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STATUTORY INSTRUMENTS

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**2006 No. 680**

**LORD CHANCELLOR  
LORD CHIEF JUSTICE  
TRANSFER OF FUNCTIONS**

**The Lord Chancellor (Transfer of Functions  
and Supplementary Provisions) Order 2006**

<i>Made</i>	- - - -	<i>10th March 2006</i>
<i>Laid before Parliament</i>		<i>13th March 2006</i>
<i>Coming into force</i>	- -	<i>3rd April 2006</i>

The Lord Chancellor makes the following Order in exercise of the powers conferred upon him by sections 19 and 143 of the Constitutional Reform Act 2005<sup>(1)</sup>.

**Citation and commencement**

1. This Order may be cited as the Lord Chancellor (Transfer of Functions and Supplementary Provisions) Order 2006 and shall come into force on 3rd April 2006.

**Transfer and modification of functions**

2. Schedule 1 has effect with respect to the transfer, modification and abolition of functions of the Lord Chancellor.

**Supplementary provisions**

3. Schedule 2 has effect with respect to making provisions supplementary to those under the Constitutional Reform Act 2005.

Dated 10th March 2006

*Falconer of Thoroton, C*

SCHEDULE 1

Article 2

Transfer, modification and abolition of functions of the Lord Chancellor

**Pensions Appeal Tribunals (England and Wales) Regulations 1926**

1. The Pensions Appeal Tribunals (England and Wales) Regulations 1926<sup>(2)</sup> are amended as follows.

2. In regulation 39, after “Lord Chancellor” insert “, after consulting the Lord Chief Justice,”.

3. In regulation 40, after “Lord Chancellor” insert “after consulting the Lord Chief Justice”.

4. After regulation 40 insert—

“**40A.** 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 regulation 39 or 40.”.

**Treaty of Peace (Bulgaria) Order 1948**

5.—(1) Article 1 of the Treaty of Peace (Bulgaria) Order 1948<sup>(3)</sup> is amended in accordance with this paragraph.

(2) In paragraph (5)(d), for “Lord Chancellor” substitute “Lord Chief Justice (with the concurrence of the Lord Chancellor)”.

(3) After paragraph (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 paragraph (5) of this Article.”.

**Treaty of Peace (Hungary) Order 1948**

6.—(1) Article 1 of the Treaty of Peace (Hungary) Order 1948<sup>(4)</sup> is amended in accordance with this paragraph.

(2) In paragraph (5)(d), for “Lord Chancellor” substitute “Lord Chief Justice (with the concurrence of the Lord Chancellor)”.

(3) After paragraph (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 paragraph (5) of this Article.”.

**Treaty of Peace (Italy) Order 1948**

7.—(1) Article 1 of the Treaty of Peace (Italy) Order 1948<sup>(5)</sup> is amended in accordance with this paragraph.

(2) In paragraph (5)(d), for “Lord Chancellor” substitute “Lord Chief Justice (with the concurrence of the Lord Chancellor)”.

(3) After paragraph (10) insert—

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(2) S.R. & O. 1926/129.

(3) S.R. & O. 1948/114.

(4) S.R. & O. 1948/116.

(5) S.R. & O. 1948/117.

“(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 paragraph (5) of this Article.”.

#### **Treaty of Peace (Roumania) Order 1948**

**8.**—(1) Article 1 of the Treaty of Peace (Roumania) Order 1948(6) is amended in accordance with this paragraph.

(2) In paragraph (5)(d), for “Lord Chancellor” substitute “Lord Chief Justice (with the concurrence of the Lord Chancellor)”.

(3) After paragraph (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 paragraph (5) of this Article.”.

#### **Town and Country Planning (Transfer of Property and Officers and Compensation to Officers) Regulations 1948**

**9.** The Town and Country Planning (Transfer of Property and Officers and Compensation to Officers) Regulations 1948(7) are amended as follows.

**10.** In the definition of “tribunal” in regulation 14, after “Lord Chancellor” insert “and the Lord Chief Justice”.

**11.** After regulation 14 insert—

“**14A.** 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 referred to in the definition of “tribunal” in regulation 14.”.

