

SCHEDULES

SCHEDULE 2

Section 26

JUDGE ADVOCATES SITTING IN CIVILIAN COURTS

PART 1

AMENDMENTS CONFERRING JURISDICTION ON JUDGE ADVOCATES

Senior Courts Act 1981 (c. 54)

- 1 (1) Section 8 of the Senior Courts Act 1981 (persons who may exercise the jurisdiction of the Crown Court) is amended as follows.
 - (2) In subsection (1)(b), for “, Recorder or District Judge (Magistrates’ Courts)” substitute “, Recorder, qualifying judge advocate or District Judge (Magistrates’ Courts)”.
 - (3) In subsection (1)(c), for “or Recorder” substitute “, Recorder or qualifying judge advocate”.
 - (4) After subsection (1) insert—

“(1A) The jurisdiction of the Crown Court exercisable by a qualifying judge advocate by virtue of subsection (1) is the jurisdiction of the Court in relation to any criminal cause or matter other than an appeal from a youth court.”
 - (5) In subsection (3), for “, Circuit judge, Recorder or District Judge (Magistrates’ Courts)” substitute “, Circuit judge, Recorder, qualifying judge advocate or District Judge (Magistrates’ Courts)”.
 - (6) After subsection (3) insert—

“(4) Subsection (1A) does not affect the jurisdiction of the Crown Court exercisable by a person who holds an office mentioned in subsection (1)(a) or (b) where that person is also a qualifying judge advocate.”
- 2 In section 73(2) and (3) of that Act (general provisions relating to Crown Court proceedings), for “or Recorder” (wherever it occurs) substitute “, Recorder or qualifying judge advocate”.
- 3 In section 74 of that Act (Crown Court proceedings on appeals)—
 - (a) in subsection (1), after “Recorder” insert “or a qualifying judge advocate”;
 - and
 - (b) in subsection (3), for “or Recorder,” substitute “, Recorder or qualifying judge advocate,”.
- 4 In section 75(1) of that Act (allocation of cases and distribution of cases in Crown Court), for “, Circuit judge, Recorder or District Judge (Magistrates’ Courts)”

Status: This is the original version (as it was originally enacted).

substitute “, Circuit judge, Recorder, qualifying judge advocate or District Judge (Magistrates’ Courts)”.

- 5 In section 151(1) of that Act (interpretation), at the appropriate place insert—
- ““qualifying judge advocate” means—
- (a) the Judge Advocate General; or
 - (b) a person appointed under section 30(1)(a) or (b) of the Courts-Martial (Appeals) Act 1951 (assistants to the Judge Advocate General);”.

Courts Act 2003 (c. 39)

- 6 In section 66 of the Courts Act 2003 (judges having powers of District Judges (Magistrates’ Courts))—
- (a) after subsection (2) insert—

“(2A) A qualifying judge advocate has the powers of a justice of the peace who is a District Judge (Magistrates’ Courts) in relation to criminal causes and matters.”; and
 - (b) after subsection (4) insert—

“(5) In this section “qualifying judge advocate” means—

 - (a) the Judge Advocate General; or
 - (b) a person appointed under section 30(1)(a) or (b) of the Courts-Martial (Appeals) Act 1951 (assistants to the Judge Advocate General).

(6) Subsection (2A) is without prejudice to the powers conferred by this section on a person within subsection (2) where that person is also a qualifying judge advocate.”

PART 2

RELATED AMENDMENTS

Criminal Justice Act 1967 (c. 80)

- 7 In section 9(5) of the Criminal Justice Act 1967 (application for court attendance of person who has provided a written statement), after paragraph (d) insert—
- “(e) subject to subsection (5A), a qualifying judge advocate (within the meaning of the Senior Courts Act 1981).
- (5A) Subsection (5)(e) applies only where the application in question is to the Crown Court.”;
- but this paragraph is subject to paragraph 8.
- 8 (1) This paragraph applies if the amendment made to section 9(5) of the Criminal Justice Act 1967 by paragraph 1 of Schedule 4 to the Courts Act 2003 has not come into force before the commencement of paragraph 1 of this Schedule.
- (2) Until the coming into force of that amendment—
- (a) paragraph 7 above does not apply; and
 - (b) section 9(5) of the Criminal Justice Act 1967 is amended as follows.

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

- (3) The words from “by a puisne judge” to the end become paragraph (a).
- (4) After paragraph (a) insert “; or
 - (b) subject to subsection (5A), by a qualifying judge advocate (within the meaning of the Senior Courts Act 1981) sitting alone.
- (5A) Subsection (5)(b) applies only where the application in question is to the Crown Court.”

Juries Act 1974 (c. 23)

- 9 In section 9B(3) of the Juries Act 1974 (judges who may determine whether juror to be discharged on account of disability)—
 - (a) omit the “or” at the end of paragraph (c); and
 - (b) after paragraph (d) insert “, or
 - (e) subject to subsection (4), a qualifying judge advocate (within the meaning of the Senior Courts Act 1981).

(4) Subsection (3)(e) applies only where the case relates to a summons to attend for jury service in the Crown Court.”;

but this is subject to paragraph 10.
- 10 (1) This paragraph applies if the amendment made to section 9B(3) of the Juries Act 1974 by paragraph 3 of Schedule 4 to the Courts Act 2003 has not come into force before the commencement of paragraph 1 of this Schedule.
- (2) Until the coming into force of that amendment—
 - (a) paragraph 9 above does not apply; and
 - (b) section 9B(3) of the Juries Act 1974 is amended as follows.
- (3) The words from “any judge” to the end become paragraph (a).
- (4) After paragraph (a) insert “, or
 - (b) subject to subsection (4), any qualifying judge advocate (within the meaning of the Senior Courts Act 1981).
- (4) Subsection (3)(b) applies only where the case relates to a summons to attend for jury service in the Crown Court.”

Police and Criminal Evidence Act 1984 (c. 60)

- 11 (1) Schedule 1 to the Police and Criminal Evidence Act 1984 (access to excluded or special procedure material) is amended as follows.
- (2) In paragraph 17 (as amended by section 114(1) and (9) of the Serious Organised Crime and Police Act 2005), after “a Recorder” insert “, a qualifying judge advocate (within the meaning of the Senior Courts Act 1981)”.