (3) insert—

“(3A) The Lord Chief Justice must not make an appointment under subsection (3) unless—

- (a) he has consulted the Lord Chancellor, and
- (b) the Lord President of the Court of Session agrees.”

(5) After subsection (4) insert—

“(5) 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.

(6) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (3A)(b).”

247 (1) Section 23 (temporary membership) is amended as follows.

(2) In subsection (1) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(3) In subsection (2)(a) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(4) After subsection (5) insert—

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- “(6) The functions conferred on the Lord Chief Justice by the preceding provisions of this section may be exercised only after consulting the Lord Chancellor.
- (7) The functions conferred on the Lord Chancellor by subsection (3) may be exercised only after consultation with the Lord Chief Justice.
- (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.”
- 248 (1) Section 24 (temporary additional judicial membership) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies if both of the following conditions are met—
- (a) the Lord Chancellor thinks that it is expedient, after consulting the Lord Chief Justice, for a qualified person to be appointed to be a temporary additional judge of the Appeal Tribunal in order to facilitate in England and Wales the disposal of business in the Appeal Tribunal;
- (b) the Lord Chancellor requests the Lord Chief Justice to make such an appointment.
- (1A) The Lord Chief Justice may, after consulting the Lord Chancellor, appoint a qualified person as mentioned in subsection (1)(a).
- (1B) An appointment under this section is—
- (a) for such period, or
- (b) on such occasions,
- as the Lord Chief Justice determines, after consulting the Lord Chancellor.”
- (3) In subsection (2) for “subsection (1)” substitute “ this section ”.
- (4) After subsection (3) insert—
- “(4) 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.”
- 249 In section 25 (tenure of appointed members) after subsection (4) insert—
- “(5) The Lord Chancellor may declare an appointed member's office vacant under subsection (4) only with the concurrence of the appropriate senior judge.
- (6) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the member whose office is to be declared vacant exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.”

Arbitration Act 1996 (c. 23)

- 250 In section 105 of the Arbitration Act 1996 (jurisdiction of High Court and county court), after subsection (3) insert—

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“(3A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales or the Lord Chief Justice of Northern Ireland (as the case may be) before making an order under this section.

(3B) The Lord Chief Justice of England and Wales 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.

(3C) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

- (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).”

Criminal Procedure and Investigations Act 1996 (c. 25)

251 In section 19 of the Criminal Procedure and Investigations Act 1996 (rules of court), in subsection (3) for the words from “with any modifications” to the end substitute “or such provision with modifications”.

Family Law Act 1996 (c. 27)

252 The Family Law Act 1996 is amended as follows.

253 (1) Section 57 (jurisdiction of the courts) is amended as follows.

(2) In subsections (3), (4) and (5) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.

(3) In subsection (7) after “Lord Chancellor thinks appropriate” insert “, after consulting the Lord Chief Justice ”.

(4) In subsection (9) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.

(5) In subsection (10) after “Lord Chancellor thinks expedient” insert “, after consulting the Lord Chief Justice, ”.

(6) After subsection (11) insert—

“(12) 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.”

254 (1) Section 61 (appeals) is amended as follows.

(2) In subsection (5) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.

(3) After subsection (6) insert—

“(7) 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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Defamation Act 1996 (c. 31)

255 In section 9 of the Defamation Act 1996 (meaning of summary relief), after subsection (2) insert—

“(2A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before making any order under subsection (1)(c) in relation to England and Wales.

(2B) The Lord Chancellor must consult the Lord Chief Justice of Northern Ireland before making any order under subsection (1)(c) in relation to Northern Ireland.

(2C) 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.

(2D) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

- (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).”

Housing Act 1996 (c. 52)

256 The Housing Act 1996 is amended as follows.

257 In section 138 (introductory tenancies: jurisdiction of county court), omit subsections (4) to (6) (rules and directions).

258 In section 143N (demoted tenancies: jurisdiction of county court), omit subsections (5) to (7) (rules and directions).

Education Act 1996 (c. 56)

259 In section 334 of the Education Act 1996 (Special Educational Needs Tribunal: President and members), in subsection (3)—

- (a) after “Lord Chancellor” in the first place insert “ and of the Lord Chief Justice ”;
- (b) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

Deregulation (Model Appeal Provisions) Order 1996 (S.I. 1996/1678)

260 In the Schedule (model rules for appeals) to the Deregulation (Model Appeal Provisions) Order 1996, after paragraph 6(3) insert—

“(3A) The Lord Chancellor may exercise his power under sub-paragraph (3) to remove a person appointed to the panel of chairmen for England and Wales only with the concurrence of the Lord Chief Justice.”

Civil Procedure Act 1997 (c. 12)