#### **National Assistance (Compensation) Regulations 1948**

**12.** The National Assistance (Compensation) Regulations 1948(8) are amended as follows.

**13.** In the definition of “tribunal” in regulation 2, after “Lord Chancellor” insert “and the Lord Chief Justice”.

**14.** After regulation 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 functions referred to in the definition of “tribunal” in regulation 2.”.

#### **National Insurance and Civil Service (Superannuation) Rules 1948**

**15.**—(1) Rule 1 of the National Insurance and Civil Service (Superannuation) Rules 1948(9) is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (2), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph insert—

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(6) S.R. & O. 1948/118.

(7) S.R. & O. 1948/1236.

(8) S.R. & O. 1948/1457.

(9) S.R. & O. 1948/2434.

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“(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 functions referred to in the definition of “tribunal” in paragraph (2).”.

### **Transferred Undertakings (Pensions of Employees) (No. 2) Regulations 1952**

**16.**—(1) Regulation 1 of the Transferred Undertakings (Pensions of Employees) (No. 2) Regulations 1952(**10**) is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (3), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph 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 referred to in the definition of “tribunal” in paragraph (3).”.

### **British Transport Commission (Pensions of Employees) Regulations 1953**

**17.**—(1) Regulation 1 of the British Transport Commission (Pensions of Employees) Regulations 1953(**11**) is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (3), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph 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 referred to in the definition of “tribunal” in paragraph (3).”.

### **Railway Clearing House Scheme Order 1954**

**18.**—(1) Paragraph 5 of the Schedule to the Railway Clearing House Scheme Order 1954(**12**) is amended in accordance with this paragraph.

(2) In sub-paragraph (1), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that sub-paragraph 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 referred to in sub-paragraph (1).”.

### **Justices of the Peace Act 1949 (Compensation) Regulations 1954**

**19.** The Justices of the Peace Act 1949 (Compensation) Regulations 1954(**13**) are amended as follows.

**20.** In the definition of “tribunal” in regulation 2 after “Lord Chancellor” insert “and the Lord Chief Justice”.

**21.** After regulation 2 insert—

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(10) [S.I. 1952/1612](#). Regulation 1 was amended by [S.I. 1957/438](#).

(11) [S.I. 1953/1445](#).

(12) [S.I. 1954/139](#).

(13) [S.I. 1954/1262](#).

“**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 functions referred to in the definition of “tribunal” in regulation 2.”.

#### **Juvenile Courts (Constitution) Rules 1954**

**22.**—(1) Rule 1 of the Juvenile Courts (Constitution) Rules 1954(**14**) is amended in accordance with this paragraph.

(2) In paragraph (5)(b), for “Lord Chancellor” substitute “Lord Chief Justice”.

(3) After that paragraph 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 paragraph (5)(b).”.

#### **British Transport Reorganisation (Pensions of Employees) (No. 4) Order 1962**

**23.**—(1) Article 1 of the British Transport Reorganisation (Pensions of Employees) (No. 4) Order 1962(**15**) is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (4), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph 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 referred to in the definition of “tribunal” in paragraph (4).”.

#### **Local Government (Compensation) Regulations 1963**

**24.**—(1) Regulation 2 of the Local Government (Compensation) Regulations 1963(**16**) is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (1), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph 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 referred to in the definition of “tribunal” in paragraph (1).”.

#### **Water Officers (Compensation) Regulations 1964**

**25.**—(1) Regulation 2 of the Water Officers (Compensation) Regulations 1964(**17**) is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (1), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph insert—

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(14) [S.I. 1954/1711](#), amended by [S.I. 2005/617](#). There are other amending instruments but none is relevant. By virtue of section 70 of the Criminal Justice Act 1991 (c. 53), the reference in these Rules to juvenile courts is to be construed as a reference to youth courts.

(15) [S.I. 1962/2793](#).

(16) [S.I. 1963/999](#), amended by [S.I. 1965/571](#), [S.I. 1968/913](#) and [S.I. 1970/1889](#).

