

## SCHEDULES

### SCHEDULE 1

Section 16

#### DOCUMENTS TO BE SERVED IN ACCORDANCE WITH CRIMINAL PROCEDURE RULES

##### *Road Traffic Act 1960*

- 1 In section 243 of the Road Traffic Act 1960 (proof, in summary proceedings under section 232 of that Act, of identity of driver of vehicle), in paragraph (a), for “by post” substitute “in accordance with Criminal Procedure Rules”.

##### *Misuse of Drugs Act 1971*

- 2 In section 29 of the Misuse of Drugs Act 1971 (service of documents), before subsection (1) insert—
- “(A1) In the application of this Act to criminal proceedings in England and Wales, any notice or other document required or authorised by any provision of this Act to be served on any person may be served on the person in accordance with Criminal Procedure Rules.
- (A2) In any other application of this Act, subsections (1) to (4) apply.”

##### *Prices Act 1974*

- 3 In paragraph 8 of the Schedule to the Prices Act 1974 (institution of proceedings)—
- (a) in sub-paragraph (3), after “person” insert “—
- (a) if the proceedings are to be instituted in England and Wales, in accordance with Criminal Procedure Rules; or
- (b) otherwise,”;
- (b) after that sub-paragraph insert—
- “(3A) For the purposes of sub-paragraph (3)(a)—
- (a) Criminal Procedure Rules (as they have effect from time to time) apply to the notice as if it were a document to be served in criminal proceedings before a magistrates’ court, and
- (b) any magistrates’ court may discharge functions conferred on a court by those Rules in relation to such service.”

##### *Salmon and Freshwater Fisheries Act 1975*

- 4 In paragraph 10 of Schedule 4 to the Salmon and Freshwater Fisheries Act 1975 (delivery up of licence by defendant)—

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- (a) in sub-paragraph (a), for “cause it to be delivered to the proper officer of the court” substitute “serve it on the proper officer of the court in accordance with Criminal Procedure Rules”;
- (b) omit paragraph (b);
- (c) in the words after paragraph (c), for the words from “posted” to “delivered” substitute “served the licence or authorisation under section 27A above”.

*Isle of Man Act 1979*

- 5 In section 5(1) of the Isle of Man Act 1979 (summonses etc for offences relating to common duties etc)—
- (a) omit “in the United Kingdom”;
  - (b) after “may” insert “, if the court is in England and Wales, be served in accordance with Criminal Procedure Rules or, if the court is in Scotland or Northern Ireland,”.

*Magistrates’ Courts Act 1980*

- 6 In section 82 of the Magistrates’ Courts Act 1980 (restriction on power to impose imprisonment for default), in subsection (5F), for the words from “by registered post” to the end substitute “in accordance with Criminal Procedure Rules”.

*Public Passenger Vehicles Act 1981*

- 7 In section 72 of the Public Passenger Vehicles Act 1981 (proof in summary proceedings of identity of driver of vehicle), in paragraph (a)—
- (a) for “rules made under section 15 of the Justices of the Peace Act 1949” substitute “Criminal Procedure Rules”;
  - (b) for “by post” substitute “in accordance with Criminal Procedure Rules”.

*Video Recordings Act 1984*

- 8 In section 19 of the Video Recordings Act 1984 (evidence by certificate)—
- (a) after subsection (4) insert—
    - “(4A) This section does not make a certificate admissible as evidence in proceedings in England and Wales for an offence unless a copy of the certificate has, not less than seven days before the hearing, been served on the person charged with the offence in accordance with Criminal Procedure Rules.”;
  - (b) in subsection (5), after “proceedings” insert “in Northern Ireland”.

*Weights and Measures Act 1985*

- 9 In section 83 of the Weights and Measures Act 1985 (prosecution of offences)—
- (a) in subsection (4), after “person” insert “—
    - (a) if the proceedings are to be instituted in England and Wales, in accordance with Criminal Procedure Rules; or
    - (b) if the proceedings are to be instituted in Scotland,”;
  - (b) after that subsection insert—

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“(4A) For the purposes of subsection (4)(a)—

- (a) Criminal Procedure Rules (as they have effect from time to time) apply to the notice as if it were a document to be served in criminal proceedings before a magistrates’ court, and
- (b) any magistrates’ court may discharge functions conferred on a court by those Rules in relation to such service.”

### *Road Traffic Act 1988*

10 (1) The Road Traffic Act 1988 is amended as follows.

(2) In section 164 (powers to require driving licence or date of birth)—

(a) in subsection (10)—

(i) after “him” (in the first place it occurs) insert “—

(a) if the statement to the constable was made in England and Wales, in accordance with Criminal Procedure Rules, or

(b) if that statement was made elsewhere;”;

(ii) for “this subsection” (in both places it occurs) substitute “this paragraph”;

(b) after subsection (10) insert—

“(10A) For the purposes of subsection (10)(a)—

(a) Criminal Procedure Rules (as they have effect from time to time) apply to the notice as if it were a document to be served in criminal proceedings before a magistrates’ court, and

(b) any magistrates’ court may discharge functions conferred on a court by those Rules in relation to such service.”