261 The Civil Procedure Act 1997 is amended as follows.

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- 262 In section 1 (civil procedure rules), in subsection (3) (as amended by section 82 of the Courts Act 2003) omit “or alter”.
- 263 (1) Section 2 (Civil Procedure Rule Committee) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Civil Procedure Rules are to be made by a committee known as the Civil Procedure Rule Committee, which is to consist of the following persons—
- (a) the Head of Civil Justice;
- (b) the Deputy Head of Civil Justice (if there is one);
- (c) the persons currently appointed in accordance with subsections (1A) and (1B).
- (1A) The Lord Chief Justice must appoint the persons falling within paragraphs (a) to (d) of subsection (2).
- (1B) The Lord Chancellor must appoint the persons falling within paragraphs (e) to (g) of subsection (2).”
- (3) In subsection (2) for “The Lord Chancellor must appoint” substitute “ The persons to be appointed in accordance with subsections (1A) and (1B) are ”.
- (4) For subsection (3) substitute—
- “(3) Before appointing a person in accordance with subsection (1A), the Lord Chief Justice must consult the Lord Chancellor.”
- (5) In subsection (4) for “under paragraph (e) or (f) of subsection (2), the Lord Chancellor must consult” substitute “ in accordance with subsection (1B), the Lord Chancellor must consult the Lord Chief Justice and, if the person falls within paragraph (e) or (f) of subsection (2), must also consult ”.
- (6) After subsection (8) insert—
- “(9) 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.”
- 264 (1) Section 2A (power to change certain requirements relating to Committee) is amended as follows.
- (2) In subsection (1) for paragraph (a) substitute—
- “(a) amend section 2(2), (3) or (4), and”.
- (3) For subsection (2) substitute—
- “(2) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.
- (2A) Before making an order under this section the Lord Chancellor must consult the following persons—
- (a) the Head of Civil Justice;
- (b) the Deputy Head of Civil Justice (if there is one).
- (2B) 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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265 (1) Section 3 (process for making Civil Procedure rules) (as amended by section 85 of the Courts Act 2003 (c. 39)) is amended as follows.

(2) For subsections (3) and (4) substitute—

“(3) The Lord Chancellor may allow or disallow Rules so made.

(4) If the Lord Chancellor disallows Rules, he must give the Committee written reasons for doing so.”

(3) In subsection (5) for “, as allowed or altered” substitute “ and allowed ”.

(4) In subsection (6) omit “Subject to subsection (7),”.

(5) Omit subsection (7).

266 After section 3 insert—

“3A Rules to be made if required by Lord Chancellor

(1) This section applies if the Lord Chancellor gives the Civil Procedure Rules Committee written notice that he thinks it is expedient for Civil Procedure Rules to include provision that would achieve a purpose specified in the notice.

(2) The Committee must make such Rules as it considers necessary to achieve the specified purpose.

(3) Those rules must be—

(a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;

(b) made in accordance with section 3.”

267 (1) Section 4 (power to make consequential amendments) (as amended by section 85 of the Courts Act 2003 (c. 39)) is amended as follows.

(2) In subsections (1) and (2) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.

(3) After subsection (5) insert—

“(6) 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) or (2).”

268 (1) Section 6 (Civil Justice Council) is amended as follows.

(2) After subsection (2) insert—

“(2A) The Lord Chancellor must decide the following questions, after consulting the Lord Chief Justice—

(a) how many members of the Council are to be drawn from each of the groups mentioned in subsection (2);

(b) how many other members the Council is to have.

(2B) It is for—

(a) the Lord Chief Justice to appoint members of the judiciary to the Council, after consulting the Lord Chancellor;

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(b) the Lord Chancellor to appoint other persons to the Council.”

(3) After subsection (4) insert—

“(5) 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.”

Plant Varieties Act 1997 (c. 66)

269 (1) Schedule 3 to the Plant Varieties Act 1997 (Plant Varieties and Seeds Tribunal) is amended as follows.

(2) In paragraph 4 (chairman of the Tribunal for proceedings in Northern Ireland), in sub-paragraph (1) for “Lord Chief Justice of Northern Ireland” substitute “ Lord Chancellor ”.

(3) In paragraph 5 (duration of appointment)—

(a) in sub-paragraph (5) for “paragraph 2, 3 or 4” substitute “ paragraph 2 or 3 ”;

(b) after sub-paragraph (5) insert—

“(5A) Where the appointing authority is the Lord Chancellor, the power conferred by sub-paragraph (5) may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.”

(4) In paragraph 7 (the panels), in sub-paragraph (2) for the words in brackets substitute “ (which makes it necessary to obtain the concurrence of the Lord Chancellor and certain judicial office holders to dismissals in certain cases) ”.

(5) In paragraph 16 (interpretation), in paragraph (c) of the definition of “appointing authority” for “Lord Chief Justice of Northern Ireland” substitute “ Lord Chancellor ”.

Reserve Forces Appeal Tribunals Rules 1997 (S.I. 1997/798)

270 (1) Rule 7 of the Reserve Forces Appeal Tribunals Rules 1997 (acknowledgement and registration of appeal and request to select tribunal) is amended as follows.

(2) In sub-paragraph (c), for the words from “Lord Chancellor” to “Northern Ireland” substitute “ person who under section 92(2) of the Act is authorised to do so, ”.

Social Security Act 1998 (c. 14)

271 The Social Security Act 1998 is amended as follows.

272 (1) Section 6 (panel for appointment to appeal tribunals) is amended as follows.

(2) In subsection (2) for the words from “such” to the end substitute “ persons appointed by the Lord Chancellor ”.

(3) After subsection (3) insert—

“(3A) As part of the selection process for the appointment of a medical practitioner as a member of the panel, the Judicial Appointments Commission shall consult the Chief Medical Officer.”