(17) [S.I. 1964/26](#), amended by [S.I. 1968/912](#).

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“(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 referred to in the definition of “tribunal” in paragraph (1).”.

#### **London Government (Compensation) Regulations 1964**

**26.**—(1) Regulation 2 of the London Government (Compensation) Regulations 1964<sup>(18)</sup> is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (1), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph 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 referred to in the definition of “tribunal” in paragraph (1).”.

#### **London Authorities (Staff) Order 1965**

**27.** The London Authorities (Staff) Order 1965<sup>(19)</sup> is amended as follows.

**28.**—(1) Article 12 is amended in accordance with this paragraph.

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

(3) After that paragraph 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 paragraph (1).”.

**29.**—(1) Article 13 is amended in accordance with this paragraph.

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

(3) After that paragraph 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 paragraph (1).”.

**30.**—(1) Article 18 is amended in accordance with this paragraph.

(2) After “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) At the end of that article add—

“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 article.”.

#### **Justices of the Peace Act 1949 (Compensation) Regulations 1965**

**31.**—(1) Regulation 2 of the Justices of the Peace Act 1949 (Compensation) Regulations 1965<sup>(20)</sup> is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (1), after “Lord Chancellor” insert “and the Lord Chief Justice”.

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<sup>(18)</sup> S.I. 1964/1953, amended by S.I. 1968/911.

<sup>(19)</sup> S.I. 1965/96.

<sup>(20)</sup> S.I. 1965/283, amended by S.I. 1971/1119 and S.I. 2005/617. There are other amending instruments but none is relevant.

(3) After that paragraph insert—

“(1AA) 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 referred to in the definition of “tribunal” in paragraph (1).”.

### **Clerks of the Peace and Justices' Clerks (Compensation) Regulations 1965**

**32.**—(1) Regulation 2 of the Clerks of the Peace and Justices' Clerks (Compensation) Regulations 1965<sup>(21)</sup> is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (1), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph insert—

“(1AA) 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 referred to in the definition of “tribunal” in paragraph (1).”.

### **Coroners (Compensation) Regulations 1965**

**33.**—(1) Regulation 2 of the Coroners (Compensation) Regulations 1965<sup>(22)</sup> is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (1), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph 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 referred to in the definition of “tribunal” in paragraph (1).”.

### **Probation (Compensation) Regulations 1965**

**34.**—(1) Regulation 2 of the Probation (Compensation) Regulations 1965<sup>(23)</sup> is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (1), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph insert—

“(1AA) 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 referred to in the definition of “tribunal” in paragraph (1).”.

### **London Government (Probation Staff and Property) Order 1965**

**35.** The London Government (Probation Staff and Property) Order 1965<sup>(24)</sup> is amended as follows.

**36.**—(1) Article 3 is amended in accordance with this paragraph.

(2) In paragraph (6), after “Lord Chancellor” insert “and the Lord Chief Justice”.

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<sup>(21)</sup> S.I. 1965/517, amended by S.I. 1971/1122 and S.I. 1992/709.

<sup>(22)</sup> S.I. 1965/576.

<sup>(23)</sup> S.I. 1965/620, amended by S.I. 1971/1120.

<sup>(24)</sup> S.I. 1965/623.

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(3) After that paragraph 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 referred to in paragraph (6).”.

**37.**—(1) Article 4 is amended in accordance with this paragraph.

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

(3) After that paragraph 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 referred to in paragraph (1).”.

### **London Courts (Transfer of Staff) Order 1965**

**38.** The London Courts (Transfer of Staff) Order 1965(**25**) is amended as follows.

**39.**—(1) Article 3 is amended in accordance with this paragraph.

(2) In paragraph (6), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph 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 referred to in paragraph (6).”.

**40.**—(1) Article 4 is amended in accordance with this paragraph.

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

(3) After that paragraph 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 referred to in paragraph (1).”.

### **River Authorities (Compensation) Regulations 1965**

**41.**—(1) Regulation 2 of the River Authorities (Compensation) Regulations 1965(**26**) is amended in accordance with this paragraph.

