

SCHEDULES

SCHEDULE 4

OTHER FUNCTIONS OF THE LORD CHANCELLOR AND ORGANISATION OF THE COURTS

PART 2

AMENDMENTS OF OR RELATING TO ENACTMENTS REPEALED OR AMENDED OTHERWISE THAN BY THIS ACT

Introduction

- 361 (1) This Part of this Schedule contains amendments of or relating to enactments that have already been amended or repealed by provisions of other Acts.
- (2) In each case the amending or repealing provision is specified, in relation to the enactment referred to, as the “original amending provision”.
- (3) An amendment contained in any provision of this Part of this Schedule has effect only until the original amending provision comes fully into force in relation to the enactment referred to in that provision of this Part of this Schedule.

Promissory Oaths Act 1871 (c. 48)

- 362 (1) Section 2 of the Promissory Oaths Act 1871 (persons before whom oaths to be taken) is amended as follows.
- (2) In the paragraph beginning “In England” for “Lord High Chancellor of Great Britain” 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) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 51 of Schedule 8 to the Courts Act 2003 (c. 39).

Children and Young Persons Act 1933 (c. 12)

- 363 (1) Schedule 2 to the Children and Young Persons Act 1933 (constitution of youth courts) is amended as follows.
- (2) In paragraph 6—
- (a) in paragraph (a)—
- (i) after “he may” insert “after consulting the Lord Chief Justice”;
- (ii) after “thinks fit” insert “after consulting the Lord Chief Justice”;

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- (b) in paragraph (b)—
 - (i) after “may” insert “, after consulting the Lord Chief Justice,”;
 - (ii) after “thinks fit” insert “, after consulting the Lord Chief Justice,”.
- (3) In paragraph 14 after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.
- (4) In paragraph 15(b)—
 - (a) for “by the Lord Chancellor” substitute “by the Lord Chief Justice, after consulting the Lord Chancellor,”;
 - (b) for “order of the Lord Chancellor” substitute “order made by the Lord Chief Justice after consulting the Lord Chancellor”.
- (5) In paragraph 16 for “consent of the Lord Chancellor,” substitute “consent of the Lord Chief Justice, given after consulting the Lord Chancellor,”.
- (6) In paragraph 18—
 - (a) for “Lord Chancellor” in the first place substitute “Lord Chief Justice”;
 - (b) for “Lord Chancellor” in the second place substitute “Lord Chief Justice, after consulting the Lord Chancellor”.
- (7) After paragraph 21 insert—

“22 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.”
- (8) In relation to the enactments referred to in this paragraph, the original amending provision is Schedule 10 to the Courts Act 2003.

Pensions Appeal Tribunals Act 1943 (c. 39)

- 364 (1) Section 6 of the Pensions Appeal Tribunal Act 1943 (constitution, jurisdiction and procedure of Pensions Appeal Tribunals) is amended as follows.
- (2) In subsection (2)—
 - (a) for “a judge of the High Court nominated for the purpose by the Lord Chancellor” substitute “the relevant judicial authority”;
 - (b) for “judge so nominated” substitute “relevant judicial authority”;
 - (c) for “that judge” substitute “that authority”.
 - (3) After subsection (2) insert—

“(2ZA) In subsection (2) “relevant judicial authority” means—

 - (a) in relation to England and Wales, a judge of the High Court in England and Wales nominated for the purposes of subsection (2) by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor;
 - (b) in relation to Scotland, the Court of Session;
 - (c) in relation to Northern Ireland, the Court of Appeal in Northern Ireland.

(2ZB) 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 (2ZA)(a).”

(4) After subsection (4) insert—

“(5) In the application of subsection (2) in relation to Northern Ireland, “rules of court” means rules of court made under section 55 of the Judicature (Northern Ireland) Act 1978.”

(5) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 3(2) of Schedule 1 to the Armed Forces (Pensions and Compensation) Act 2004 (c. 32).

Maintenance Orders Act 1950 (c. 37)

365 (1) In section 25(1) of the Maintenance Orders Act 1950 (power to make rules about procedure under section 144 of the Magistrates' Court Act 1980), for “Lord Chancellor” substitute “Lord Chief Justice of England and Wales”.

(2) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 91(2) of Schedule 8 to the Courts Act 2003.

Courts Act 1971 (c. 23)

366 (1) In section 27 of the Courts Act 1971, in the definition of “the senior judges” in subsection (9) for “the Vice-Chancellor and the President of the Family Division” substitute “the President of the Queen’s Bench Division, the President of the Family Division and the Chancellor of the High Court”.