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- (4) In subsection (5) after “misbehaviour” insert “; but the Lord Chancellor may remove such a person only with the concurrence of the appropriate senior judge”.
- (5) After subsection (5) insert—
- “(5A) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.”
- 273 In Schedule 1 (Appeal Tribunals: supplementary provisions), in paragraph 1(3) (tenure of office) after “by the Lord Chancellor” insert “, with the concurrence of the Lord Chief Justice and the Lord President of the Court of Session, ”.
- 274 In Schedule 4 (Social Security Commissioners), in paragraph 5 (removal) after sub-paragraph (1) insert—
- “(1A) The Lord Chancellor may remove a person under sub-paragraph (1) only with the concurrence of the appropriate senior judge.
- (1B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the person exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.”
- Data Protection Act 1998 (c. 29)*
- 275 (1) Schedule 6 to the Data Protection Act 1998 (appeal proceedings) (as amended by paragraph 2 of Schedule 4 to the Freedom of Information Act 2000 (c. 36)) is amended as follows.
- (2) In paragraph 2 (designation of persons to hear appeals in national security cases), after sub-paragraph (2) insert—
- “(3) The Lord Chancellor may make, or revoke, a designation under this paragraph only with the concurrence of all of the following—
- (a) the Lord Chief Justice;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.
- (4) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under sub-paragraph (3) so far as they relate to a designation under this paragraph.
- (5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under sub-paragraph (3) so far as they relate to a designation under this paragraph.
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (3) so far as they relate to a designation under this paragraph—

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- (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).”
- (3) In paragraph 3 (constitution of Tribunal in national security cases) (as substituted by paragraph 2 of Schedule 4 to the Freedom of Information Act 2000)—
- (a) that paragraph becomes sub-paragraph (1) of paragraph 3;
 - (b) after that sub-paragraph insert—
- “(2) The Lord Chancellor may designate a person to preside under this paragraph only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
 - (b) the Lord President of the Court of Session;
 - (c) the Lord Chief Justice of Northern Ireland.
- (3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (4) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (5) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (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).”

Crime and Disorder Act 1998 (c. 37)

276 The Crime and Disorder Act 1998 (powers of magistrates' courts exercisable by single justice etc) is amended as follows.

277 (1) Section 10 (appeals against parenting orders) is amended as follows.

(2) In subsection (6) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice, ”.

(3) After subsection (7) insert—

“(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.”

Human Rights Act 1998 (c. 42)

278 In section 18 of the Human Rights Act 1998 (appointment to ECHR), after subsection (7) insert—

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- “(7A) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(a)—
- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of England and Wales;
 - (b) before making the order, that person must consult the Lord Chief Justice of England and Wales.
- (7B) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(c)—
- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of Northern Ireland;
 - (b) before making the order, that person must consult the Lord Chief Justice of Northern Ireland.
- (7C) 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 this section.
- (7D) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
- (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).”

Access to Justice Act 1999 (c. 22)

279 The Access to Justice Act 1999 is amended as follows.

280 (1) Section 56 (power to prescribe alternative destination of appeals) is amended as follows.

(2) In subsection (4) for paragraphs (c) and (d) substitute—

- “(c) the President of the Queen's Bench Division,
 (d) the President of the Family Division, and
 (e) the Chancellor of the High Court.”

(3) After subsection (7) insert—

“(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.”

Commencement Information

I8 Sch. 4 para. 280 wholly in force at 3.4.2006; Sch. 4 para. 280 not in force at Royal Assent see s. 148; Sch. 4 para. 280(2) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 280 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014 {art. 2(a)}, Sch. 1 para. 11(w)

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- 281 (1) Section 68 (judges holding office in European or international courts) is amended as follows.
- (2) In subsection (2), in the definition of “relevant international court” for “for the purposes of this section by the Lord Chancellor or the Secretary of State” substitute “ in relation to the holder of a United Kingdom judicial office by the appropriate Minister ”.
- (3) In subsection (6) for “subsection (5)” substitute “ this section ”.
- (4) After subsection (7) insert—
- “(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).”
- 282 (1) Section 69 (Vice-President of Queen's Bench division) is amended as follows.
- (2) In subsection (1) for “Lord Chancellor may” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, ”.
- (3) After subsection (1) insert—
- “(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).”

Immigration and Asylum Act 1999 (c. 33)

- 283 The Immigration and Asylum Act 1999 is amended as follows.
- 284 (1) Section 53 (applications for bail in immigration cases) is amended as follows.
- (2) After subsection (6) insert—
- “(6A) In so far as regulations under this section relate to England and Wales, the Lord Chancellor must consult the Lord Chief Justice of England and Wales before giving his approval.
- (6B) In so far as regulations under this section relate to Northern Ireland, the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland before giving his approval.”

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(3) After subsection (7) insert—

“(8) The Lord Chief Justice of England and Wales 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.

(9) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

- (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).”

285 In Schedule 7 (Immigration Services Tribunal), in paragraph 3 (terms and conditions of appointment of members) after sub-paragraph (4) insert—

“(5) The Lord Chancellor may dismiss a person under sub-paragraph (4) only with the concurrence of the appropriate senior judge.

(6) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the person to be dismissed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) that person exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

Financial Services and Markets Act 2000 (c. 8)

286 (1) Schedule 13 (Financial Services and Markets Tribunal) of the Financial Services and Markets Act 2000 is amended as follows.

(2) In paragraph 2 (president of the tribunal), after sub-paragraph (7) insert—

“(8) The Lord Chancellor may appoint a person under sub-paragraph (7)(b) only after consulting the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(9) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

(10) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.

(11) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

- (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).”

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- (3) In paragraph 4 (terms of office), after sub-paragraph (2) insert—
- “(2A) The Lord Chancellor may remove a person under sub-paragraph (2) only with the concurrence of the appropriate senior judge.
- (2B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—
- (a) the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the person to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”
- (4) In paragraph 8 (sittings) after “Lord Chancellor may” insert “, after consulting the President of the Financial Services and Markets Tribunal, ”.