(2) In the definition of “tribunal” in paragraph (1), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph 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 referred to in the definition of “tribunal” in paragraph (1).”.

### **British Transport (Pensions of Employees) (No. 2) Order 1968**

**42.**—(1) Article 1 of the British Transport (Pensions of Employees) (No. 2) Order 1968(**27**) is amended in accordance with this paragraph.

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(25) [S.I. 1965/624](#).

(26) [S.I. 1965/836](#), amended by [S.I. 1968/914](#). There are other amending instruments but none is relevant.

(27) [S.I. 1968/2012](#).



(2) In the definition of “tribunal” in paragraph (3), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph 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 referred to in the definition of “tribunal” in paragraph (3).”.

### **Pensions Appeal Tribunals (England and Wales) Rules 1980**

43. The Pensions Appeal Tribunals (England and Wales) Rules 1980(28) are amended as follows.

44. In rules 5A and 38, for “Lord Chancellor” substitute “Lord Chief Justice”.

45. After rule 38 insert—

#### **“Delegation by the Lord Chief Justice**

38A. 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 referred to in rules 5A and 38.”.

### **District Probate Registries Order 1982**

46.—(1) Article 4 of the District Probate Registries Order 1982(29) is amended in accordance with this paragraph.

(2) That article becomes paragraph (1) of article 4.

(3) In that paragraph, for “may be specified by the Lord Chancellor” substitute “the Lord Chancellor, after consulting the Lord Chief Justice, may specify”.

(4) After that 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 referred to in rules 5A and 38.”.

### **Mental Health Review Tribunal Rules 1983**

47.—(1) Rule 8 of the Mental Health Review Tribunal Rules 1983(30) is amended in accordance with this paragraph.

(2) In paragraph (3), for “Lord Chancellor” substitute “Lord Chief Justice after consulting the Lord Chancellor”.

(3) After that paragraph 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 referred to in paragraph (3).”.

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(28) S.I. 1980/1120, amended by S.I. 1998/1201 and S.I. 2001/1183. There are other amending instruments but none is relevant.

(29) S.I. 1982/379, to which there are amendments not relevant to this Order.

(30) S.I. 1983/942, amended by S.I. 1996/314, S.I. 2002/2469 and S.I. 2004/696.

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### **Merchant Shipping (Formal Investigations) Rules 1985**

**48.**—(1) Rule 17 of the Merchant Shipping (Formal Investigations) Rules 1985(**31**) is amended in accordance with this paragraph.

(2) That rule becomes paragraph (1) of rule 17.

(3) After paragraph (1)(c) insert—

“;

(d) the Lord Chancellor may appoint an assessor under rule 4(1) only with the concurrence of the Lord Chief Justice of Northern Ireland”.

(4) After paragraph (1) insert—

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

(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).”.

### **Crown Prosecution Service (Transfer of Staff) Regulations 1985**

**49.**—(1) Regulation 9 of the Crown Prosecution Service (Transfer of Staff) Regulations 1985(**32**) is amended in accordance with this paragraph.

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

(3) After that paragraph 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 referred to in paragraph (1).”.

### **Family Proceedings Courts (Constitution) Rules 1991**

**50.** The Family Proceedings Courts (Constitution) Rules 1991(**33**) are amended as follows.

**51.**—(1) Rule 5 is amended in accordance with this paragraph.

(2) In paragraph (3), for “Lord Chancellor” in both places substitute “Lord Chief Justice”.

(3) After paragraph (3) insert—

“(3A) Before exercising any of his functions referred to in paragraph (3) the Lord Chief Justice must consult the Lord Chancellor.”.

(4) For paragraph (4) substitute—

“(4) The Lord Chief Justice may, after consulting the Lord Chancellor, remove from a panel any justice who, in the Lord Chief Justice’s opinion, is unsuitable to serve on a family proceedings court.

(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 rule.”.

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(31) [S.I. 1985/1001](#), amended by [S.I. 1990/123](#) and by paragraph 184 of Schedule 4 and Schedule 18 to the Constitutional Reform Act 2005 (c. 4). There are other amending instruments but none is relevant.

