

2005 No. 547 (C.23)

SUPREME COURT OF ENGLAND AND WALES
SUPREME COURT OF NORTHERN IRELAND
COUNTY COURTS, ENGLAND AND WALES
MAGISTRATES COURTS, ENGLAND AND WALES
COURTS-MARTIAL (APPEALS)

The Courts Act 2003 (Commencement No. 9, Savings,
Consequential and Transitional Provisions) Order 2005

Made - - - -

8th March 2005

The Lord Chancellor in exercise of the powers conferred upon him by sections 108(6), 109(4), 109(5) and 110 of the Courts Act 2003^(a) hereby makes the following Order:

Citation and Interpretation

1. This Order may be cited as the Courts Act 2003 (Commencement No. 9, Savings, Consequential and Transitional Provisions) Order 2005.

Commencement of Provisions of the Courts Act 2003

2. The following provisions of the Courts Act 2003 come into force on the 1st April 2005 –
- (a) section 1 (The general duty);
 - (b) sections 2 and 3 (Court staff and accommodation);
 - (c) section 5 (Functions of courts boards);
 - (d) section 6 to the extent not already in force (Abolition of magistrates' courts committees, etc.);
 - (e) sections 7 and 8 (The commission of the peace and local justice areas);
 - (f) sections 9 to 16 (Lay justices);
 - (g) sections 17 and 18 (Chairman and deputy chairmen and the bench);
 - (h) sections 19 to 21 (Supplementary provisions about the bench);
 - (i) sections 22 to 26 (District Judges (Magistrates' Courts));

(a) 2003 c. 39.

- (j) sections 27 to 29 (Justices' clerks and assistant clerks);
- (k) section 30 (Places, dates and times of sittings);
- (l) sections 31 to 35 (Protection and indemnification of justices and justices' clerks);
- (m) sections 36 and 37 (Fines officers and designated officers);
- (n) sections 38 to 40 (Application of receipts of magistrates' courts etc.);
- (o) sections 41 (Miscellaneous);
- (p) sections 43 to 46 and Schedule 3 (Criminal jurisdiction and procedure);
- (q) sections 47 and 48 (Civil jurisdiction and procedure);
- (r) sections 49, 50(1) and (4) (Family proceedings and youth courts);
- (s) sections 51 to 57 (Court security);
- (t) sections 58 to 61 (Inspectors of court administration);
- (u) sections 88 to 91 (Provisions relating to criminal procedure and appeals and Courts-Martial Appeal Court procedure and appeals);
- (v) sections 100 and 101 (Periodical payments);
- (w) section 105 (Extension of time for criminal appeals to House of Lords: Northern Ireland);
- (x) Schedule 8 (Minor and consequential amendments) and section 109(1) in so far as they are not already in force;
- (y) Schedule 9 (Transitional provisions and savings) and section 109(2) in so far as they are not already in force;
- (z) Schedule 10 (Repeals) in so far as it is not already in force, with the exception of the repeal of sections 73 and 73A of the County Courts Act 1984(a), and section 109(3) to the extent necessary for those repeals.

Transitional provisions and savings

Continuity

3. Anything which before 1st April 2005, is in the process of being done by, to or in relation to a justices' chief executive, in the exercise of, or in connection with his statutory functions and powers as a justices' chief executive may continue to be done by, to or in relation to a designated officer for a justice of the peace, magistrates' court or local justice area, as the case may be, including any legal proceedings being taken by or against a justices' chief executive.

4. Any reference in any document or instrument to a petty sessions area in existence on 31st March 2005 shall in relation to any time on or after 1st April 2005 be construed as a reference to the corresponding local justice area as set out in the Local Justice Areas Order 2005(b).

5. Any reference in any document or instrument to a justices' chief executive shall have effect, in relation to any time on or after 1st April 2005, as a reference to a designated officer for a justice of the peace, magistrates' court or local justice area, as the case may be.

6. Any order made on or before 31st March 2005 by a magistrates' court directing the payment of money to the justices' chief executive or any other officer of a magistrates' court acting for a petty sessions area shall have effect from 1st April 2005 as if it had directed payment to be made to the designated officer for the corresponding local justice area specified in the first order made under section 8 of the Act.

Justices, justices clerks and assistant clerks

7. Notwithstanding the repeal of the Justices of the Peace Act 1997(a) by section 6(4) of the Courts Act 2003—

(a) 1984 c. 28

(b) S.I. 2005/[tbc].