Terrorism Act 2000 (c. 11)

287 The Terrorism Act 2000 is amended as follows.

- 288 (1) Section 74 (court for trial) is amended as follows.
- (2) In subsection (1)—
- (a) after “unless” insert “ the Lord Chief Justice of Northern Ireland directs that ”;
- (b) in paragraph (a) omit from “the Lord Chancellor” to “directs that”;
- (c) in paragraph (b) omit “the Lord Chief Justice of Northern Ireland directs that”.
- (3) After subsection (1) insert—
- “(1A) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (1)—
- (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).”
- 289 (1) In Schedule 3 (Proscribed Organisations Appeal Commission), paragraph 4 (sittings) is amended as follows.
- (2) In sub-paragraph (1) after “direct” insert “after consulting the following—
- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland”.
- (3) After sub-paragraph (3) insert—
- “(4) 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 paragraph.
- (5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.

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- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).”
- 290 (1) Schedule 8 (detention) is amended as follows.
- (2) In paragraph 29 (warrants of further detention)—
- (a) in sub-paragraph (4)(a) for “by the Lord Chancellor” substitute “by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”;
 - (b) in sub-paragraph (4)(c) for “by the Lord Chancellor” substitute “by the Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor ”;
 - (c) after sub-paragraph (4) insert—
- “(5) 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 sub-paragraph (4)(a).
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (4)(c)—
- (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).”

Local Government Act 2000 (c. 22)

- 291 (1) Section 76 of the Local Government Act 2000 (case tribunals and interim case tribunals) is amended as follows.
- (2) In subsection (9) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) After subsection (9) insert—
- “(9A) The Lord Chief Justice must consult the Lord Chancellor before specifying a member of the Panel in accordance with subsection (9).”
- (4) In subsection (12) after “Lord Chancellor must” insert “ consult the Lord Chief Justice and ”.
- (5) After subsection (14) insert—
- “(15) 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.”

Postal Services Act 2000 (c. 26)

- 292 (1) Schedule 3 to the Postal Services Act 2000 (transfer to the Post Office Company: supplementary provisions) is amended as follows.
- (2) In paragraph 6 (third party rights relating to land), in sub-paragraph (5)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.

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- (3) In paragraph 7 (other third party property rights), in sub-paragraph (3)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.

Transport Act 2000 (c. 38)

- 293 The Transport Act 2000 is amended as follows.
- 294 In section 61 (special provisions about land), in subsection (6)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.
- 295 In section 93 (control in time of hostilities etc), in subsection (10)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.
- 296 In section 94 (orders for possessions of aerodromes etc), in subsection (8)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.
- 297 (1) Schedule 6 (transfer schemes) is amended as follows.
- (2) In paragraph 20 (compensation for third parties), in sub-paragraph (6)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.

Criminal Justice and Court Services Act 2000 (c. 43)

- 298 (1) Schedule 1 of the Criminal Justice and Court Services Act 2000 (local probation boards) is amended as follows.
- (2) In paragraph 2 (membership)—
- (a) in sub-paragraph (2) for “Lord Chancellor” substitute “ Lord Chief Justice, after consulting the Lord Chancellor ”;
- (b) after sub-paragraph (7) insert—
- “(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 sub-paragraph (2).”
- (3) In paragraph 3 (tenure of members), after sub-paragraph (3) insert—
- “(3A) The power conferred by sub-paragraph (3) may be exercised by the Lord Chancellor to remove a person appointed by him by virtue of paragraph 2(2) only with the concurrence of the Lord Chief Justice.”

International Criminal Court Act 2001 (c. 17)

- 299 Section 26 of the International Criminal Court Act 2001 (definitions) is amended as follows—
- (a) that section becomes subsection (1) of section 26;
- (b) in that subsection for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”;
- (c) after that subsection insert—

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“(2) 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.”

Anti-terrorism, Crime and Security Act 2001 (c. 24)

300 (1) In Schedule 6 to the Anti-terrorism, Crime and Security Act 2001 (Pathogens Access Appeal Commission), paragraph 4 (sittings) is amended as follows.

(2) In sub-paragraph (1) after “direct” insert “after consulting the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.”

(3) After sub-paragraph (3) insert—

“(4) 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 sub-paragraph (1).

(5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under sub-paragraph (1).

(6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (1)—

- (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).”

Land Registration Act 2002 (c. 9)

301 The Land Registration Act 2002 is amended as follows.

302 (1) Section 127 (exercise of powers) is amended as follows.

(2) In subsection (2)(a) for “Lord Chancellor” substitute “ Lord Chief Justice, or a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) nominated by him, after consulting the Lord Chancellor ”.

(3) In subsection (2)(h) after “consumer affairs” insert “ nominated by the Lord Chancellor ”.

303 In Schedule 9 (the Adjudicator), in paragraph 1 (holding of office), in sub-paragraph (2) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

Enterprise Act 2002 (c. 40)

304 The Enterprise Act 2002 is amended as follows.

305 (1) Section 268 (disqualification from office: general) is amended as follows.

(2) In subsection (7)—

- (a) omit “made with the concurrence of the Lord Chancellor”;

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- (b) after “tribunal” insert “; but any such order must—
 - (a) if it relates to England and Wales, be made with the concurrence of the Lord Chief Justice of England and Wales;
 - (b) if it relates to Northern Ireland, be made with the concurrence of the Lord Chief Justice of Northern Ireland”.

(3) After subsection (15) insert—

“(16) 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 (7).

(17) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (7)—

- (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).”