(32) [S.I. 1985/1846](#).

(33) [S.I. 1991/1405](#), amended by [S.I. 2000/1873](#), [S.I. 2001/615](#) and [S.I. 2005/617](#). There are other amending instruments but none is relevant.

**52.**—(1) Rule 7 is amended in accordance with this paragraph.

(2) In paragraph (6), for “Lord Chancellor” substitute “Lord Chief Justice, after consulting the Lord Chancellor.”.

(3) After that paragraph 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 paragraph (6).”.

### **Antarctic Regulations 1995**

**53.**—(1) Regulation 12 of the Antarctic Regulations 1995<sup>(34)</sup> is amended in accordance with this paragraph.

(2) In paragraph (2), after “Lord Chancellor” insert “and the Lord Chief Justice”.

(3) After that paragraph 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 functions under paragraph (2).”.

### **Lands Tribunal Rules 1996**

**54.**—(1) Rule 2 of the Lands Tribunal Rules 1996<sup>(35)</sup> is amended in accordance with this paragraph.

(2) In the definition of “the registrar” in paragraph (1), after “Lord Chancellor” insert “, after consulting the Lord Chief Justice.”.

(3) After that paragraph 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 referred to in the definition of “the registrar” in paragraph (1).”.

### **Standing Civilian Courts Order 1997**

**55.**—(1) Article 29 of the Standing Civilian Courts Order 1997<sup>(36)</sup> is amended in accordance with this paragraph.

(2) In paragraph (1), for “Lord Chancellor or a person authorised by him in that behalf” substitute “Lord Chief Justice”.

(3) After paragraph (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 paragraph (1).”.

### **Prison Rules 1999**

**56.** In rule 55B(1) of the Prison Rules 1999<sup>(37)</sup>, for the words from “a Senior District Judge” to “under this rule” substitute “the Senior District Judge (Chief Magistrate)”.

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<sup>(34)</sup> S.I. 1995/490, to which there are amendments not relevant to this Order.

<sup>(35)</sup> S.I. 1996/1022, amended by S.I. 1997/1965. There are other amending instruments but none is relevant.

<sup>(36)</sup> S.I. 1997/172, to which there are amendments not relevant to this Order.

<sup>(37)</sup> S.I. 1999/728, amended by S.I. 2005/869. There are other amending instruments but none is relevant.

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### **Health Service Medicines (Price Control Appeals) Regulations 2000**

**57.**—(1) Regulation 7 of the Health Service Medicines (Price Control Appeals) Regulations 2000<sup>(38)</sup> is amended in accordance with this paragraph.

(2) After paragraph (3) insert—

“(3A) The Lord Chancellor may remove a person from office under paragraph (3)(b) only with the concurrence of the appropriate senior judge.

(3B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

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

### **Administration of Oaths (Summary Appeal Court) (Army) Order 2000**

**58.**—(1) Article 2 of the Administration of Oaths (Summary Appeal Court) (Army) Order 2000<sup>(39)</sup> is amended in accordance with this paragraph.

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

(3) After that paragraph 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 functions under paragraph (2).”.

### **Administration of Oaths (Summary Appeal Court) (Air Force) Order 2000**

**59.**—(1) Article 2 of the Administration of Oaths (Summary Appeal Court) (Air Force) Order 2000<sup>(40)</sup> is amended in accordance with this paragraph.

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

(3) After that paragraph 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 functions under paragraph (2).”.

### **Young Offender Institution Rules 2000**

**60.** In rule 60B(1) of the Young Offender Institution Rules 2000<sup>(41)</sup>, for the words from “a Senior District Judge” to “under this rule” substitute “the Senior District Judge (Chief Magistrate)”.

### **Court of Protection Rules 2001**

**61.** In the definition of “judge” in rule 2(1) of the Court of Protection Rules 2001<sup>(42)</sup>, for “Lord Chancellor” substitute “Lord Chief Justice”.