(3) In section 172 (duty to identify driver where offence alleged)—

(a) in subsection (7), for “by post” substitute “in accordance with Criminal Procedure Rules, if the alleged offence took place in England and Wales, or by post otherwise”;

(b) after that subsection insert—

“(7A) For the purposes of subsection (7) (as it applies in relation to an alleged offence in England and Wales)—

(a) Criminal Procedure Rules (as they have effect from time to time) apply to the notice as if it were a document to be served in criminal proceedings before a magistrates’ court, and

(b) any magistrates’ court may discharge functions conferred on a court by those Rules in relation to such service.”

### *Road Traffic Offenders Act 1988*

11 (1) The Road Traffic Offenders Act 1988 is amended as follows.

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- (2) In section 1 (requirement for warning etc before certain prosecutions), after subsection (1) insert—
- “(1ZA) In the case of an offence to be prosecuted in England and Wales, a notice required by this section to be served on any person may be served on that person in accordance with Criminal Procedure Rules.
- (1ZB) For the purposes of subsection (1ZA)—
- (a) Criminal Procedure Rules (as they have effect from time to time) apply to the notice as if it were a document to be served in criminal proceedings before a magistrates’ court, and
  - (b) any magistrates’ court may discharge functions conferred on a court by those Rules in relation to such service.
- (1ZC) In the case of an offence to be prosecuted elsewhere, subsections (1A) and (2) apply.”
- (3) In section 12 (proof of identify of driver in summary proceedings), in subsections (1)(a) and (3)(a), for “by post” substitute “in accordance with Criminal Procedure Rules”.
- (4) In section 16 (documentary evidence as to specimens of breath, blood or urine), in subsection (6), after “may” insert “—
- (a) if the proceedings mentioned in section 15(1) take place in England and Wales, be served in accordance with Criminal Procedure Rules, or
  - (b) if the proceedings take place elsewhere,”.
- (5) In section 25 (requirement to inform court of date of birth and sex following conviction), in subsection (7)—
- (a) after “him” (in the first place it occurs) insert “—
    - “(a) if the conviction was in England and Wales, in accordance with Criminal Procedure Rules, or
    - (b) if the conviction was elsewhere,”;
  - (b) for “this subsection” (in both places it occurs) substitute “this paragraph”.
- (6) In section 85 (service of certain documents in connection with alleged offences), before subsection (1) insert—
- “(A1) Subsections (A2) to (A4) apply in relation to an offence alleged to have taken place in England and Wales.
- (A2) Subject to any requirement of this Part of this Act with respect to the manner in which a person may be provided with any such document, the person may be provided with the following documents in accordance with Criminal Procedure Rules (but without prejudice to any other method of providing them), that is to say—
- (a) any of the statutory statements mentioned in Schedule 4 to this Act, and
  - (b) any of the documents mentioned in section 66(2) of this Act.
- (A3) A notice to owner may be served on any person in accordance with Criminal Procedure Rules.

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- (A4) For the purposes of subsections (A2) and (A3)—
- (a) Criminal Procedure Rules (as they have effect from time to time) apply to the document to be provided or (as the case may be) the notice to be served as if it were a document to be served in criminal proceedings before a magistrates’ court, and
  - (b) any magistrates’ court may discharge functions conferred on a court by those Rules in relation to such service.
- (A5) Subsections (1) to (5) apply in relation to an offence alleged to have taken place outside England and Wales.”

#### *Transport and Works Act 1992*

- 12 In section 35 of the Transport and Works Act 1992 (documentary evidence as to specimens of breath, blood or urine), in subsection (7), after “means” insert “, in relation to proceedings in England and Wales, served in accordance with Criminal Procedure Rules or, otherwise,”.

#### *Powers of Criminal Courts (Sentencing) Act 2000*

- 13 (1) The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- (2) In section 60 (attendance centre orders), in subsection (11)(b), for the words from “send” to the end substitute “serve a copy on that person in accordance with Criminal Procedure Rules”.
- (3) In Schedule 5 (breach, revocation and amendment of attendance centre orders)—
- (a) in paragraph 4(5)(a), for the words from “send” to “abode” substitute “serve a copy on the offender in accordance with Criminal Procedure Rules”;
  - (b) in paragraph 5(3)(a), for the words from “send” to “abode” substitute “serve a copy on the offender in accordance with Criminal Procedure Rules”.

#### *Criminal Justice and Police Act 2001*

- 14 In section 27 of the Criminal Justice and Police Act 2001 (service of notices to do with closure of unlicensed premises)—
- (a) in subsection (1), for the words from “served” (in the second place it occurs) to the end of paragraph (d) substitute “served in accordance with Criminal Procedure Rules.”;
  - (b) after that subsection insert—
    - “(1A) For the purposes of subsection (1)—
    - (a) Criminal Procedure Rules (as they have effect from time to time) apply to the document to be served as if it were a document to be served in criminal proceedings before a magistrates’ court, and
    - (b) any magistrates’ court may discharge functions conferred on a court by those Rules in relation to such service.”;
  - (c) omit subsections (2) to (8).

