



# Courts Act 2003

## 2003 CHAPTER 39

### PART 8

#### MISCELLANEOUS

*Provisions relating to criminal procedure and appeals*

**86 Alteration of place fixed for Crown Court trial**

An application under section 76(3) of the 1981 Act (application for variation of place fixed for Crown Court trial) is no longer required to be heard in open court by a judge of the High Court; and accordingly section 76(4) of the 1981 Act ceases to have effect.

**87 Appeals to Court of Appeal: procedural directions**

(1) In section 31 of the 1968 Act (powers of the Court of Appeal under Part 1 of that Act exercisable by single judge), in subsection (2), after paragraph (h) insert—

“(i) to make orders under section 23(1)(a).”

(2) In section 31A of the 1968 Act (powers of Court of Appeal under Part 1 of that Act exercisable by registrar), in subsection (2), after paragraph (c) insert—

“(d) to make orders under section 23(1)(a).”, and at the end of paragraph (b), omit “and”.

(3) After section 31A of the 1968 Act insert—

**“31B Procedural directions: powers of single judge and registrar**

(1) The power of the Court of Appeal to determine an application for procedural directions may be exercised by—

- (a) a single judge, or
- (b) the registrar.

*Status: Point in time view as at 03/04/2006.*

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- (2) “Procedural directions” means directions for the efficient and effective preparation of—
- (a) an application for leave to appeal, or
  - (b) an appeal,
- to which this section applies.
- (3) A single judge may give such procedural directions as he thinks fit—
- (a) when acting under subsection (1);
  - (b) on a reference from the registrar;
  - (c) of his own motion, when he is exercising, or considering whether to exercise, any power of his in relation to the application or appeal.
- (4) The registrar may give such procedural directions as he thinks fit—
- (a) when acting under subsection (1);
  - (b) of his own motion.
- (5) This section applies to an appeal, and an application to the Court of Appeal for leave to appeal, under—
- (a) this Part,
  - (b) section 9 of the Criminal Justice Act 1987, or
  - (c) section 35 of the Criminal Procedure and Investigations Act 1996.

### **31C Appeals against procedural directions**

- (1) Subsection (2) applies if a single judge gives, or refuses to give, procedural directions.
- (2) The Court of Appeal may, on an application to it under subsection (5)—
- (a) confirm, set aside or vary any procedural directions given by the single judge, and
  - (b) give such procedural directions as it thinks fit.
- (3) Subsection (4) applies if the registrar gives, or refuses to give, procedural directions.
- (4) A single judge may, on an application to him under subsection (5)—
- (a) confirm, set aside or vary any procedural directions given by the registrar, and
  - (b) give such procedural directions as he thinks fit.
- (5) An application under this subsection may be made by—
- (a) an appellant;
  - (b) a respondent, if the directions—
    - (i) relate to an application for leave to appeal and appear to need the respondent’s assistance to give effect to them,
    - (ii) relate to an application for leave to appeal which is to be determined by the Court of Appeal, or
    - (iii) relate to an appeal.
- (6) In this section—

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“appellant” includes a person who has given notice of application for leave to appeal under any of the provisions mentioned in section 31B(5);

“respondent” includes a person who will be a respondent if leave to appeal is granted.”

- (4) Sections 31B to 31C of the 1968 Act apply to—
- (a) applications for leave to appeal falling to be determined on or after the date on which this section comes into force, and
  - (b) appeals in relation to which—
    - (i) a certificate under Part 1 of the 1968 Act that the case is fit for appeal, or
    - (ii) leave to appeal, is granted on or after that date.
- (5) “The 1968 Act” means the Criminal Appeal Act 1968 (c. 19).

## **88 Extension of time for criminal appeals to House of Lords**

- (1) Amend section 2 of the Administration of Justice Act 1960 (c. 65) (applications for leave to appeal to House of Lords) as follows.
- (2) In subsection (1)—
- (a) for “fourteen” (in both places) substitute “ 28 ”, and
  - (b) for “date of the decision of that court” substitute “ relevant date ”.
- (3) After subsection (1) insert—
- “(1A) In subsection (1), “the relevant date” means—
- (a) the date of the decision of the court below, or
  - (b) if later, the date on which that court gives reasons for its decision.”
- (4) Amend section 34 of the 1968 Act (applications for leave to appeal to the House of Lords) as follows.
- (5) In subsection (1)—
- (a) for “fourteen” (in both places) substitute “ 28 ”, and
  - (b) for “date of the decision of the Court” substitute “ relevant date ”.
- (6) After subsection (1) insert—
- “(1A) In subsection (1), “the relevant date” means—
- (a) the date of the Court of Appeal’s decision, or
  - (b) if later, the date on which the Court gives reasons for its decision.”