(2) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 139(a) of Schedule 8 to the Courts Act 2003.

Restrictive Practices Court Act 1976 (c. 33)

367 The Restrictive Practices Court Act 1976 is amended as follows.

368 (1) In section 1 (the Court), after subsection (3) insert—

“(3A) The Lord Chancellor may select 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.

(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 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.

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

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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).”
- (2) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998 (c. 41).
- 369 (1) Section 2 (judges of the Court) is amended as follows.
- (2) In subsections (1)(a) and (3) for “Lord Chancellor” substitute “Lord Chief Justice of England and Wales”.
- (3) After subsection (4) insert—
- “(5) The functions conferred on the Lord Chief Justice of England and Wales or on the Lord Chief Justice of Northern Ireland by this section may be exercised only after consulting the Lord Chancellor.
 - (6) The functions conferred on the Lord Chief Justice of Northern Ireland by this section may be exercised only after consulting the Lord Chancellor.
 - (7) 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.
 - (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).”
- (4) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998 (c. 41).
- 370 (1) Section 3 (non-judicial members) is amended as follows.
- (2) After subsection (3) insert—
- “(4) The Lord Chancellor may exercise his functions under subsection (2)(b) only with the concurrence of the appropriate senior judge.
 - (5) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—
 - (a) the member 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 member to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”
- (3) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998.
- 371 (1) Section 4 (provision for additional judges or members) is amended as follows.

(2) In subsection (1), in paragraph (a) after “consultation with” insert “the Lord Chief Justice of England and Wales,”.

(3) After subsection (2) insert—

“(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 section.

(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).”

(4) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998.

372 (1) Section 6 (administration) is amended as follows.

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

(3) After subsection (6) insert—

“(7) 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.”

(4) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998.

373 (1) In section 9 (procedure), in subsection (1) for “Lord Chancellor” substitute “president of the Court with the concurrence of the Lord Chancellor”.

(2) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998 (c. 41).

Magistrates' Courts Act 1980 (c. 43)

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

375 (1) Section 67 (family proceedings courts and panels) is amended as follows.

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

(3) In subsection (5) for “on the Lord Chancellor” substitute “, exercisable by the Lord Chancellor with the concurrence of the Lord Chief Justice,”.

(4) After subsection (8) insert—

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“(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 (2)(a).”

- (5) In relation to the enactment referred to in this paragraph, the original amending provision is section 49(1) of the Courts Act 2003.
- 376 (1) Section 68 (combined family panels) is amended as follows.
- (2) In subsection (2), after “thinks fit” insert “after consulting the Lord Chief Justice”.
- (3) 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.”
- (4) In relation to the enactment referred to in this paragraph, the original amending provision is section 49(2) of the Courts Act 2003 (c. 39).
- 377 (1) In section 146 (rules relating to youth court panels and composition of youth court), in subsection (2) for “Lord Chancellor” substitute “Lord Chief Justice”.
- (2) 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 powers under rules made under this section.”
- (3) In relation to the enactment referred to in this paragraph, the original amending provision is section 50(3) of the Courts Act 2003.

Supreme Court Act 1981 (c. 54)

- 378 (1) Section 130 of the Supreme Court Act 1981 (fees to be taken in Supreme Court) is amended as follows.
- (2) In subsection (2)(a) for “President of the Family Division and the Vice-Chancellor” substitute “President of the Queen’s Bench Division, President of the Family Division and the Chancellor of the High Court”.
- (3) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 263 of Schedule 8 to the Courts Act 2003 (c. 39).

Matrimonial and Family Proceedings Act 1984 (c. 42)

- 379 The Matrimonial and Family Proceedings Act 1984 is amended as follows.
- 380 (1) Section 40 (family proceedings rules) 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 Family Proceedings Rule Committee, which is to consist of the following persons—”.
- (3) For subsection (3) substitute—

“(3) The members of the Family Proceedings Rule Committee, other than those eligible to act by virtue of their office, are appointed under subsection (3ZA) or (3ZB).

(3ZA) The Lord Chief Justice must appoint the persons referred to in paragraphs (b), (c) (d) and (e) of subsection (1), after consulting the Lord Chancellor.

(3ZB) The Lord Chancellor must appoint the persons referred to in paragraphs (f) and (g) of subsection (1), after consulting the Lord Chief Justice.

(3ZC) A person is to be appointed under subsection (3ZA) or (3ZB) for such period as the Lord Chancellor determines after consulting the Lord Chief Justice.”