## SCHEDULE 2

Section 18

### CRIMINAL PROCEDURE: CONSEQUENTIAL AND RELATED AMENDMENTS

#### *Amendments in connection with section 3*

- 1 (1) The Magistrates' Courts Act 1980 is amended as follows.
  - (2) In section 16A(1) (availability of trial by single justice on the papers)—
    - (a) in paragraph (c), omit the final “and”;
    - (b) after paragraph (d) insert “, and
    - (e) the accused has not accepted the automatic online conviction option in respect of the offence.”
  - (3) In section 89 (transfer of fines within England and Wales), after subsection (4) insert—
 

“(5) When this section applies to a sum payable by virtue of a conviction under section 16H—

    - (a) a reference to a sum that is the subject of a collection order has effect as a reference to a sum set out in the notice of conviction and penalty (within the meaning of section 16L), and
    - (b) the power in subsection (1) may be exercised by any fines officer.”
  - (4) In section 90 (transfer of fines to Scotland or Northern Ireland), after subsection (3A) insert—
 

“(4) When this section applies to a sum payable by virtue of a conviction under section 16H—

    - (a) a reference to a sum that is the subject of a collection order has effect as a reference to a sum set out in the notice of conviction and penalty (within the meaning of section 16L), and
    - (b) the power in subsection (1) may be exercised by any fines officer.”
  - (5) In section 108 (right of appeal to the Crown Court), after subsection (2) insert—
 

“(2A) A person convicted under section 16H may not appeal under this section against the conviction or sentence, except a sentence imposed under section 16M(5)(b).”
  - (6) In section 150(1) (interpretation), in the definition of “fine”, after “purposes of” insert “sections 16G to 16M and of”.
- 2 In section 8 of the Road Traffic Offenders Act 1988 (duty to include date of birth and sex in written plea of guilty), after paragraph (aa) (but before the final “or”) insert—
 

“(ab) gives a notification amounting to acceptance of the automatic online conviction option (within the meaning of section 16G of the Magistrates' Courts Act 1980).”
- 3 (1) Schedule 5 to the Courts Act 2003 (collection of fines and other sums imposed on conviction) is amended as set out in sub-paragraphs (2) to (10).
  - (2) In paragraph 1 (application of Schedule)—
    - (a) the existing provision becomes sub-paragraph (1);
    - (b) after that sub-paragraph insert—

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“(2) A sum payable under a notice of conviction and penalty (within the meaning of section 16L of the Magistrates’ Courts Act 1980) is not to be regarded as a sum within sub-paragraph (1); but this Schedule applies in relation to such sums as provided in paragraphs 10A, 21(2), 25(2), 29(2) and 37(1A).

(3) For the purposes of this Schedule as it applies as mentioned in paragraph 1(2), “the fines officer” means any fines officer.”

(3) In paragraph 2(1) (meaning of “the sum due”), for “1” substitute “1(1), or (in a case where this Schedule applies as mentioned in paragraph 1(2)) the sum payable under a notice of conviction and penalty”.

(4) In paragraph 3(1) (meaning of “existing defaulter”)—

(a) in paragraph (c), for “1, or” substitute “1(1),”;

(b) in paragraph (d), for “1” substitute “1(1)”;

(c) at the end insert “, or

(e) the person is in default on a notice of conviction and penalty (within the meaning of section 16L of the Magistrates’ Courts Act 1980).”

(5) After paragraph 10 insert—

*“Application of this Part to person with automatic online conviction*

10A This Part of this Schedule applies to a person who has been given a notice of conviction and penalty (within the meaning of section 16L of the Magistrates’ Courts Act 1980) as it applies to P.”

(6) In paragraph 13 (contents of collection orders: general), in sub-paragraph (2), after “P” insert “and a collection order”.

(7) In paragraph 21 (application of Part 6)—

(a) the existing provision becomes sub-paragraph (1);

(b) after that sub-paragraph insert—

“(2) This Part also applies if a person (“P”) has been given a notice of conviction and penalty (within the meaning of section 16L of the Magistrates’ Courts Act 1980).

(3) In the application of this Part in such a case—

(a) “collection order” means the notice of conviction and penalty;

(b) a reference to the collection order being made is a reference to the notice of conviction and penalty being given;

(c) “payment terms” means the requirements as to the time and manner of payment imposed under section 16L(2)(c) of the Magistrates’ Courts Act 1980.”

(8) In paragraph 25 (application of Part 7)—

(a) the existing provision becomes sub-paragraph (1);

(b) after that sub-paragraph insert—

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“(2) This Part also applies on the first occasion on which a person (“P”) is in default on a notice of conviction and penalty (within the meaning of section 16L of the Magistrates’ Courts Act 1980).”

(9) In paragraph 29 (application of Part 8)—

- (a) the existing provision becomes sub-paragraph (1);
- (b) after that sub-paragraph insert—

“(2) This Part also applies if (through the application of Part 6 by virtue of paragraph 21(2))—

- (a) a notice of conviction and penalty (within the meaning of section 16L of the Magistrates’ Courts Act 1980) contains reserve terms, and
- (b) the attachment of earnings order or application for benefit deductions made under Part 6 fails.”