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<sup>(38)</sup> S.I. 2000/124, to which there are amendments not relevant to this Order.

<sup>(39)</sup> S.I. 2000/2377, amended by S.I. 2004/1937.

<sup>(40)</sup> S.I. 2000/2378, amended by S.I. 2004/1937.

<sup>(41)</sup> S.I. 2000/3371, amended by S.I. 2005/897. There are other amending instruments but none is relevant.

<sup>(42)</sup> S.I. 2001/824, amended by S.I. 2001/2977. There are other amending instruments but none is relevant.

### **Court of Protection (Enduring Powers of Attorney) Rules 2001**

**62.** In the definition of “judge” in rule 3(1) of the Court of Protection (Enduring Powers of Attorney) Rules 2001<sup>(43)</sup>, for “Lord Chancellor” substitute “Lord Chief Justice”.

### **Railway Administration Order Rules 2001**

**63.**—(1) Rule 10.2 of the Railway Administration Order Rules 2001<sup>(44)</sup> is amended in accordance with this paragraph

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

(3) After 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 paragraph (2).”.

### **Land Registration (Acting Adjudicator) Regulations 2003**

**64.**—(1) Regulation 2 of the Land Registration (Acting Adjudicator) Regulations 2003<sup>(45)</sup> is amended in accordance with this paragraph.

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

(3) In paragraph (3)(c), after “Lord Chancellor” insert “, with the concurrence of the Lord Chief Justice,”.

(4) After 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 regulation.”.

### **Family Proceedings Courts (Constitution) (Greater London) Rules 2003**

**65.** The Family Proceedings Courts (Constitution) (Greater London) Rules 2003<sup>(46)</sup> are amended as follows.

**66.**—(1) Rule 4 is amended in accordance with this paragraph.

(2) Paragraph (2) becomes paragraph (1).

(3) In paragraph (1), for “Lord Chancellor” substitute “Lord Chief Justice”.

(4) After paragraph (1) insert—

“(2) Before nominating a justice under paragraph (1) the Lord Chief Justice must consult the Lord Chancellor.”.

(5) For paragraph (4) substitute—

“(4) Subject to paragraph (6), the number of justices who are nominated under paragraph (1) shall be such as the Lord Chancellor determines to be sufficient for family proceedings courts in Greater London.

(5) The Lord Chancellor must advise the Lord Chief Justice of his determination under paragraph (4).

<sup>(43)</sup> S.I. 2001/825, amended by S.I. 2002/1944. There are other amending instruments but none is relevant.

<sup>(44)</sup> S.I. 2001/3352.

<sup>(45)</sup> S.I. 2003/2342.

<sup>(46)</sup> S.I. 2003/2960, amended by S.I. 2005/617.

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(6) The Lord Chief Justice may, with the concurrence of the Lord Chancellor, at any time nominate one or more additional justices to the panel.

(7) A justice nominated under paragraph (6) shall serve on the panel for a term commencing on a date determined by the Lord Chancellor, and ending at the end of the period for which the other members of the panel were nominated.

(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 rule.”.

**67.**—(1) Rule 5 is amended in accordance with this paragraph.

(2) In paragraph (1)(d), for “Lord Chancellor” substitute “Lord Chief Justice”.

(3) For paragraph (3) substitute—

“(3) If the Lord Chief Justice considers that a member of the panel is unsuitable to serve in that capacity he may, with the concurrence of the Lord Chancellor, remove him from the panel.

(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 paragraph (3).”.

**68.** For rule 6 substitute—

“6.—(1) If a vacancy occurs in the membership of the panel, the Lord Chief Justice may nominate a justice to fill the vacancy.

(2) Before nominating a justice under paragraph (1) the Lord Chief Justice must consult the Lord Chancellor.

(3) A justice nominated under paragraph (1) shall serve on the panel for a term commencing on a date determined by the Lord Chancellor, and ending at the end of the period for which the other members of the panel were nominated.

(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 rule.”.

**69.**—(1) Rule 8 is amended in accordance with this paragraph.

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

(3) After 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 paragraph (2).”.