## **89 Retirement age of Registrar of Criminal Appeals**

- (1) In section 92 of the 1981 Act (tenure of offices in Supreme Court)—
- (a) in subsection (2) (offices with retirement age of 70, but with possibility of extensions to not beyond 75), omit “except the office of Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals”,
  - (b) omit subsections (2D) and (2E) (retirement age of 62 for that office), and

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- (c) in subsection (4) (offices to which subsection (1), (2A) or (2D) applies to be held during good behaviour), for “to which subsection (1), (2A) or (2D) applies” substitute “ listed in column 1 of Part 1 or 2 of Schedule 2 ”.
- (2) In Schedule 5 to the Judicial Pensions and Retirement Act 1993 (c. 8) (retirement), after the entry relating to a Deputy or temporary Master, Queen’s Bench Division, insert— “ Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals ”.

## 90 Appeals to Courts-Martial Appeal Court: procedural directions

- (1) In section 36 of the Courts-Martial (Appeals) Act 1968 (c. 20) (powers of the Appeal Court under Part 2 of that Act exercisable by single judge), in subsection (1), after paragraph (g) insert—
  - “(h) to make orders under section 28(1)(a).”, and at the end of paragraph (f), omit “and”.
- (2) In section 36A of that Act (powers of the Appeal Court under Part 2 of that Act exercisable by registrar), in subsection (1), at the end of paragraph (b) insert “and—
  - (c) to make orders under section 28(1)(a).”, and at the end of paragraph (a), omit “and”.
- (3) After section 36A of that Act insert—

### “36B Procedural directions: powers of single judge and registrar

- (1) The power of the Appeal Court to determine an application for procedural directions may be exercised by—
  - (a) a judge of the Appeal Court, or
  - (b) the registrar.
- (2) “Procedural directions” means directions for the efficient and effective preparation of—
  - (a) an application for leave to appeal, or
  - (b) an appeal,
 under this Part.
- (3) A judge of the Appeal Court may give such procedural directions as he thinks fit—
  - (a) when acting under subsection (1);
  - (b) on a reference from the registrar;
  - (c) of his own motion, when he is exercising, or considering whether to exercise, any power of his in relation to the application or appeal.
- (4) The registrar may give such procedural directions as he thinks fit—
  - (a) when acting under subsection (1);
  - (b) of his own motion.

### 36C Appeals against procedural directions

- (1) Subsection (2) applies if a judge of the Appeal Court gives, or refuses to give, procedural directions.

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- (2) The Appeal Court may, on an application to it under subsection (5)—
  - (a) confirm, set aside or vary any procedural directions given by the judge, and
  - (b) give such procedural directions as it thinks fit.
- (3) Subsection (4) applies if the registrar gives, or refuses to give, procedural directions.
- (4) A judge of the Appeal Court may, on an application to him under subsection (5)—
  - (a) confirm, set aside or vary any procedural directions given by the registrar, and
  - (b) give such procedural directions as he thinks fit.
- (5) An application under this subsection may be made by—
  - (a) an appellant;
  - (b) the Defence Council, if the directions—
    - (i) relate to an application for leave to appeal and appear to need the Defence Council’s assistance to give effect to them,
    - (ii) relate to an application for leave to appeal which is to be determined by the Appeal Court, or
    - (iii) relate to an appeal.”
- (4) Sections 36B to 36C of that Act apply to—
  - (a) applications for leave to appeal falling to be determined on or after the date on which this section comes into force, and
  - (b) appeals in relation to which leave to appeal is granted on or after that date.

## **91 Extension of time for appeals from Courts-Martial Appeal Court**

- (1) Amend section 40 of the Courts-Martial (Appeals) Act 1968 (c. 20) (applications for leave to appeal to House of Lords) as follows.
- (2) In subsection (1)—
  - (a) for “fourteen” (in both places) substitute “ 28 ”, and
  - (b) for “date of the decision of the Court” substitute “ relevant date ”.
- (3) After subsection (1) insert—
  - “(1A) In subsection (1), “the relevant date” means—
    - (a) the date of the Appeal Court’s decision, or
    - (b) if later, the date on which the Court gives reasons for its decision.”