(10) In paragraph 37 (functions of fines officer in relation to defaulters: referral or further steps notice), after sub-paragraph (1) insert—

“(1A) This paragraph also applies if—

- (a) a person (“P”) is in default on a notice of conviction and penalty (within the meaning of section 16L of the Magistrates’ Courts Act 1980), and
- (b) paragraph 26 does not apply.”

(11) In Schedule 6 to the Courts Act 2003 (discharge of fines by unpaid work), in paragraph 2 (cases where work order may be made), in sub-paragraph (1)(a)(vi), after “Schedule 5” insert “(including a notice of conviction and penalty (within the meaning of section 16L of the Magistrates’ Courts Act 1980) in a case where, by virtue of paragraph 21(3) of Schedule 5, that notice is treated as a collection order)”.

4 (1) The Criminal Justice Act 2003 is amended as follows.

(2) In section 29 (institution of proceedings by written charge)—

- (a) for the heading substitute “Instituting proceedings by written charge”;
- (b) after subsection (2) insert—

“(2AA) A single justice procedure notice may be issued only if—

- (a) the offence is a summary offence not punishable with imprisonment, and
- (b) the person being charged has attained the age of 18, or is not an individual.”;

(c) after subsection (2B) insert—

“(2C) Subsection (2D) applies if—

- (a) the offence is specified in regulations under section 16H(3)(a) of the Magistrates’ Courts Act 1980, and
- (b) the relevant prosecutor decides that it would be appropriate for the automatic online conviction option to be offered (see section 16G(1) of the Magistrates’ Courts Act 1980).

(2D) The single justice procedure notice must also explain—

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- (a) the steps that the person on whom the notice is served can take if the person wants to be offered the automatic online conviction option, and
  - (b) that if the person is offered, and accepts, that option, the requirements referred to in subsection (2B) will no longer apply.
- (2E) The Lord Chancellor may by order make provision about the matters that are to be taken into account by a relevant prosecutor before deciding as mentioned in subsection (2C)(b).”
- (3) In section 30 (further provision about institution of proceedings by written charge), in the heading, for “new method” substitute “written charges”.
- (4) In section 330 (orders and rules), in subsection (1)(c), after “sections” insert “29(2E),”.

*Amendment in connection with section 4*

- 5 In section 11(5) of the Magistrates’ Courts Act 1980 (proceedings to which section 11(3) and (4) of that Act applies), after “apply” insert “(except where the court is proceeding under section 12(5))”.

*Amendments in connection with sections 6 to 8*

- 6 (1) The Magistrates’ Courts Act 1980 is amended as follows.
- (2) In section 17A (initial indication of plea at hearing)—
- (a) in the heading, for “procedure” substitute “hearing”;
  - (b) after subsection (1) insert—

“(1A) But in a case where section 17ZA(3) has effect, this section does not have effect unless—

    - (a) the accused has failed to give a written indication of guilty plea (see subsection (13) of that section), or
    - (b) the accused has given such an indication but later withdrawn it as described in subsection (10) of that section.”;
  - (c) in subsection (7), for “section 18(1) below shall apply” substitute “, the court is to proceed in accordance with section 17BA”.
- (3) In section 17B (power to proceed with hearing for initial indication of plea in absence of disruptive accused)—
- (a) in subsection (2)(d), for “section 18(1) below shall apply” substitute “, the court is to proceed in accordance with section 17BA”;
  - (b) in subsection (3), for “and section 18(1) below” substitute “, section 18(1) and section 20”.
- (4) In section 17C (power to adjourn hearing for initial indication of plea), for “or 17B” substitute “, 17B or 17BA”.
- (5) In section 17D (maximum penalty following indication of guilty plea for certain low-value offences)—
- (a) in the heading, after “section” insert “17ZB(9),”;
  - (b) in subsection (1)(b), after “section” insert “17ZB(9),”.

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- (6) In section 17E (functions under sections 17A to 17D capable of exercise by single justice)—
- (a) in the heading, for “17A” substitute “17ZA”;
  - (b) in subsection (1), for “17A” substitute “17ZA”.
- (7) In section 18 (procedure for determining mode of trial)—
- (a) for subsection (1) substitute—
    - “(1) A magistrates’ court must proceed by way of a hearing in accordance with such of sections 19 to 22 as are applicable where—
    - (a) a person before the court as mentioned in section 17A(1)—
      - (i) indicates under that section that (if the offence in question were to proceed to trial) the person would plead not guilty, and
      - (ii) does not give an in-court indication of non-consent to summary trial (see section 17BA(6));
    - (b) the legal representative of a person who has been before the court as mentioned in section 17A(1)—
      - (i) indicates under section 17B that (if the offence in question were to proceed to trial) the person would plead not guilty, and
      - (ii) does not give an in-court indication of non-consent to summary trial; or
    - (c) section 17B has effect and no legal representative of the accused is present at the hearing referred to in that section.
  - (1A) A magistrates’ court must also proceed in that way (subject to section 17ZA(11)) where—
    - (a) a person charged with an offence that is not a scheduled offence—
      - (i) has given a written indication of a not guilty plea (see section 17ZA(13)),
      - (ii) has failed to give a written indication of non-consent to summary trial (see section 17ZC(9)), and
      - (iii) has failed to make an election for written allocation proceedings (see section 17ZC(9));
    - (b) a person charged with a scheduled offence—
      - (i) has given a written indication of a not guilty plea, and
      - (ii) has failed to make an election for written allocation proceedings; or
    - (c) a person has given a written indication of a not guilty plea and neither subsection (3) nor subsection (5) of section 17ZC has effect in relation to the case.
  - (1B) Subsections (2) and (4) apply in respect of a hearing under subsection (1) or (1A).”;
  - (b) after subsection (4) insert—