- (a) the Justices Clerks (Qualification of Assistants) Rules 1979**(b)** shall continue in force and shall have effect as if made under section 27(6) of the Courts Act 2003 and may be varied or revoked accordingly; and
- (b) the Justices and Justices' Clerks (Costs) Regulations 2001**(c)** shall continue in force and shall have effect as if made under section 34(4) of the Courts Act 2003 and may be varied or revoked accordingly.

Family proceedings courts

8.—(1) The Family Proceedings Courts (Constitution) Rules 1991**(d)** and the Family Proceedings Courts (Constitution)(Greater London) Rules 2003**(e)** shall continue to have effect as if made under section 67 of the 1980 Act**(f)**.

(2) Any justice of the peace who on 31st March 2005 was a member of a family panel shall remain on that panel until the next elections in accordance with the Family Proceedings Courts (Constitution) Rules 1991 or the Family Proceedings Courts (Constitution)(Greater London) Rules 2003, as the case may be, are held.

(3) Any justice of the peace who immediately following such elections is qualified to sit as a member of a family proceedings court shall be treated as having been authorised to do so by the Lord Chancellor under section 67 of the 1980 Act.

Youth courts

9. The Youth Courts Constitution Rules 1954**(g)** shall continue to have effect as if made under section 45 of the 1933 Act**(h)**.

Periodical payments: Income and Corporation Taxes Act 1988

10. Section 329AA of the Income and Corporation Taxes Act 1988**(i)** applies to orders made by a court before 24th September 1996 under which damages for personal injury are to consist wholly or partly of periodical payments as it applies to orders made in reliance on section 2 of the Damages Act 1996.

Periodical payments: Financial Services and Markets Act 2000

11. Where Article 9(1)(a) of the Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings) (Financial Services Compensation Scheme) Order 2001**(j)** applies in relation to an Article 9 default (as defined in Article 2(2) of that Order) occurring on or after 24th September 1996 and before 1st December 2001, sections 4(1) to (3), (3C) and (4) and 5 of the Damages Act 1996 continue to apply, as if a new section 4 of that Act had not been substituted for those provisions by section 101 of the Courts Act 2003.

12. Where a requirement under a long term insurance provision (as defined in section 4(3C) of the Damages Act 1996) arises on or after 1st December 2001 and before 1st April 2005, sections 4(3A) to (3D) and 5 of that Act continue to apply in respect of the authorised insurer, as if a new section 4 of that Act had not been substituted for those provisions by section 101 of the Courts Act 2003.

The Damages Act

13. The powers conferred by section 2(1) and (2) of the Damages Act 1996**(k)** shall be exercisable in proceedings whenever begun.

(a) 1997 c. 25.

(b) S.I. 1979/570 as amended by S.I. 1980/1891, S.I.1992/1834, S.I. 1998/3107, S.I. 1999/2814 and S.I. 2001/2269.

(c) S.I. 2001/1296.

(d) S.I. 1991/1405.

(e) S.I. 2003/2960.

(f) 1980 c. 43; section 67 was substituted by section 49 of the Courts Act 2003.

(g) S.I. 1954/1711.

(h) 1933 c. 12; section 45 was substituted by section 50 of the Courts Act 2003.

(i) 1988 c. 1.

(j) S.I. 2001/2967, as amended by S.I. 2003/2134.

(k) 1996 c.48; section 2(1) and (2) was substituted by section 100 of the Courts Act 2003.

Court security officers

14. Any person who on 31 March 2005 was employed to act as a court security officer within the meaning of section 92 of the Criminal Justice Act 1991^(a) shall from 1st April 2005 be treated as having been designated as a court security officer under section 51(1)(b) of the Courts Act 2003.

15. Any appointment of a magistrate as a member of a police authority which has effect on or before the date when paragraphs 373 and 374 of Schedule 8 to the Courts Act 2003 come into force shall continue to have effect as if those paragraphs had not come into force.

Consequential Provisions

Railway Administration Order Rules 2001^(b)

16. In rule 9.14 of the Railway Administration Order Rules for “section 130 of the Supreme Court Act 1981,” substitute “section 92 of the Courts Act 2003,”.