#### **Sentencing Guidelines Council (Supplementary Provisions) Order 2004**

**70.** The Sentencing Guidelines Council (Supplementary Provisions) Order 2004(47) is amended as follows.

**71.**—(1) Article 2 is amended in accordance with this paragraph.

(2) In paragraph (2)(a), for “Lord Chancellor” substitute “Lord Chief Justice”.

(3) After paragraph (3) insert—

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(47) S.I. 2004/246.

“(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 paragraph (2)(a).”.

72.—(1) Article 3 is amended in accordance with this paragraph.

(2) That article becomes paragraph (1) of article 3.

(3) In paragraph (1), for “appropriate Minister may remove a judicial member or” substitute “Secretary of State may remove a”.

(4) After paragraph (1) insert—

“(2) The Lord Chancellor may, with the concurrence of the Lord Chief Justice, remove a judicial member from the Council if he is satisfied that that member is—

(a) incapable of continuing to be a member of the Council; or

(b) has behaved in such a way that he is unfit to be a member of the Council.”.

#### **Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004**

73. The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004(48) are amended as follows.

74.—(1) Regulation 2 is amended in accordance with this paragraph.

(2) That regulation becomes paragraph (1) of regulation 2.

(3) In the definition of “President” in paragraph (1), for “appointed or nominated by the Lord Chancellor” substitute “appointed by the Lord Chancellor or nominated by the Lord Chief Justice”.

(4) After paragraph (1) 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 regulation.”.

75.—(1) Regulation 4 is amended in accordance with this paragraph.

(2) In paragraph (6), after “appointing office holder” insert “where that is the Lord President, or, where the appointing office holder is the Lord Chancellor, by the Lord Chief Justice after consulting the Lord Chancellor”.

(3) After 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 regulation.”.

#### **European Communities (Recognition of Professional Qualifications) (First General System) Regulations 2005**

76.—(1) Schedule 4 of the European Communities (Recognition of Professional Qualifications) (First General System) Regulations 2005(49) is amended in accordance with this paragraph.

(2) In paragraph 1, in the second column of the table, for “The Lord Chancellor” substitute “The Chancellor of the High Court”.

(3) After paragraph 1 insert—

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(48) S.I. 2004/1861, amended by S.I. 2004/2351, S.I. 2005/1865 and by paragraph 360 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4). That Act makes other amendments to these Regulations which are not relevant to this Order.

(49) S.I. 2005/18.

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“1A. The Chancellor of the High Court may nominate another judge of that court to exercise his functions under paragraph 1.”

### **Justices of the Peace (Training and Appraisal) Rules 2005**

77. The Justices of the Peace (Training and Appraisal) Rules 2005(50) are amended as follows.
78. In rule 12, for “Lord Chancellor” substitute “Lord Chief Justice”.
79. In rule 16(3)(b), for “if the Lord Chancellor does so” substitute “if, after consulting the Lord Chief Justice, the Lord Chancellor agrees to the application”.
80. In rule 21(3) and (4), for “Lord Chancellor” substitute “Lord Chief Justice”.
81. After rule 21 insert—

### **“Delegation of functions by the Lord Chief Justice**

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 these Rules.”

## SCHEDULE 2

Article 3

### Supplementary provisions

### **Criminal Appeal (Northern Ireland) Rules 1968**

1. In the definition of “shorthand writer” in rule 2(1) of the Criminal Appeal (Northern Ireland) Rules 1968(51), for “Lord Chief Justice” substitute “Lord Chancellor under rule 25”.

### **Pensions Appeal Tribunals (Posthumous Appeals) Order 1980**

2. Omit Article 11(d) of the Pensions Appeal Tribunals (Posthumous Appeals) Order 1980(52).

### **Judicial Pensions (Requisite Benefits) Order 1988**

3. In Schedule 1 to the Judicial Pensions (Requisite Benefits) Order 1988(53), omit “, other than the Lord Chancellor.”

### **Housing (Preservation of Right to Buy) Regulations 1993**

4. In Schedule 2 to the Housing (Preservation of Right to Buy) Regulations 1993(54) (which sets out a modified version of Part V of the Housing Act 1985 as it applies by virtue of those Regulations), omit the text of section 181(4) and (5) of the Housing Act 1985.