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- “(4A) A magistrates’ court must (subject to section 17ZA(11)) proceed in writing in accordance with such of sections 19 to 22 as are applicable where—
- (a) a person charged with an offence that is not a scheduled offence—
    - (i) has given a written indication of a not guilty plea,
    - (ii) has failed to give a written indication of non-consent to summary trial, and
    - (iii) has made an election for written allocation proceedings (see section 17ZC(9)); or
  - (b) a person charged with a scheduled offence—
    - (i) has given a written indication of a not guilty plea, and
    - (ii) has made an election for written allocation proceedings.
- (4B) Everything that the court is required to do under any of sections 19 to 22, when proceeding by virtue of subsection (4A), must be done before any evidence is called; but it is not to be done in open court or in the presence of the accused (or the accused’s legal representative).”;
- (c) after subsection (5) insert—
- “(6) In this section, “scheduled offence” has the meaning given by section 22(1).”
- (8) In section 20 (procedure at allocation hearing where summary trial deemed suitable) —
- (a) in subsections (5), (6) and (8)(b), after “section” insert “17ZA,”;
  - (b) in subsection (7), after “If” insert “the court is proceeding by way of a hearing and”;
  - (c) after subsection (7) insert—
- “(7A) If the court is proceeding in writing and the accused indicates that he would plead guilty the court shall proceed (at a hearing rather than in writing) to try the offence summarily under section 9.
- (7B) If, at a summary trial held in accordance with subsection (7A), the accused pleads not guilty—
- (a) the trial and the plea are void, and
  - (b) subsection (9) below applies.”
- (9) In section 22 (certain low-value either-way offences to be tried summarily)—
- (a) after subsection (2) insert—
- “(2A) If, where subsection (1) above applies, it does not appear to the court clear that, for the offence charged, the value involved does not exceed the relevant sum, the court shall proceed in accordance with subsections (2B) to (2E).

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- (2B) If the court is proceeding by way of a hearing and the accused, or a legal representative of the accused, is present, the court shall proceed in accordance with section 17BA.
- (2C) For the purposes of subsection (2B), the references in subsections (2) and (5) of section 17BA to proceeding in accordance with section 18(1) are to be read as references to proceeding in accordance with sections 19 to 21.
- (2D) If the court is proceeding in writing, and the accused has given a written indication of non-consent to summary trial (see section 17ZC(9)), the court shall proceed in relation to the offence in accordance with section 51 of the Crime and Disorder Act 1998.
- (2E) If neither subsection (2B) nor subsection (2D) applies, the court shall proceed in accordance with sections 19 to 21.”;
- (b) omit subsections (3) to (6).
- (10) In section 23 (power to proceed with allocation hearing in absence of represented accused), omit subsection (3).
- (11) In section 24A (child or young person to indicate intention as to plea in certain cases) —
- (a) for the heading substitute “Child or young person to indicate plea at hearing where allocation decision otherwise required”;
- (b) after subsection (1) insert—
- “(1A) But in a case where section 24ZA(3) has effect, this section does not apply unless—
- (a) the accused has failed to give a written indication of a guilty plea (see section 24ZA(11)), or
- (b) the accused has given such an indication but later withdrawn it as described in section 24ZB(7).”
- (12) In section 27A (power to transfer criminal proceedings), for subsections (1) and (2) substitute—
- “(1) A magistrates’ court may at any time, whether before or after beginning to hear the trial of any person for an offence, transfer the matter to another magistrates’ court.”
- 7 In section 47 of the Police and Criminal Evidence Act 1984 (bail after arrest), for subsection (3A) substitute—
- “(3A) Where a custody officer grants bail to a person subject to a duty to appear before a magistrates’ court, the custody officer shall appoint for the appearance the time and date, and place, which is notified to the custody officer by the designated officer for the court.”
- 8 (1) The Crime and Disorder Act 1998 is amended as follows.
- (2) In section 50A (order of consideration where person accused of either-way offence appears before magistrates’ court)—
- (a) in subsection (4), for “subsections (2) or (6)(a)” substitute “subsection (2)”;
- (b) after subsection (5) insert—

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“(6) This section does not apply where a person appears before a magistrates’ court for summary trial in accordance with section 17ZB(9), 20(7A) or 24ZA(5) of the Magistrates’ Courts Act 1980.”