Signed by the authority of the Lord Chancellor

8th March 2005

Christopher Leslie
Parliamentary Under Secretary of State
Department for Constitutional Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force various provisions of the Courts Act 2003 on 1st April 2005, including:

- sections 1 to 3, which place the Lord Chancellor under a general duty to maintain an efficient and effective court system and give him the power to make appropriate arrangements for staff and accommodation.
- section 6, which abolishes magistrates’ courts committees, magistrates’ courts committee areas and the office of justices’ chief executive;
- sections 7 and 8, which provide for there to be a single commission of the peace for England and Wales and for England and Wales to be divided into local justice areas;
- sections 9 to 35, which make provision in relation to justices, justices’ clerks and assistant clerks;
- sections 43 to 50(1) and 50(4), which deals with the jurisdiction and procedure in criminal, civil and family proceedings in magistrates courts;
- sections 51 to 57, which makes provision in relation to court security officers;
- sections 58-61 which establish a new body called Her Majesty’s Inspectorate of Court Administration;
- subject to savings, sections 100 and 101 of the Courts Act 2003, which deal with the award of damages for future pecuniary loss in personal injury cases by way of periodical payments.

(a) 1991 c. 53.

(b) S.I. 2001/3352.

This Order brings into force on 1st April 2005 those parts of Schedules 8, 9 and 10 to the Courts Act to the extent that they are not yet in force and also makes further savings, transitional and consequential provision in connection with the coming into force of the Courts Act 2003.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 4	1.6.04	2004/798
Section 6 (partially)	1.9.04	2004/2066
Section 62	26.1.04	2003/3345
Section 63	26.1.04	2003/3345
Section 64	26.1.04	2003/3345
Section 66 (partially)	26.1.04	2003/3345
Section 67	26.1.04	2003/3345
Section 68	26.1.04	2003/3345
Section 69	1.9.04	2004/2066
Section 70	26.1.04	2003/3345
Section 71	26.1.04	2003/3345
Section 72	1.9.04	2004/2066
Section 73	1.9.04	2004/2066
Section 74	26.1.04	2003/3345
Section 77	26.1.04	2003/3345
Section 78	26.1.04	2003/3345
Section 81	26.1.04	2003/3345
Section 83	26.1.04	2003/3345
Section 84	26.1.04	2003/3345
Section 86	1.5.04	2004/1104
Section 87	1.5.04	2004/1104
Section 92	4.1.05	2004/3123
Section 93	1.2.04	2004/174
Section 95	5.4.04	2004/174
Section 96	5.4.04	2004/174
Section 97 (partially)	23.2.04	2004/174
(partially)	29.3.04	2004/174
(partially)	5.4.04	2004/174
(partially)	1.5.04	2004/1104
(remainder)	21.9.04	2004/2195
Section 98 (partially)	26.1.04	2003/3345
Section 99	15.3.04	2004/401
Section 102	26.1.04	2003/3345
Section 103	1.5.04	2004/1104
Section 104	1.5.04	2004/1104
Section 106	1.5.04	2004/1104
Schedule 1	1.6.04	2004/798
Schedule 2	1.9.04	2004/2066
Schedule 5 (partially)	23.2.04	2004/174
(partially)	29.3.04	2004/174
(remainder)	5.4.04	2004/174
Schedule 6 (partially)	1.5.04	2004/1104
(remainder)	21.9.04	2004/2195
Schedule 7	15.3.04	2004/401

Schedule 8 (and section 109(1) insofar as it relates to the paragraphs specified below) paragraphs 288 (partially) and 289	1.2.04	2004/174
Paragraphs 5, 9, 61 (partially), 62, 63 (partially), 189, 264, 274, 275 and 295-298	15.3.04	2004/401
Paragraphs 67, 71, 83, 107, 122, 126, 145, 172, 173, 182, 183(1) and (3), 186(1) and (2), 190, 207, 219, 233, 234, 238, 245(1) and (2) (partially), 246, 250, 251, 286, 290(1) and (3), 324, 327, 328, 329(1) and (4), 330(1), (2) and (3)(a), 355(a), 362, 364, 377 to 381, 384, 386 and 387, 389 and 390, 403 and 405, 410	01.09.04	2004/2066
Paragraphs 263, 276, 277, 278(b)	4.1.05	2004/3123
Schedule 9 (and section 109(2) insofar as it relates to the paragraph specified below)		
Paragraph 15 (partially)	23.2.04	2004/174
Paragraph 15 (partially)	29.3.04	2004/174
Paragraph 15 (remainder)	5.4.04	2004/174
Schedule 10 (and section 109(3)) (partially)	26.1.04	2003/3345
(partially)	15.3.04	2004/401
(partially) (and section 109(3))	1.5.04	2004/1104
(partially) (and section 109(3))	1.9.04	2004/2066
(partially) (and section 109(3))	4.1.05	2004/3123

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