### *Fees and costs*

## **92 Fees**

- (1) The Lord Chancellor may with the consent of the Treasury by order prescribe fees payable in respect of anything dealt with by—
  - (a) the Supreme Court,
  - (b) county courts, and

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- (c) magistrates' courts.
- (2) An order under this section may, in particular, contain provision as to—
  - (a) scales or rates of fees;
  - (b) exemptions from or reductions in fees;
  - (c) remission of fees in whole or in part.
- (3) When including any provision in an order under this section, the Lord Chancellor must have regard to the principle that access to the courts must not be denied.
- (4) The Lord Chancellor may not under this section prescribe fees which he or another authority has power to prescribe apart from this section.
- (5) Before making an order under this section, the Lord Chancellor must consult—
  - (a) the Lord Chief Justice;
  - (b) the Master of the Rolls;
  - [<sup>F1</sup>(ba) the President of the Queen's Bench Division;
  - (c) the President of the Family Division;
  - (d) the Chancellor of the High Court;]
  - (e) the Head of Civil Justice;
  - (f) the Deputy Head of Civil Justice (if there is one).
- (6) Before making an order under this section in relation to civil proceedings, the Lord Chancellor must consult the Civil Justice Council.
- (7) The Lord Chancellor must take such steps as are reasonably practicable to bring information about fees to the attention of persons likely to have to pay them.
- (8) Fees payable under this section are recoverable summarily as a civil debt.
- (9) Subsection (10) applies in relation to an authority which has power to prescribe fees payable in any of the courts referred to in subsection (1).
- (10) Nothing in this section prevents the authority from applying to any extent provisions contained in an order made under this section; and an instrument made in exercise of the power is to be read (unless the contrary intention appears) as applying those provisions as amended from time to time.

#### Textual Amendments

- F1** S. 92(5)(ba)-(d) substituted (1.10.2005) for s. 92(5)(c)(d) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 15, [Sch. 4 para. 345](#); [S.I. 2005/2505](#), [art. 2\(c\)](#)

## 93 Award of costs against third parties

After section 19A of the Prosecution of Offences Act 1985 (c. 23) insert—

### “19B Provision for award of costs against third parties

- (1) The Lord Chancellor may by regulations make provision empowering magistrates' courts, the Crown Court and the Court of Appeal to make a third party costs order if the condition in subsection (3) is satisfied.

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- (2) A “third party costs order” is an order as to the payment of costs incurred by a party to criminal proceedings by a person who is not a party to those proceedings (“the third party”).
- (3) The condition is that—
  - (a) there has been serious misconduct (whether or not constituting a contempt of court) by the third party, and
  - (b) the court considers it appropriate, having regard to that misconduct, to make a third party costs order against him.
- (4) Regulations made under this section may, in particular—
  - (a) specify types of misconduct in respect of which a third party costs order may not be made;
  - (b) allow the making of a third party costs order at any time;
  - (c) make provision for any other order as to costs which has been made in respect of the proceedings to be varied on, or taken account of in, the making of a third party costs order;
  - (d) make provision for account to be taken of any third party costs order in the making of any other order as to costs in respect of the proceedings.
- (5) Regulations made under this section in relation to magistrates' courts must provide that the third party may appeal to the Crown Court against a third party costs order made by a magistrates' court.
- (6) Regulations made under this section in relation to the Crown Court must provide that the third party may appeal to the Court of Appeal against a third party costs order made by the Crown Court.”

#### **94 Award of costs in appeals under Proceeds of Crime Act 2002**

- (1) Amend the Proceeds of Crime Act 2002 (c. 29) as follows.
- (2) In section 89 (procedure on appeal to the Court of Appeal), after subsection (3) insert—
  - “(4) Subject to any rules made under section 91, the costs of and incidental to all proceedings on an appeal to the criminal division of the Court of Appeal under—
    - (a) section 43(1) or (2) (appeals against orders made in restraint proceedings), or
    - (b) section 65 (appeals against, or relating to, the making of receivership orders),are in the discretion of the court.
  - (5) Such rules may in particular make provision for regulating matters relating to the costs of those proceedings, including prescribing scales of costs to be paid to legal or other representatives.
  - (6) The court shall have full power to determine by whom and to what extent the costs are to be paid.
  - (7) In any proceedings mentioned in subsection (4), the court may—
    - (a) disallow, or

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- (b) (as the case may be) order the legal or other representative concerned to meet,  
the whole of any wasted costs or such part of them as may be determined in accordance with rules under section 91.
- (8) In subsection (7) “wasted costs” means any costs incurred by a party—
- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative, or
- (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.
- (9) “Legal or other representative”, in relation to a party to proceedings means any person exercising a right of audience or right to conduct litigation on his behalf.”
- (3) Subsection (2) applies in relation to proceedings on appeals in respect of offences committed or alleged to have been committed on or after 24th March 2003.
- (4) In section 91 (Crown Court Rules) after “Crown Court Rules” insert “ or (as the case may be) Criminal Appeal Rules ”.