- (3) In section 51B(4) (court to which notices under that section to be given), at the end insert “, or which is conducting any written proceedings in relation to the offence”.

*Amendments in connection with section 9*

- 9 (1) The Magistrates’ Courts Act 1980 is amended as follows.
- (2) In section 18(2) (requirement for allocation proceedings to take place in presence of accused), omit “subsection (3) below and”.
- (3) In section 24(1) (child or young person generally to be tried summarily), for “and 24B” substitute “to 24BA”.
- (4) In section 24A(2) (procedure where child or young person to indicate intention as to plea), after “applies” insert “(and subject to section 24BA)”.
- (5) In section 24C(1) (power to adjourn plea and allocation hearing), for “or 24B” substitute “, 24B or 24BA”.

*Amendments in connection with section 10*

- 10 (1) The Magistrates’ Courts Act 1980 is amended as follows.
- (2) In sections 19(6), 20(9)(b), 21, 22A(2)(b), 23(4)(b) and (5) and 25(2D) (which provide for the application of section 51 of the Crime and Disorder Act 1998 in various cases), for “51(1)” substitute “51”.
- (3) In section 24A (child or young person to indicate intention as to plea in certain cases), in subsection (1), for paragraph (b) substitute—
- “(b) a magistrates’ court would, but for this section and section 24B, have to determine under section 51A of the 1998 Act—
- (i) whether to send the accused to the Crown Court for trial, or
- (ii) any matter the effect of which would be to determine whether the accused is sent to the Crown Court for trial.”

- 11 (1) The Crime and Disorder Act 1998 is amended as follows.
- (2) In section 50A (order of consideration where person accused of either-way offence appears before magistrates’ court), in subsection (3)(a)—
- (a) in the words before sub-paragraph (i), for “under section 51(2)(a) or 51(2)(c) below” substitute “in relation to which the condition set out in subsection (2) (a) or (c) of section 51 is met”;
- (b) for sub-paragraph (i) substitute—
- “(i) the court shall first consider whether provision in Criminal Procedure Rules of the sort described in section 51(3A) applies and, if it does, shall deal with the relevant offence accordingly;”.
- (3) In section 51E (interpretation of sections 50A to 51D), omit paragraphs (c) and (d).

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*Amendments in connection with section 11*

- 12 (1) Schedule 3 to the Crime and Disorder Act 1998 (procedure where accused sent to the Crown Court for trial) is amended as follows.
- (2) Omit paragraphs 7 to 13.
- (3) In paragraph 15—
- (a) in sub-paragraph (1), for “paragraphs 9 to” substitute “paragraph”;
- (b) omit sub-paragraphs (3) and (4).
- 13 In section 122(1) of the Coroners and Justice Act 2009 (“allocation guidelines”)—
- (a) the words from “decisions” to the end become paragraph (a);
- (b) in that paragraph, omit the words from “, or the” to “(c. 37),”;
- (c) after that paragraph insert—
- “(b) decisions by the Crown Court as to whether to exercise the power in section 46ZA(1) of the Senior Courts Act 1981 or section 25A(2) of the Sentencing Code.”
- 14 In section 26 of the Sentencing Code (provision about remission by Crown Court)—
- (a) in the heading, after “youth court” insert “or other magistrates’ court”;
- (b) in subsection (1), at the end insert “or a magistrates’ court under section 25A”;
- (c) in subsection (2), after “youth court” insert “or magistrates’ court”;
- (d) in subsection (3)(b), after “youth court” insert “or magistrates’ court”.

*Amendments in connection with section 12*

- 15 (1) The Crime and Disorder Act 1998 is amended as follows.
- (2) In section 51D (notice to be given on sending to the Crown Court for trial), in subsections (1)(a) and (3), after “section” insert “47(1A),”.
- (3) In section 52 (supplementary provision about sending to the Crown Court for trial), in each of the following places, before “51” insert “47(1A),”—
- (a) the heading;
- (b) subsections (1), (3) and (6).
- (4) In Schedule 3 (procedure where accused sent to the Crown Court for trial)—
- (a) in the heading, for “51” substitute “47(1A), 51 or 51A”;
- (b) in each of the following places, before “51” insert “47(1A),”—
- (i) paragraph 1;
- (ii) paragraph 2(1);
- (iii) paragraph 4(1)(a);
- (iv) paragraph 5(2);
- (v) paragraph 6(1).