(4) Omit subsection (5).

(5) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 278(a) of Schedule 8 to the Courts Act 2003.

381 (1) After section 40 insert—

“40A Process for making rules of court under section 40

(1) Family proceedings rules must be—

- (a) signed by a majority of the members of the Family Proceedings Rule Committee, and
- (b) submitted to the Lord Chancellor.

(2) The Lord Chancellor may allow or disallow rules so made.

(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 Family Proceedings rules is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section and section 40B “Family Proceedings rules” means rules of court made under section 40.

40B Rules to be made if required by Lord Chancellor

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

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

(3) Those rules must be—

Status: This is the original version (as it was originally enacted).

- (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
 - (b) made in accordance with section 40A.”
- (2) The enactment referred to in this paragraph, for the purposes of paragraph 361(3), is section 40 of the Matrimonial and Family Proceedings Act 1984 (c. 42), and in relation to that enactment the original amending provision is paragraph 278(a) of Schedule 8 to the Courts Act 2003 (c. 39).

Railways Act 1993 (c. 43)

382 The Railways Act 1993 is amended as follows.

- 383 (1) In section 91 (transfer schemes: general), in subsection (7)(c) for “Lord Chancellor” substitute “Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland”.
- (2) In relation to the enactment referred to in this paragraph, the original amending provision is section 274 of, and Schedule 31 to, the Transport Act 2000 (c. 38).

384 (1) Schedule 8 (transfers by transfer scheme) is amended as follows.

- (2) In paragraph 14 (third parties affected by vesting provisions), in sub-paragraph (5) (c) for “Lord Chancellor” substitute “Chairman for the time being of the Royal Institution of Chartered Surveyors in Northern Ireland”.
- (3) In relation to the enactment referred to in this paragraph, the original amending provision is section 274 of, and Schedule 31 to, the Transport Act 2000.

Civil Procedure Act 1997 (c. 12)

385 (1) Section 2 of the Civil Procedure Act 1997 (Civil Procedure Rule Committee) is amended as follows.

(2) After subsection (8) insert—

“(9) If the Lord Chancellor disallows rules under subsection (8), he must give the Civil Procedure Rule Committee written reasons for doing so.”

(3) In relation to the enactment referred to in this paragraph, the original amending provision is section 85(1) of the Courts Act 2003 (c. 39).

Justices of the Peace Act 1997 (c. 25)

386 (1) The Justices of the Peace Act 1997 is amended as follows.

(2) In relation to the enactments in that Act referred to below, the original amending provision is section 6(4) of the Courts Act 2003.

387 (1) Section 1 (Commission areas) is amended as follows.

(2) In subsection (2) for “by the Lord Chancellor by order made by statutory instrument” substitute “by order made by the Lord Chancellor, after consulting the Lord Chief Justice, by statutory instrument”.

(3) 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.”
- 388 (1) Section 4 (petty sessions areas) is amended as follows.
- (2) In subsection (2) for “by the Lord Chancellor by order made by statutory instrument” substitute “by order made by the Lord Chancellor, after consulting the Lord Chief Justice, by statutory instrument”.
- (3) 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.”
- 389 In section 5 (appointment and removal of justices of the peace), in subsection (1) for “in like manner” substitute “by the Lord Chancellor with the concurrence of the Lord Chief Justice”.
- 390 (1) Section 6 (residence qualification) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor is” substitute “Lord Chancellor and the Lord Chief Justice are both”.
- (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.”
- 391 In section 7 (supplemental list for England and Wales), in subsection (4)—
- (a) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice,”;
- (b) for “Lord Chancellor is” substitute “Lord Chancellor and the Lord Chief Justice are both”.
- 392 In section 8 (removal of name from supplemental list), in subsection (1) after “Lord Chancellor” insert “, with the concurrence of the Lord Chief Justice,”.
- 393 (1) Section 9 (effect of entry of name in supplemental list) is amended as follows.
- (2) In subsection (3) for “by the Lord Chancellor” substitute “by the Lord Chief Justice”.
- (3) After subsection (4) insert—
- “(5) The Lord Chief Justice may not give an authorisation under subsection (3) unless the Lord Chancellor concurs.
- (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).”
- 394 In section 10A (appointment and tenure), in subsection (3) after “Lord Chancellor” insert “, with the concurrence of the Lord Chief Justice,”.
- 395 In section 10B (deputies), in subsection (2) after “Lord Chancellor” insert “, with the concurrence of the Lord Chief Justice,”.
- 396 (1) Section 10C (status) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In subsection (3) for “given by the Lord Chancellor from time to time” substitute “given by the Lord Chief Justice from time to time after consulting 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.”
- 397 (1) Section 24 (rules as to chairmanship and size of bench) is amended as follows.
- (2) In subsection (5) omit “by the Lord Chancellor”.
- (3) After subsection (5) insert—
- “(6) Rules under this section that relate to the matters referred to in any of paragraphs (c) to (e) of subsection (2) are to be made by the Lord Chief Justice after consulting the Lord Chancellor.
- (7) Any other rules under this section are to be made by the Lord Chancellor after consulting 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.”
- 398 In section 25 (records of justices of the peace) after subsection (4) insert—
- “(5) The Lord Chancellor must consult the Lord Chief Justice before—
- (a) designating a justice under subsection (1), or
- (b) giving a direction under subsection (2).
- (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.”
- 399 (1) Section 26 (Greater Manchester, Merseyside and Lancashire) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a) after “Lord Chancellor” insert “or the Lord Chief Justice”;
- (b) in paragraph (b)—
- (i) after “Lord Chancellor” in the first place insert “or the Lord Chief Justice”;
- (ii) for “the Lord Chancellor” in the second place substitute “that person, or those persons,”.
- (3) In subsection (3)—
- (a) in paragraph (a) after “Lord Chancellor” insert “or the Lord Chief Justice”;
- (b) in paragraph (b)—
- (i) after “Lord Chancellor” in the first place insert “or the Lord Chief Justice”;
- (ii) for “the Lord Chancellor” in the second place substitute “that person, or those persons,”.
- (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.”