### *Fines*

#### **95 Fixing of fines: failure to furnish statement of financial circumstances**

- (1) Amend section 20A of the Criminal Justice Act 1991 (c. 53) (false statements as to financial circumstances) as follows.
- (2) After subsection (1) insert—
- “(1A) A person who is charged with an offence who fails to furnish a statement of his financial circumstances in response to an official request shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.”
- (3) In subsection (2)(b), after “may impose” insert “ and how it should be paid ”.
- (4) In section 128(5) of the 2000 Act (fixing of fines: power of court to make determination of financial circumstances where offender has failed to co-operate with court etc.), in paragraph (b) before sub-paragraph (i) insert—
- “(zi) has failed to furnish a statement of his financial circumstances in response to a request which is an official request for the purposes of section 20A of the Criminal Justice Act 1991 (offence of making false statements as to financial circumstances),”.
- (5) “The 2000 Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

#### **96 Recovery of fines etc. by deductions from income support: failure to provide information**

- (1) Amend section 24 of the Criminal Justice Act 1991 (power to make regulations about recovery of fines etc. by deductions from income support) as follows.



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- (2) In subsection (2), after paragraph (a) insert—
- “(aa) provision that the court may require the offender to provide prescribed information in connection with an application;”.
- (3) After subsection (2) insert—
- “(2A) An offender who fails to provide information required by the court by virtue of subsection (2)(aa) commits an offence.
- (2B) An offender commits an offence if, in providing information required by the court by virtue of that subsection, he—
- (a) makes a statement which he knows to be false in a material particular,
- (b) recklessly provides a statement which is false in a material particular,
- or
- (c) knowingly fails to disclose any material fact.
- (2C) A person guilty of an offence under subsection (2A) or (2B) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.”

## **97 Collection of fines and discharge of fines by unpaid work**

- (1) Schedule 5 contains provisions about the collection of fines.
- (2) Schedule 6 contains provisions about the discharge of fines by means of unpaid work.
- (3) Subsections (4) to (9) apply in relation to each of those Schedules.
- (4) The Schedule is to have effect only in accordance with—
- (a) subsections (5) and (6) (pilot schemes), or
- (b) subsections (7) to (9) (power to make pilot schemes, or modified versions of pilot schemes, permanent after completion of pilots).
- (5) The Lord Chancellor may by order provide that the Schedule is to have effect in relation to the local justice area or areas specified in the order for the period specified in the order.
- (6) An order under subsection (5) may make provision modifying the Schedule, or any enactment in connection with the operation of the Schedule, in relation to the specified local justice area or areas and the specified period.
- (7) The Lord Chancellor may, at the end of the relevant period, by order provide that the Schedule is to have effect—
- (a) in all local justice areas, and
- (b) indefinitely.
- (8) “The relevant period” means—
- (a) if one order has been made under subsection (5) in relation to the Schedule, the period specified in the order;
- (b) if more than one order has been made under subsection (5) in relation to the Schedule, the period which, out of the periods so specified, ends at the latest date.
- (9) An order under subsection (7) may make such amendments of—
- (a) the Schedule, and

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(b) any other enactments,  
as appear to the Lord Chancellor appropriate in the light of the operation of the Schedule in accordance with the order made under subsection (5) (pilot schemes).

#### Commencement Information

**II** S. 97 wholly in force; s. 97 not in force at Royal Assent see s. 110(1)(2); s. 97 in force for certain purposes at 23.2.2004 by S.I. 2004/174, art. 4(a); s. 97 in force for certain further purposes at 29.3.2004 by S.I. 2004/174, art. 4(b); s. 97 in force for certain further purposes at 5.4.2004 by S.I. 2004/174, art. 4(c); s. 97 in force for certain further purposes at 1.5.2004 by S.I. 2004/1104, art. 3(c); s. 97 in force at 21.9.2004 insofar as not already in force by S.I. 2004/2195, art. 2

### *Register of judgments etc. and execution of writs*

## 98 Register of judgments and orders etc.

- (1) A register is to be kept, in accordance with regulations, of—
  - (a) judgments entered in the High Court;
  - (b) judgments entered in county courts;
  - (c) administration orders made under section 112 of the County Courts Act 1984 (c. 28) (power of county courts to make administration orders);
  - (d) orders restricting enforcement made under section 112A of that Act (power of county courts to restrict enforcement of debts in lieu of administration order);
  - (e) sums which are, for the purposes of the 1980 Act, sums adjudged to be paid by a conviction or order of a magistrates' court.
- (2) “Regulations” means regulations made by the Lord Chancellor for the purposes of this section.
- (3) The regulations may—
  - (a) provide for prescribed classes of judgments, orders or adjudged sums to be exempt from registration;
  - (b) prescribe circumstances in which judgments, orders or adjudged sums (or classes of them) are to be exempt from registration;
  - (c) prescribe circumstances in which an entry in the register is to be cancelled;
  - (d) in the case of sums adjudged to be paid by conviction of a magistrates' court, provide for sums to be registered only in prescribed circumstances or subject to prescribed conditions.
- (4) The Lord Chancellor may fix charges to be made for—
  - (a) making information in an entry in the register available for inspection;
  - (b) carrying out an official search of the register;
  - (c) supplying a certified copy of information in an entry in the register.
- (5) The proceeds of those charges are to be applied in paying the expenses incurred in maintaining the register; and any surplus is to be paid into the Consolidated Fund.
- (6) If there is in force an agreement between the Lord Chancellor and a body corporate relating to the keeping by that body corporate of the register the register is to be kept by that body corporate.