*Amendments in connection with section 13*

- 16 In section 133 of the Magistrates’ Courts Act 1980 (consecutive terms of imprisonment)—

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- (a) in subsection (1), for “6 months” substitute “the longest term that could be imposed in respect of any one of the offences for which a term of imprisonment is being imposed”;
  - (b) in subsection (2), for “6 months” substitute “the longest term otherwise permitted by subsection (1) (if less than 12 months)”.
- 17 In section 141(5A) of the Environmental Protection Act 1990 (maximum terms for offences under regulations about waste imports and exports), in paragraph (b), for “twelve months” substitute “the general limit in a magistrates’ court”.
- 18 In section 113(10A) of the Scotland Act 1998 (maximum terms for offences under subordinate legislation under that Act), in paragraph (b), for “twelve months” substitute “the general limit in a magistrates’ court”.
- 19 (1) The Criminal Justice Act 2003 is amended as follows.
  - (2) In section 155(2) (amendment of section 133(1) of the Magistrates’ Courts Act 1980), for ““6 months”” substitute “the words from “the longest” to “being imposed””.
  - (3) In section 283 (power to amend powers to make offences punishable with imprisonment)—
    - (a) in subsection (1)—
      - (i) omit “or (3)”;
      - (ii) omit paragraph (b);
    - (b) omit subsection (3).
- 20 In section 42 of the Gambling Act 2005 (offence of cheating at gambling)—
  - (a) in subsection (4)(b), for “51 weeks” substitute “the general limit in a magistrates’ court”;
  - (b) in subsection (5), for “51 weeks” substitute “the general limit in a magistrates’ court”.
- 21 In Part 5 of Schedule 22 to the Sentencing Act 2020 (prospective amendments of the Sentencing Code in relation to custodial sentences)—
  - (a) omit paragraph 24;
  - (b) before paragraph 25 insert—
    - “24A In section 224(1A)(a) (general limit on custodial sentence for summary offence in magistrates’ court), for “6 months” substitute “12 months”.”

## SCHEDULE 3

Section 19

### PRACTICE DIRECTIONS FOR ONLINE PROCEEDINGS

#### PART 1

#### CIVIL PROCEEDINGS AND FAMILY PROCEEDINGS IN ENGLAND AND WALES

##### *Power to give practice directions*

- 1 Practice directions may be given in relation to—

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

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- (a) civil proceedings in England and Wales that are governed by Online Procedure Rules;
- (b) family proceedings in England and Wales that are governed by Online Procedure Rules.

*Contents of practice directions*

- 2 (1) Practice directions under paragraph 1(a) may provide for any matter which may be provided for in Online Procedure Rules for civil proceedings in England and Wales.
- (2) Practice directions under paragraph 1(b) may provide for any matter which may be provided for in Online Procedure Rules for family proceedings in England and Wales.

*Giving practice directions*

- 3 (1) Practice directions under paragraph 1 may be given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005.
- (2) Practice directions under paragraph 1 may be given otherwise than in accordance with that Part of that Schedule; but, in this case, the directions may not be given without the approval of—
- (a) the Lord Chancellor, and
  - (b) the Lord Chief Justice.
- (3) Sub-paragraph (2)(a) does not require the approval of the Lord Chancellor for practice directions to the extent that they consist of guidance about—
- (a) the application or interpretation of the law;
  - (b) the making of judicial decisions.
- (4) Sub-paragraph (2)(a) does not require the approval of the Lord Chancellor for practice directions to the extent that they consist of criteria for determining which judges may be allocated to hear particular categories of case; but the directions may, to that extent, be given only after consultation with the Lord Chancellor (as well as with the approval of the Lord Chief Justice required by sub-paragraph (2)(b)).

*Particular provision in practice directions*

- 4 The power under paragraph 1 to give practice directions includes power—
- (a) to vary or revoke directions given under paragraph 1 by any person;
  - (b) to give directions containing different provision for different cases (including different areas);
  - (c) to give directions containing provision for a specific court, for specific proceedings or for a specific jurisdiction.

## PART 2

### PROCEEDINGS IN THE FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

*Power to give practice directions*

- 5 Practice directions may be given in relation to—

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

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- (a) proceedings in the First-tier Tribunal that are governed by Online Procedure Rules;
- (b) proceedings in the Upper Tribunal that are governed by Online Procedure Rules.

#### *Contents of practice directions*

- 6 (1) Practice directions under paragraph 5(a) may provide for any matter which may be provided for in Online Procedure Rules for proceedings in the First-tier Tribunal.
- (2) Practice directions under paragraph 5(b) may provide for any matter which may be provided for in Online Procedure Rules for proceedings in the Upper Tribunal.

#### *Giving practice directions*

- 7 (1) The Senior President of Tribunals may give practice directions under paragraph 5 in relation to any proceedings.
- (2) The Senior President may not give practice directions without the approval of the Lord Chancellor.
- (3) A Chamber President may give practice directions under paragraph 5 in relation to proceedings in the Chamber of the First-tier Tribunal or Upper Tribunal over which the President presides.
- (4) A Chamber President may not give practice directions without the approval of—
- (a) the Lord Chancellor, and
  - (b) the Senior President of Tribunals.
- (5) Neither sub-paragraph (2) nor sub-paragraph (4)(a) requires the approval of the Lord Chancellor for practice directions to the extent that they consist of guidance about—
- (a) the application or interpretation of the law;
  - (b) the making of decisions by members of the First-tier Tribunal or Upper Tribunal.
- (6) Neither sub-paragraph (2) nor sub-paragraph (4)(a) requires the approval of the Lord Chancellor for practice directions to the extent that they consist of criteria for determining which members of the First-tier Tribunal or Upper Tribunal may be chosen to hear particular categories of case; but the directions may, to that extent, be given only after consultation with the Lord Chancellor (as well as with the approval of the Senior President of Tribunals if required by sub-paragraph (4)(b)).