306 In paragraph 2 of Schedule 2 (tenure of members of Competition Appeal Tribunal), after sub-paragraph (4) insert—

“(5) The Lord Chancellor may remove a person from office as President under sub-paragraph (4) only with the concurrence of all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(6) The Lord Chancellor may remove a person from office as chairman under sub-paragraph (4) only with the concurrence of the appropriate senior judge.

(7) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the person to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

Finance Act 2003 (c. 14)

307 (1) Schedule 17 to the Finance Act 2003 (stamp duty land tax: General and Special Commissioners, appeals and other proceedings) is amended as follows.

(2) In paragraph 2 (regulations about determination of disputes), after sub-paragraph (1) insert—

“(1A) The Lord Chancellor may make regulations under this paragraph only after consulting all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

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- (1B) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (1C) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (1D) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (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).”
- (3) In paragraph 3 (regulations about jurisdiction of General or Special Commissioners), after sub-paragraph (3) insert—
- “(4) The Lord Chancellor may make regulations under this paragraph only after consulting all of the following—
- (a) the Lord Chief Justice of England and Wales;
 - (b) the Lord President of the Court of Session;
 - (c) the Lord Chief Justice of Northern Ireland.
- (5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (6) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (7) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (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).”
- (4) In paragraph 5 (regulations about quorum)—
- (a) that paragraph becomes sub-paragraph (1) of paragraph 5;
 - (b) after that sub-paragraph—
- “(2) The Lord Chancellor may make regulations under this paragraph only after consulting all of the following—
- (a) the Lord Chief Justice of England and Wales;
 - (b) the Lord President of the Court of Session;
 - (c) the Lord Chief Justice of Northern Ireland.
- (3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (4) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division

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of the Inner House of that Court to exercise his functions under this paragraph.

(5) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

- (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)."

(5) In paragraph 11 (regulations), for sub-paragraph (1) substitute—

“(1) Any power to make regulations under this Schedule is exercisable—

- (a) only with the consent of the Scottish Ministers;
- (b) subject to any other provision of this Schedule.”

Courts Act 2003 (c. 39)

308 The Courts Act 2003 is amended as follows.

309 (1) In section 2 (Court officers, staff and services), in subsection (7) for paragraphs (c) and (d) substitute—

- “(c) the President of the Queen's Bench Division,
- (d) the President of the Family Division, and
- (e) the Chancellor of the High Court.”

310 (1) Section 4 (establishment of courts boards) is amended as follows.

(2) After subsection (5) insert—

“(5A) Before making any order under subsection (2) or (4), the Lord Chancellor must consult the Lord Chief Justice.”

(3) After subsection (7) insert—

“(7A) 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.”

311 (1) Section 5 (functions of courts boards) is amended as follows.

(2) In subsection (5) after “Lord Chancellor must” insert “, after consulting the Lord Chief Justice, ”.

(3) In subsection (7) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.

(4) After subsection (8) insert—

“(9) 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.”

312 (1) Section 8 (local justice areas) is amended as follows.

(2) After subsection (5) insert—

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“(5A) Before making any order under subsection (2) or (4), the Lord Chancellor must consult the Lord Chief Justice.”

(3) After subsection (7) insert—

“(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.”

313 (1) Section 10 (appointment of lay justices etc) is amended as follows.

(2) In subsection (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(3) In subsection (3) for “or on behalf of the Lord Chancellor” substitute “ Lord Chief Justice ”.

(4) After subsection (5) insert—

“(6) The functions conferred on the Lord Chief Justice by subsections (2) and (3) may be exercised only after consulting the Lord Chancellor.

(7) 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 (2) or (3).”

314 In section 11 (resignation and removal of lay justices), in subsection (2)—

(a) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”;

(b) in paragraph (b) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice ”.

315 (1) Section 13 (entry of names in the supplemental list) is amended as follows.

(2) In subsection (3) for “Lord Chancellor may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”.

(3) In subsection (5) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

(4) After subsection (5) insert—

“(6) 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 (3).”

316 In section 14 (removal of names from the supplemental list), in subsection (2)(b) after “Lord Chancellor” insert “ , with the concurrence of the Lord Chief Justice, ”.

317 (1) Section 15 (lay justices' allowances) is amended as follows.

(2) In subsection (7) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(3) After subsection (8) insert—

“(9) 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 (7).”

318 In section 16 (records of lay justices), after subsection (3) insert—

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- “(4) The Lord Chancellor must consult the Lord Chief Justice before—
- (a) appointing a person under subsection (1), or
- (b) giving a direction under subsection (2).
- (5) 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.”
- 319 (1) Section 17 (chairman and deputy chairmen) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor, or a person acting on his behalf, may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”.
- (3) After subsection (5) insert—
- “(6) 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.”
- 320 (1) Section 19 (training, development and appraisal of lay justices) is amended as follows.
- (2) In subsection (2) for “Lord Chancellor” in each place substitute “ Lord Chief Justice ”.
- (3) In subsection (3)—
- (a) for “Lord Chancellor” substitute “ Lord Chief Justice ”;
- (b) for “appropriate training and training materials” substitute “ training and training materials that appear to him, after consulting the Lord Chancellor, to be appropriate ”.
- (4) After subsection (3) insert—
- “(4) 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.”
- 321 (1) Section 20 (rules) is amended as follows.
- (2) In subsection (1) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) In subsection (2)—
- (a) for “Lord Chancellor” substitute “ Lord Chief Justice ”;
- (b) before paragraph (a) insert—
- “(za) the Lord Chancellor,”.
- (4) After subsection (2) insert—
- “(3) 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 of making the rules referred to in this section.”
- 322 (1) Section 21 (duty to consult lay justices on matters affecting them etc) is amended as follows.
- (2) That section becomes subsection (1) of section 21.
- (3) In that subsection after “Lord Chancellor” insert “ and the Lord Chief Justice ”.