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- (7) If, under subsection (6), the register is kept by a body corporate—
- (a) the Lord Chancellor may recover from the body corporate any expenses incurred by the Lord Chancellor in connection with the supply of information to that body for the purposes of the register,
  - (b) subsection (4) applies as if it enabled the Lord Chancellor to fix the maximum charges to be made (instead of the charges to be made), and
  - (c) subsection (5) does not apply.
- (8) If subsection (6) ceases to apply to a body corporate as a result of the termination (for any reason) of the agreement, the Lord Chancellor may require the information contained in the entries in the register to be transferred to such person as he may direct.

#### Commencement Information

- I2** S. 98 partly in force at 6.4.2006; s. 98 not in force at Royal Assent see s. 110(1)(2); s. 98(1)(e)(2)(3)(c)(d)(4)-(8) in force at 26.1.2004 by S.I. 2003/3345, art. 2(c)(i); s. 98(1)(a)-(c)(3)(a)(b) in force at 6.4.2006 by S.I. 2005/3518, art. 3(a)

### 99 High Court writs of execution

- (1) Schedule 7 contains provisions about High Court writs of execution.
- (2) Any rule of law requiring a writ of execution issued from the High Court to be directed to a sheriff is abolished.

#### Commencement Information

- I3** S. 99 wholly in force at 15.3.2004; s. 99 not in force at Royal Assent see s. 110(1)(2); s. 99 in force at 15.3.2004 by S.I. 2004/401, art. 2(a) (with art. 3)

## Damages

### 100 Periodical payments

- (1) For section 2 of the Damages Act 1996 (c. 48) (periodical payments by consent) substitute—

#### “2 Periodical payments

- (1) A court awarding damages for future pecuniary loss in respect of personal injury—
  - (a) may order that the damages are wholly or partly to take the form of periodical payments, and
  - (b) shall consider whether to make that order.
- (2) A court awarding other damages in respect of personal injury may, if the parties consent, order that the damages are wholly or partly to take the form of periodical payments.

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- (3) A court may not make an order for periodical payments unless satisfied that the continuity of payment under the order is reasonably secure.
- (4) For the purpose of subsection (3) the continuity of payment under an order is reasonably secure if—
  - (a) it is protected by a guarantee given under section 6 of or the Schedule to this Act,
  - (b) it is protected by a scheme under section 213 of the Financial Services and Markets Act 2000 (compensation) (whether or not as modified by section 4 of this Act), or
  - (c) the source of payment is a government or health service body.
- (5) An order for periodical payments may include provision—
  - (a) requiring the party responsible for the payments to use a method (selected or to be selected by him) under which the continuity of payment is reasonably secure by virtue of subsection (4);
  - (b) about how the payments are to be made, if not by a method under which the continuity of payment is reasonably secure by virtue of subsection (4);
  - (c) requiring the party responsible for the payments to take specified action to secure continuity of payment, where continuity is not reasonably secure by virtue of subsection (4);
  - (d) enabling a party to apply for a variation of provision included under paragraph (a), (b) or (c).
- (6) Where a person has a right to receive payments under an order for periodical payments, or where an arrangement is entered into in satisfaction of an order which gives a person a right to receive periodical payments, that person's right under the order or arrangement may not be assigned or charged without the approval of the court which made the order; and—
  - (a) a court shall not approve an assignment or charge unless satisfied that special circumstances make it necessary, and
  - (b) a purported assignment or charge, or agreement to assign or charge, is void unless approved by the court.
- (7) Where an order is made for periodical payments, an alteration of the method by which the payments are made shall be treated as a breach of the order (whether or not the method was specified under subsection (5)(b)) unless—
  - (a) the court which made the order declares its satisfaction that the continuity of payment under the new method is reasonably secure,
  - (b) the new method is protected by a guarantee given under section 6 of or the Schedule to this Act,
  - (c) the new method is protected by a scheme under section 213 of the Financial Services and Markets Act 2000 (compensation) (whether or not as modified by section 4 of this Act), or
  - (d) the source of payment under the new method is a government or health service body.
- (8) An order for periodical payments shall be treated as providing for the amount of payments to vary by reference to the retail prices index (within the meaning of section 833(2) of the Income and Corporation Taxes Act 1988) at such

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times, and in such a manner, as may be determined by or in accordance with Civil Procedure Rules.

- (9) But an order for periodical payments may include provision—
- (a) disapplying subsection (8), or
  - (b) modifying the effect of subsection (8).