400 (1) Section 27A (magistrates' courts committees) is amended as follows.

(2) In subsection (2) for “by the Lord Chancellor by order made by statutory instrument” substitute “by order made by the Lord Chancellor, after consulting the Lord Chief Justice, by statutory instrument”.

(3) 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.”

401 (1) Section 27B (alteration of committee areas) is amended as follows.

(2) In subsection (4) before paragraph (a) insert—

“(za) the Lord Chief Justice;”.

(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.”

402 (1) Section 33 (alteration of petty sessions areas) is amended as follows.

(2) In subsection (2) after “Lord Chancellor” in the first place insert “after he has consulted the Lord Chief Justice”.

(3) In subsection (3)—

(a) in paragraph (a) after “Lord Chancellor thinks fit” insert “after consulting the Lord Chief Justice”;

(b) for paragraph (b) substitute—

“(b) a magistrates' court committee fail to comply within six months with a direction under subsection (2);

(bb) the Lord Chancellor is, after consulting the Lord Chief Justice, dissatisfied with the draft order or report submitted in pursuance of such a direction; or”.

(4) After subsection (3) insert—

“(3A) The Lord Chancellor may only make an order to which subsection (3) applies after consulting the Lord Chief Justice.”

(5) In subsection (4) after “appear to the Lord Chancellor” insert “, after consulting the Lord Chief Justice,”.

(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 this section.”

403 (1) Section 53A (costs in legal proceedings) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In subsection (4) 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.”
- 404 (1) Section 54 (indemnification of justices and justices' clerks) is amended as follows.
- (2) In subsection (6) for “by the Lord Chancellor” substitute “by the Lord Chief Justice after consulting the Lord Chancellor”.
- (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 (6).”
- 405 (1) Section 64 (training courses) is amended as follows.
- (2) In subsection (1) for “by the Lord Chancellor” substitute “by the Lord Chief Justice after consulting the Lord Chancellor”.
- (3) 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).”

Data Protection Act 1998 (c. 29)

- 406 (1) Paragraph 3 of Schedule 6 to the Data Protection Act 1998 (constitution of Tribunal in national security cases) is amended as follows.
- (2) That paragraph becomes sub-paragraph (1) of paragraph 3.
- (3) 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).”
- (4) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 2 of Schedule 4 to the Freedom of Information Act 2000 (c. 36).

Nationality, Immigration and Asylum Act 2002 (c. 41)

- 407 (1) In Schedule 5 to the Nationality, Immigration and Asylum Act 2002 (Immigration Appeal Tribunal), paragraph 3 (appointment of President) is amended as follows.
- (2) That paragraph becomes sub-paragraph (1) of paragraph 3.
- (3) In that sub-paragraph, after “Lord Chancellor shall” insert “, with the concurrence of the Lord Chief Justice of England and Wales, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland,”.
- (4) 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).”
- (5) In relation to the enactment referred to in this paragraph, the original amending provision is section 26(5)(b) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19).