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- (4) After that subsection insert—
- “(2) 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.”
- 323 In section 22 (appointment of District Judges (Magistrates' Courts)), in subsection (5) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice, ”.
- 324 In section 24 (Deputy District Judges (Magistrates' Courts)), in subsection (4) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice, ”.
- 325 (1) Section 25 (District Judges (Magistrates' Courts) as justices of the peace) is amended as follows.
- (2) In subsection (2), leave out “or on behalf of the Lord Chancellor” and insert “ the Lord Chief Justice, after consulting the Lord Chancellor ”.
- (3) After subsection (2) insert—
- “(3) 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 (2).”
- 326 (1) Section 27 (justices' clerks and assistant clerks) is amended as follows.
- (2) In subsection (1)(b) after “Lord Chancellor” insert “, after consulting the Lord Chief Justice, ”.
- (3) In subsection (3)—
- (a) in paragraph (a) after “must” insert “, after consulting the Lord Chief Justice, ”;
- (b) in paragraph (b) for “subsection (4)” substitute “ subsections (4A) to (4C) ”.
- (4) For subsection (4) substitute—
- “(4A) The Lord Chancellor may change an assignment of a justices' clerk so that he is no longer assigned to a local justice area (“the relevant area”) only if the conditions in subsections (4B) and (4C) are met.
- (4B) Before changing the assignment, the Lord Chancellor must consult—
- (a) the chairman of the lay justices assigned to the relevant area, or
- (b) if that is not possible or not practicable, the deputy chairman or such of the lay justices assigned to or acting in the relevant area as it appears to the Lord Chancellor appropriate to consult.
- (4C) The Lord Chief Justice must agree to the change.”
- (5) After subsection (6) insert—
- “(6A) 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.”
- 327 (1) Section 28 (functions) is amended as follows.

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- (2) In subsection (8) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice ”.
- (3) After subsection (9) insert—
- “(10) 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.”
- 328 (1) Section 30 (places, dates and times of sittings) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (3) In subsection (7) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (4) After subsection (8) insert—
- “(9) 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) or (7).”
- 329 (1) Section 34 (costs in legal proceedings) is amended as follows.
- (2) In subsection (5) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (3) After subsection (5) insert—
- “(6) 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.”
- 330 For section 62 substitute—

“62 Head and Deputy Head of Civil Justice

- (1) There is to be a Head of Civil Justice.
- (2) The Head of Civil Justice is—
- (a) the Master of the Rolls, or
 - (b) if the Lord Chief Justice appoints another person, that person.
- (3) The Lord Chief Justice may appoint a person to be Deputy Head of Civil Justice.
- (4) The Lord Chief Justice must not appoint a person under subsection (2)(b) or (3) unless these conditions are met—
- (a) the Lord Chief Justice has consulted the Lord Chancellor;
 - (b) the person to be appointed is one of the following—
 - (i) the Chancellor of the High Court;
 - (ii) an ordinary judge of the Court of Appeal.
- (5) A person appointed under subsection (2)(b) or (3) holds the office to which he is appointed in accordance with the terms of his appointment.

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(6) 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.”

331 (1) Section 64 (power to alter judicial titles) is amended as follows.

(2) In subsection (2)—

- (a) omit “Vice-Chancellor”;
- (b) insert at the appropriate place—
 - (i) “Chancellor of the High Court ”;
 - (ii) “Deputy Head of Civil Justice ”;
 - (iii) “Deputy Head of Criminal Justice ”;
 - (iv) “Deputy Head of Family Justice ”;
 - (v) “Head of Civil Justice ”;
 - (vi) “Head of Criminal Justice ”;
 - (vii) “Head of Family Justice ”;
 - (viii) “President of the Courts of England and Wales ”;
 - (ix) “President of the Queen's Bench Division ”.

(3) After subsection (3) insert—

“(3A) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.”

(4) In subsection (4)—

- (a) omit paragraph (a);
- (b) for paragraphs (c) and (d) substitute—
 - “(ba) the President of the Queen's Bench Division,
 - (c) the President of the Family Division, and
 - (d) the Chancellor of the High Court.”

(5) After subsection (6) insert—

“(7) 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.”

Commencement Information

I9 Sch. 4 para. 331 partly in force; Sch. 4 para. 331 not in force at Royal Assent see s. 148; Sch. 4 para. 331(1)(2)(a)(b)(i)(ii)(v)-(ix)(3)-(5) in force at 3.4.2006 by S.I 2006/1014 {art. 2(a)}, Sch. 1 para. 11(z)

332 In section 69 (Criminal Procedure Rules), in subsection (4) omit “or alter”.

333 (1) Section 70 (Criminal Procedure Rule Committee) is amended as follows.

(2) In subsection (1) for paragraph (b) substitute—

“(b) the persons currently appointed in accordance with subsections (1A) and (1B).”