## **2A Periodical payments: supplementary**

- (1) Civil Procedure Rules may require a court to take specified matters into account in considering—
- (a) whether to order periodical payments;
  - (b) the security of the continuity of payment;
  - (c) whether to approve an assignment or charge.
- (2) For the purposes of section 2(4)(c) and (7)(d) “government or health service body” means a body designated as a government body or a health service body by order made by the Lord Chancellor.
- (3) An order under subsection (2)—
- (a) shall be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Section 2(6) is without prejudice to a person’s power to assign a right to the scheme manager established under section 212 of the Financial Services and Markets Act 2000.
- (5) In section 2 “damages” includes an interim payment which a court orders a defendant to make to a claimant.
- (6) In the application of this section to Northern Ireland—
- (a) a reference to Civil Procedure Rules shall be taken as a reference to rules of court, and
  - (b) a reference to a claimant shall be taken as a reference to a plaintiff.
- (7) Section 2 is without prejudice to any power exercisable apart from that section.

## **2B Variation of orders and settlements**

- (1) The Lord Chancellor may by order enable a court which has made an order for periodical payments to vary the order in specified circumstances (otherwise than in accordance with section 2(5)(d)).
- (2) The Lord Chancellor may by order enable a court in specified circumstances to vary the terms on which a claim or action for damages for personal injury is settled by agreement between the parties if the agreement—
- (a) provides for periodical payments, and
  - (b) expressly permits a party to apply to a court for variation in those circumstances.
- (3) An order under this section may make provision—

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- (a) which operates wholly or partly by reference to a condition or other term of the court’s order or of the agreement;
  - (b) about the nature of an order which may be made by a court on a variation;
  - (c) about the matters to be taken into account on considering variation;
  - (d) of a kind that could be made by Civil Procedure Rules or, in relation to Northern Ireland, rules of court (and which may be expressed to be with or without prejudice to the power to make those rules).
- (4) An order under this section may apply (with or without modification) or amend an enactment about provisional or further damages.
- (5) An order under this section shall be subject to any order under section 1 of the Courts and Legal Services Act 1990 (allocation between High Court and county courts).
- (6) An order under this section—
- (a) shall be made by statutory instrument,
  - (b) may not be made unless the Lord Chancellor has consulted such persons as he thinks appropriate,
  - (c) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament, and
  - (d) may include transitional, consequential or incidental provision.
- (7) In subsection (4)—
- “provisional damages” means damages awarded by virtue of subsection (2)(a) of section 32A of the Supreme Court Act 1981 or section 51 of the County Courts Act 1984 (or, in relation to Northern Ireland, paragraph 10(2)(a) of Schedule 6 to the Administration of Justice Act 1982), and
- “further damages” means damages awarded by virtue of subsection (2)(b) of either of those sections (or, in relation to Northern Ireland, paragraph 10(2)(b) of Schedule 6 to the Administration of Justice Act 1982).”

(2) <sup>F2</sup> .....

(3) <sup>F2</sup> .....

(4) In this section—

- (a) subsection (1) shall extend only to England and Wales and Northern Ireland, and
- (b) the remainder shall extend to the whole of the United Kingdom.

**Textual Amendments**

**F2** S. 100(2)(3) repealed (6.4.2005 with effect as mentioned in s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 884, [Sch. 3](#) (with [Sch. 2](#))

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## **101 Periodical payments: security**

- (1) For sections 4 and 5 of the Damages Act 1996 (c. 48) (enhanced protection for structured settlement annuitant) substitute—

### **“4 Enhanced protection for periodical payments**

- (1) Subsection (2) applies where—
- (a) a person has a right to receive periodical payments, and
  - (b) his right is protected by a scheme under section 213 of the Financial Services and Markets Act 2000 (compensation), but only as to part of the payments.
- (2) The protection provided by the scheme shall extend by virtue of this section to the whole of the payments.
- (3) Subsection (4) applies where—
- (a) one person (“the claimant”) has a right to receive periodical payments from another person (“the defendant”),
  - (b) a third person (“the insurer”) is required by or in pursuance of an arrangement entered into with the defendant (whether or not together with other persons and whether before or after the creation of the claimant’s right) to make payments in satisfaction of the claimant’s right or for the purpose of enabling it to be satisfied, and
  - (c) the claimant’s right to receive the payments would be wholly or partly protected by a scheme under section 213 of the Financial Services and Markets Act 2000 if it arose from an arrangement of the same kind as that mentioned in paragraph (b) but made between the claimant and the insurer.
- (4) For the purposes of the scheme under section 213 of that Act—
- (a) the claimant shall be treated as having a right to receive the payments from the insurer under an arrangement of the same kind as that mentioned in subsection (3)(b),
  - (b) the protection under the scheme in respect of those payments shall extend by virtue of this section to the whole of the payments, and
  - (c) no person other than the claimant shall be entitled to protection under the scheme in respect of the payments.
- (5) In this section “periodical payments” means periodical payments made pursuant to—
- (a) an order of a court in so far as it is made in reliance on section 2 above (including an order as varied), or
  - (b) an agreement in so far as it settles a claim or action for damages in respect of personal injury (including an agreement as varied).
- (6) In subsection (5)(b) the reference to an agreement in so far as it settles a claim or action for damages in respect of personal injury includes a reference to an undertaking given by the Motor Insurers' Bureau (being the company of that name incorporated on 14th June 1946 under the Companies Act 1929), or an Article 75 insurer under the Bureau’s Articles of Association, in relation to a claim or action in respect of personal injury.”