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(50) [S.I. 2005/564](#).

(51) [S.R. 1968/218](#), amended by [S.R. 1979/86](#). There are other amending instruments but none is relevant.

(52) [S.I. 1980/1082](#) amended by [S.I. 2005/245](#) and by paragraph 108 of Schedule 4 and Schedule 18 to the Constitutional Reform Act 2005 (c. 4).

(53) [S.I. 1988/1420](#).

(54) [S.I. 1993/2241](#), to which there are amendments not relevant to this Order.



### **Insolvent Partnerships Order 1994**

5. The Insolvent Partnerships Order 1994<sup>(55)</sup> is amended as follows.

- 6.—(1) The modified text of section 117 of the Insolvency Act 1986<sup>(56)</sup> as set out in each of—
- (a) paragraph 6 of Schedule 3; and
  - (b) paragraph 1 of Schedule 5,

is amended in accordance with this paragraph.

(2) In subsection (5), 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.”.

7.—(1) The modified text of section 117 of the Insolvency Act 1986 as set out in each of—

- (a) paragraph 5 of Schedule 4; and
- (b) paragraph 1 of Schedule 6,

is amended in accordance with this paragraph.

(2) In subsection (7), for “may by order” substitute “may, with the concurrence of the Lord Chief Justice, by order”.

(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.”.

### **Supreme Court (Non-Contentious Probate) Fees Order (Northern Ireland) 1996**

8. In article 2(1)(iii) of the Supreme Court (Non-Contentious Probate) Fees Order (Northern Ireland) 1996<sup>(57)</sup>, for “Lord Chancellor” substitute “Lord Chief Justice”.

### **Housing (Right to Acquire) Regulations 1997**

9. In Schedule 2 to the Housing (Right to Acquire) Regulations 1997<sup>(58)</sup> (which sets out a modified version of Part V of the Housing Act 1985 as it applies by virtue of those Regulations), omit the text of section 181(4) and (5) of the Housing Act 1985.

### **Local Probation Boards (Appointments and Miscellaneous Provisions) Regulations 2001**

10. In regulation 2(1) of the Local Probation Boards (Appointments and Miscellaneous Provisions) Regulations 2001<sup>(59)</sup>, for “Lord Chancellor” substitute “Lord Chief Justice”.

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<sup>(55)</sup> [S.I. 1994/2421](#), to which there are amendments not relevant to this Order.

<sup>(56)</sup> [1986 c. 45](#), amended by [S.I. 2002/1240](#) and by paragraph 186 of Schedule 4 to the Constitutional Reform Act [2005 \(c. 4\)](#).

<sup>(57)</sup> [S.R. 1996/104](#), to which there are amendments not relevant to this Order.

<sup>(58)</sup> [S.I. 1997/619](#).

<sup>(59)</sup> [S.I. 2001/1035](#).

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## **Courts Act 2003 (Transitional Provisions, Savings and Consequential Provisions) Order 2005**

**11.** In article 8(3) of the Courts Act 2003 (Transitional Provisions, Savings and Consequential Provisions) Order 2005(60), for “Lord Chancellor” substitute “Lord Chief Justice”.

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

Article 2 of, and Schedule 1 to, this Order transfer, modify or abolish certain functions of the Lord Chancellor contained in secondary legislation.

In doing so, this Order implements the Concordat agreed between the Lord Chancellor and the Lord Chief Justice in January 2004. The Concordat sets out the principles governing the allocation of functions between the Lord Chancellor and the Lord Chief Justice following the removal of the Lord Chancellor’s judicial functions by the Constitutional Reform Act 2005 (c. 4) (“the 2005 Act”).

A separate Order, the Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No. 2) Order 2006, makes similar amendments to provisions contained in primary legislation and in secondary legislation subject to approval by Parliament.

Article 3 of, and Schedule 2 to, this Order make amendments supplemental to provision made by the 2005 Act.