(3) After subsection (1) insert—

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- “(1A) The Lord Chief Justice must appoint the persons falling within paragraphs (a) to (e) of subsection (2).
- (1B) The Lord Chancellor must appoint the persons falling within paragraphs (f) to (k) of subsection (2).”
- (4) In subsection (2) for “The Lord Chancellor must appoint” substitute “ The persons to be appointed in accordance with subsections (1A) and (1B) are ”.
- (5) For subsection (3) substitute—
- “(3) Before appointing a person in accordance with subsection (1A), the Lord Chief Justice must consult the Lord Chancellor.
- (3A) Before appointing a person in accordance with subsection (1B), the Lord Chancellor must consult the Lord Chief Justice.”
- (6) After subsection (5) insert—
- “(5A) 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.”
- 334 (1) Section 71 (power to change certain requirements relating to Committee) is amended as follows.
- (2) In subsection (1) for paragraph (a) substitute—
- “(a) amend section 70(2) or (3A), and”.
- (3) For subsection (2) substitute—
- “(2) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.
- (3) 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.”
- 335 (1) Section 72 (process for making Criminal Procedure Rules) is amended as follows.
- (2) For subsections (3) and (4) substitute—
- “(3) The Lord Chancellor may, with the concurrence of the Secretary of State, allow or disallow rules so made.
- (4) If the Lord Chancellor disallows rules, he must give the Committee written reasons for doing so.”
- (3) In subsection (5) for “, as allowed or altered” substitute “ and allowed ”.
- 336 After section 72 insert—
- “72A Rules to be made if required by Lord Chancellor**
- (1) This section applies if the Lord Chancellor gives the Criminal Procedure Rules Committee written notice that he thinks it is expedient for Criminal Procedure Rules to include provision that would achieve a purpose specified in the notice.

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- (2) The Committee must make such rules as it considers necessary to achieve the specified purpose.
 - (3) Those rules must be—
 - (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
 - (b) made in accordance with section 72.
 - (4) The Lord Chancellor may not give notice under subsection (1) unless the Secretary of State agrees.”
- 337 (1) Section 73 (power to amend legislation in connection with Criminal Procedure Rules) is amended as follows.
- (2) That section becomes subsection (1) of section 73.
 - (3) In that subsection after “Secretary of State” insert “ and after consulting the Lord Chief Justice ”.
 - (4) After that subsection insert—

“(2) 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.”
- 338 In section 75 (Family Procedure Rules), in subsection (5) omit “or alter”.
- 339 (1) Section 77 (Family Procedure Rule Committee) is amended as follows.
- (2) In subsection (1) for paragraph (b) substitute—

“(b) the persons currently appointed in accordance with subsections (1A) and (1B).”
 - (3) After subsection (1) insert—

“(1A) The Lord Chief Justice must appoint the persons falling within paragraphs (a) to (f) of subsection (2).

(1B) The Lord Chancellor must appoint the persons falling within paragraphs (g) to (o) of subsection (2).”
 - (4) In subsection (2) for “The Lord Chancellor must appoint” substitute “ The persons to be appointed in accordance with subsections (1A) and (1B) are ”.
 - (5) In subsection (3) for “under subsection (2), Lord Chancellor must consult” substitute “ in accordance with subsection (1A), the Lord Chief Justice must consult the Lord Chancellor and ”.
 - (6) Omit subsection (4).
 - (7) In subsection (5) for “under subsection (2)(h) to (m), the Lord Chancellor must consult” substitute “ in accordance with subsection (1B), the Lord Chancellor must consult the Lord Chief Justice and, if the person falls within any of paragraphs (h) to (m) of subsection (2), must also consult ”.
 - (8) After section (6) insert—

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- “(7) 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.”
- 340 (1) Section 78 (power to change certain requirements relating to Committee) is amended as follows.
- (2) In subsection (1)(a) after “Lord Chancellor” insert “ or Lord Chief Justice ”.
- (3) After subsection (1) insert—
- “(1A) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.”
- (4) After subsection (2) insert—
- “(3) 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.”
- 341 (1) Section 79 (process for making Family Procedure Rules) is amended as follows.
- (2) For subsections (3) and (4) substitute—
- “(3) The Lord Chancellor may allow or disallow rules so made.
- (4) If the Lord Chancellor disallows rules, he must give the Committee written reasons for doing so.”
- (3) In subsection (5) for “, as allowed or altered” substitute “ and allowed ”.
- 342 After section 79 insert—
- “79A Rules to be made if required by Lord Chancellor**
- (1) This section applies if the Lord Chancellor gives the Family Procedure Rules Committee written notice that he thinks it is expedient for Family Procedure Rules to include provision that would achieve a purpose specified in the notice.
- (2) The Committee must make such rules as it considers necessary to achieve the specified purpose.
- (3) Those rules must be—
- (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
- (b) made in accordance with section 79.”
- 343 (1) Section 80 (power to amend legislation in connection with the rules) is amended as follows.
- (2) That section becomes subsection (1) of section 80.
- (3) In that subsection after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (4) After that subsection insert—

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- “(2) 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.”
- 344 (1) Section 81 (practice directions relating to family proceedings) is amended as follows.
- (2) In subsection (1), before paragraph (a) insert—
- “(za) the civil division of the Court of Appeal,
 (zb) the High Court.”.
- (3) After subsection (2) insert—
- “(2A) Directions as to the practice and procedure of any relevant court in family proceedings (whether given under subsection (1) or otherwise) may provide for any matter which, by virtue of paragraph 3 of Schedule 1 to the Civil Procedure Act 1997, may be provided for by Civil Procedure Rules.”
- (4) In subsection (3) for “magistrates' courts and county courts (or any of them)” substitute “any relevant court”.
- (5) After subsection (4) (inserted by paragraph 9(5) of Schedule 2 to this Act) insert—
- “(5) In this section—
 “Civil Procedure Rules” has the same meaning as in the Civil Procedure Act 1997;
 “relevant court” means a court listed in subsection (1).”
- 345 In section 92 (fees), in subsection (5) for paragraphs (c) and (d) substitute—
- “(ba) the President of the Queen's Bench Division;
 (c) the President of the Family Division;
 (d) the Chancellor of the High Court;”.
- 346 (1) Section 102 (power to alter judicial titles: Northern Ireland) is amended as follows.
- (2) Omit subsection (4).
- (3) After subsection (6) insert—
- “(6A) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.
- (6B) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (6A)—
- (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).”
- 347 In section 107 (interpretation), in subsection (6) omit “by the Lord Chancellor”.
- 348 In section 108 (rules, regulations and orders), in subsections (1) and (6) after “Lord Chancellor” insert “or Lord Chief Justice”.
- 349 (1) Section 109 (minor and consequential amendments etc) is amended as follows.
- (2) After subsection (4) insert—
- “(4A) The following paragraphs apply to the making of provision that relates to England and Wales in an order under subsection (4)—