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- (2) In section 6(1) of the Damages Act 1996 (c. 48) (guarantee for public sector settlement) for the words “on terms corresponding to those of a structured settlement as defined in section 5 above except that the person to whom the payments are to be made is not to receive them as mentioned in subsection (1)(b) of that section” substitute “ on terms whereby the damages are to consist wholly or partly of periodical payments ”.
- (3) In paragraph 1(a) of the Schedule to that Act (guarantee by Northern Ireland Department for public sector settlement) for the words “on terms corresponding to those of a structured settlement as defined in section 5 of this Act except that the person to whom the payments are to be made is not to receive them as mentioned in subsection (1)(b) of that section” substitute “ on terms whereby the damages are to consist wholly or partly of periodical payments ”.
- (4) Where an individual who has a right to receive periodical payments becomes bankrupt—
- (a) the payments shall be treated for the purposes of the bankruptcy as income of the bankrupt (but without prejudice to [F3]section 731 of the Income Tax (Trading and Other Income) Act 2005](c. 1)),
  - (b) neither the right to receive periodical payments, nor any property or arrangement designed to protect continuity of the periodical payments, shall form part of the bankrupt’s estate for the purposes of the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
  - (c) an income payments order may not be made in respect of any part of the periodical payments identified (in the order or agreement under which the payments are made) as relating wholly to expenditure likely to be incurred by or for the individual as a result of the personal injury concerned,
  - (d) nothing in section 2 of the Damages Act 1996 (c. 48) shall prevent a court from making an income payments order (subject to paragraph (c)), and
  - (e) nothing in section 2 of that Act shall prevent entry into an income payments agreement.
- (5) In subsection (4)—
- “bankrupt” has the meaning given by section 381 of the Insolvency Act 1986 or Article 9 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
- “income payments agreement” means an agreement under section 310A of that Act or equivalent legislation for Northern Ireland,
- “income payments order” means an order under section 310 of that Act or equivalent legislation for Northern Ireland, and
- “periodical payments” means periodical payments awarded or agreed, or in so far as awarded or agreed, as damages for future pecuniary loss by—
- (a) an order of a court made in reliance on section 2 of the Damages Act 1996 (including an order as varied), or
  - (b) an agreement settling a claim or action for damages in respect of personal injury (including an agreement as varied).
- (6) In this section—
- (a) subsections (1) to (3) shall extend to the whole of the United Kingdom, and
  - (b) subsections (4) and (5) shall extend only to England and Wales and Northern Ireland.



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### Textual Amendments

- F3** Words in s. 101(4)(a) substituted (6.4.2005 with effect as mentioned in s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 882(1), [Sch. 1 para. 627](#) (with [Sch. 2](#))

### *Provisions relating to Northern Ireland*

## **102 Power to alter judicial titles: Northern Ireland**

- (1) The Lord Chancellor may by order—
- (a) alter the name of any of the offices of the Supreme Court of Judicature of Northern Ireland or of the county courts in Northern Ireland which are listed in subsection (2);
  - (b) provide for or alter the way in which the holders of any of those offices are to be styled.
- (2) The offices are—
- County court judge
  - Deputy judge of the county court
  - District Judge
  - Judge of the Court of Appeal
  - Lord Chief Justice
  - Master (Bankruptcy)
  - Master (Care and Protection)
  - Master (Chancery)
  - Master (Enforcement of Judgments)
  - Master (High Court)
  - Master (Probate and Matrimonial)
  - Master (Queen’s Bench and Appeals)
  - Master (Taxing Office)
  - Presiding judge for the county courts
  - Puisne judge of the High Court.
- (3) The Lord Chancellor may also by order provide for or alter the way in which deputies or temporary additional officers appointed under section 74(1) of the 1978 Act are to be styled.
- (4) <sup>F4</sup> .....
- (5) An order under this section may make such provision as the Lord Chancellor considers necessary in consequence of any provision made under subsection (1) or (3).
- (6) The provision that may be made under subsection (5) includes provision amending, repealing or revoking any enactment.
- [<sup>F5</sup>(6A) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.
- (6B) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (6A)—

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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).]
- (7) The power to make an order under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (8) An order under this section is subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and section 5 of the Statutory Instruments Act 1946 (c. 36) applies accordingly.
- (9) “The 1978 Act” means the Judicature (Northern Ireland) Act 1978 (c. 23).