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- (a) before deciding what provision it is necessary or expedient to make, the Lord Chancellor must consult the Lord Chief Justice of England and Wales;
 - (b) before making the order, the Lord Chancellor must consult the Lord Chief Justice of England and Wales.
- (4B) The following paragraphs apply to the making of provision that relates to Northern Ireland in an order under subsection (4)—
- (a) before deciding what provision it is necessary or expedient to make, the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland;
 - (b) before making the order, the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland.”
- (3) After subsection (6) insert—
- “(7) 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.
- (8) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
- (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).”
- 350 (1) Schedule 1 (constitution and procedure of courts boards) is amended as follows.
- (2) For paragraph 1 substitute—
- “1 (1) The members of each courts board are to be appointed by the Lord Chancellor.
- (2) The Lord Chancellor may appoint a member of a description mentioned in paragraph 2(a) only with the concurrence of the Lord Chief Justice.”
- (3) In paragraph 8 (meaning of regulations) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.
- (4) After paragraph 8 insert—
- “9 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 Schedule.”
- 351 In Schedule 7 (High Court writs of execution), in paragraph 12(4) (regulations) for paragraphs (c) and (d) substitute—
- “(ba) the President of the Queen's Bench Division,
 - (c) the President of the Family Division,
 - (d) the Chancellor of the High Court, and”.
- Extradition Act 2003 (c. 41)*
- 352 The Extradition Act 2003 is amended as follows.
- 353 (1) Section 67 (the appropriate judge) is amended as follows.

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- (2) In subsection (1)(a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”.
- (3) In subsection (1)(c) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor ”.
- (4) After subsection (4) insert—
- “(5) The Lord Chief Justice of England and Wales 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)(a).
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (1)(c)—
- (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).”
- 354 (1) Section 139 (the appropriate judge) is amended as follows.
- (2) In subsection (1)(a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”.
- (3) In subsection (1)(c) for “Lord Chancellor” substitute “ Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor ”.
- (4) After subsection (4) insert—
- “(5) The Lord Chief Justice of England and Wales 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)(a).
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (1)(c)—
- (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).”
- 355 In section 185 (free legal aid: supplementary), in subsection (6) (meaning of appropriate judge)—
- (a) in paragraph (a) for “by the Lord Chancellor” substitute “ under section 67 ”.
- (b) in paragraph (b) for “by the Lord Chancellor” substitute “ under section 139 ”.

Criminal Justice Act 2003 (c. 44)

- 356 The Criminal Justice Act 2003 is amended as follows.
- 357 (1) Section 167 (Sentencing Guidelines Council) is amended as follows.
- (2) In subsection (1)(b)—
- (a) for “Lord Chancellor” substitute “ Lord Chief Justice ”;
- (b) for “Lord Chief Justice” substitute “ Lord Chancellor ”.
- (3) After subsection (9) insert—

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“(10) 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.”

358 (1) Section 168 (Sentencing Guidelines Council: supplementary) is amended as follows.

(2) In subsection (1) for paragraphs (b) and (c) substitute—

“(b) enabling the Lord Chancellor to remove a judicial member from office, with the concurrence of the Lord Chief Justice, on the grounds of incapacity or misbehaviour, and

(c) enabling the Secretary of State to remove a non-judicial member from office on the grounds of incapacity or misbehaviour.”

(3) For subsection (2) substitute—

“(1A) The following provisions apply to an order under subsection (1)—

(a) if the order includes provision falling within subsection (1)(a), the Lord Chancellor must consult the Lord Chief Justice about that provision before making the order;

(b) if the order includes provision falling within subsection (1)(b), the order may not be made unless the Lord Chief Justice agrees to the inclusion of that provision.

(1B) The Lord Chief Justice may, with the concurrence of the Lord Chancellor, by order make provision as to the proceedings of the Council.”

(4) After subsection (5) insert—

“(6) 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 (1B).”

359 (1) Section 330 (orders and rules) is amended as follows.

(2) In subsection (1)(b) after “Lord Chancellor” insert “ or the Lord Chief Justice ”.

(3) After subsection (2) insert—

“(2A) Where a statutory instrument is made by the Lord Chief Justice in the exercise of the power referred to in subsection (1)(b), the Statutory Instruments Act 1946 applies to the instrument as if it contained an order made by a Minister of the Crown.”

*Employment Tribunals (Constitution and Rules
of Procedure) Regulations 2004 (S.I. 2004/ 1861)*

360 In regulation 4 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (President of Employment Tribunals), after paragraph (5) insert—

“(5A) Where the Lord Chancellor is the appointing office holder, he may revoke an appointment in accordance with paragraph (5) only with the concurrence of the Lord Chief Justice.”

Status:

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