#### Textual Amendments

- F4** S. 102(4) omitted (3.4.2006) by virtue of Constitutional Reform Act 2005 (c. 4), s. 15, Sch. 4 para. 346(2); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(bb)
- F5** S. 102(6A)(6B) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, Sch. 4 para. 346(3); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(bb)

### 103 Official Solicitor of Northern Ireland

- (1) In Schedule 3 to the 1978 Act (statutory offices) the entry relating to the Official Solicitor ceases to have effect.
- (2) Amend section 75 of the 1978 Act (Official Solicitor) as follows.
- (3) For subsection (1) substitute—
- “(1) The Lord Chancellor, after consultation with the Lord Chief Justice, may appoint as Official Solicitor to the Supreme Court a person who is—
- (a) a solicitor of the Supreme Court of at least 7 years' standing, or
  - (b) a member of the Bar of Northern Ireland of at least 7 years' standing.”
- (4) After subsection (5) insert—
- “(6) The Official Solicitor shall hold and vacate office in accordance with the terms of his appointment (which may include provision about retirement, dismissal or resignation).
- (7) The Lord Chancellor may pay to the Official Solicitor such remuneration and allowances as the Lord Chancellor may determine with the consent of the Treasury.
- (8) Service as the Official Solicitor is employment in the civil service of the State for the purposes of section 1 of the Superannuation Act 1972 (Principal Civil Service Pension Scheme).
- (9) While the office of Official Solicitor is vacant or the Official Solicitor is unable or unwilling to act, the Lord Chancellor may, after consultation with the Lord Chief Justice, appoint a person as temporary Official Solicitor; and the temporary Official Solicitor—
- (a) may be appointed only if qualified for appointment as Official Solicitor,

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- (b) shall have all the powers and duties of the Official Solicitor, and
  - (c) may be paid remuneration and allowances by the Lord Chancellor with the consent of the Treasury.”
- (5) In section 68 of the 1978 Act (Supreme Court: departments)—
- (a) in subsection (2)(b) for “statutory officer” substitute “ officer ”, and
  - (b) for subsection (4) substitute—
- “(4) The officer supervising a department shall discharge his functions in accordance with directions given by the Lord Chancellor.”
- (6) In section 73 of the 1978 Act (restrictions on practice) subsection (2) (and the words “Subject to subsection (2),”) cease to have effect.
- (7) In section 76 of the 1978 Act (property) paragraph (c) (which referred to the Official Solicitor and which ceased to have effect by virtue of the Supreme Court (Departments and Officers) (Northern Ireland) Order 1982 (S.R. 1982/ 300)) shall again have effect.
- (8) Nothing in this section has any effect in relation to the person who on the commencement of this section holds the office in Northern Ireland of Official Solicitor to the Supreme Court.

#### **104 Alteration of place fixed for Crown Court trial: Northern Ireland**

An application under section 48(3) of the 1978 Act (application for variation of place fixed for Crown Court trial) is no longer required to be heard in open court; and accordingly section 48(4) of the 1978 Act ceases to have effect.

#### **105 Extension of time for criminal appeals to House of Lords: Northern Ireland**

- (1) Amend paragraph 1 of Schedule 1 to the 1978 Act (applications for leave to appeal to House of Lords in certain criminal matters) as follows.
- (2) In sub-paragraph (1)—
- (a) for “fourteen” (in both places) substitute “ 28 ”, and
  - (b) for “date of the decision of that court” substitute “ relevant date ”.
- (3) After sub-paragraph (1) insert—
- “(1A) In sub-paragraph (1), “the relevant date” means—
- (a) the date of the decision of the court below, or
  - (b) if later, the date on which that court gives reasons for its decision.”
- (4) Amend section 32 of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (applications for leave to appeal to the House of Lords) as follows.
- (5) In subsection (1)—
- (a) for “fourteen” (in both places) substitute “ 28 ”, and
  - (b) for “date of the decision of the Court” substitute “ relevant date ”.
- (6) After subsection (1) insert—
- “(1A) In subsection (1), “the relevant date” means—
- (a) the date of the Court of Appeal’s decision, or

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(b) if later, the date on which the Court gives reasons for its decision.”

## **106 Fees: Northern Ireland**

In section 116 of the 1978 Act (fees) after subsection (1) insert—

“(1A) Without prejudice to the generality of subsection (1), an order under that subsection may make provision for exemptions from fees and remission of fees (in whole or in part).”

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