#### *Particular provision in practice directions*

- 8 The power under paragraph 5 to give practice directions includes power—
- (a) to vary or revoke directions made in exercise of the power;
  - (b) to make different provision for different purposes (including different provision for different areas).

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

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### PART 3

#### PROCEEDINGS IN EMPLOYMENT TRIBUNALS AND THE EMPLOYMENT APPEAL TRIBUNAL

##### *Power to give practice directions*

- 9 Practice directions may be given in relation to—
- (a) proceedings in employment tribunals that are governed by Online Procedure Rules;
  - (b) proceedings in the Employment Appeal Tribunal that are governed by Online Procedure Rules.

##### *Contents of practice directions*

- 10 (1) Practice directions under paragraph 9(a) may provide for any matter which may be provided for in Online Procedure Rules for proceedings in employment tribunals.
- (2) Practice directions under paragraph 9(b) may provide for any matter which may be provided for in Online Procedure Rules for proceedings in the Employment Appeal Tribunal.

##### *Giving practice directions*

- 11 (1) The Senior President of Tribunals may give practice directions under paragraph 9 in relation to any proceedings.
- (2) The Senior President may not give practice directions without the approval of the Lord Chancellor.
- (3) The President of the Employment Appeal Tribunal may give practice directions under paragraph 9 in relation to proceedings in that Tribunal.
- (4) A territorial president may give practice directions under paragraph 9 in relation to proceedings in the employment tribunals for which the president is responsible.
- (5) The President of the Employment Appeal Tribunal or a territorial president may not give practice directions without the approval of—
- (a) the Lord Chancellor, and
  - (b) the Senior President of Tribunals.
- (6) Neither sub-paragraph (2) nor sub-paragraph (5)(a) requires the approval of the Lord Chancellor for practice directions to the extent that they consist of guidance about—
- (a) the application or interpretation of the law;
  - (b) the making of decisions by members of the employment tribunals or of the Employment Appeal Tribunal.
- (7) Neither sub-paragraph (2) nor sub-paragraph (5)(a) requires the approval of the Lord Chancellor for practice directions to the extent that they consist of criteria for determining which members of the employment tribunals or the Employment Appeal Tribunal may be chosen to hear particular categories of case; but the directions may, to that extent, be given only after consultation with the Lord Chancellor (as well as with the approval of the Senior President of Tribunals if required by sub-paragraph (5)(b)).

- (8) In this paragraph “territorial president” means a person appointed in accordance with regulations under section 1(1) of the Employment Tribunals Act 1996 as—
- (a) President of Employment Tribunals (England and Wales), or
  - (b) President of Employment Tribunals (Scotland).

*Particular provision in practice directions*

- 12 The power under paragraph 9 to give practice directions includes power—
- (a) to vary or revoke directions made in exercise of the power;
  - (b) to make different provision for different purposes (including different provision for different areas).

*Practice directions relating to mediation*

- 13 (1) A person exercising the power under paragraph 9 must, when making provision in relation to mediation, have regard to the following principles—
- (a) mediation of matters in dispute between parties to proceedings is to take place only by agreement between those parties;
  - (b) where parties to proceedings fail to mediate, or where mediation between parties to proceedings fails to resolve disputed matters, the failure is not to affect the outcome of the proceedings.
- (2) Practice directions under paragraph 9 may provide for members to act as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes provision for a member to act as a mediator in relation to disputed matters in a case even though the member has been chosen to decide matters in the case.
- (4) Before making a practice direction under paragraph 9 that makes provision in relation to mediation, the person making the direction must consult ACAS.
- (5) Once a member has begun to act, in accordance with a practice direction under paragraph 9, as mediator in relation to a disputed matter in a case that is the subject of proceedings, the member may decide matters in the case only with the consent of the parties.
- (6) Staff appointed under section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (staff for employment and other tribunals) may, subject to their terms of appointment, act in accordance with practice directions under paragraph 9 as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (7) In this paragraph—
- “ACAS” means the Advisory, Conciliation and Arbitration Service;
  - “member” means a member of a panel of members of employment tribunals (whether or not a panel of Employment Judges);
  - “proceedings” means proceedings before an employment tribunal.

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## SCHEDULE 4

Section 31

## ONLINE PROCEDURE: AMENDMENTS

*Employment Tribunals Act 1996*

- 1 (1) The Employment Tribunals Act 1996 is amended as follows.
- (2) In section 7A (practice directions), after subsection (2E) insert—
- “(2F) Directions under this section do not apply to proceedings that are governed by Online Procedure Rules except—
- (a) to such extent as may be provided by—
    - (i) Online Procedure Rules, or
    - (ii) directions under paragraph 9 of [Schedule 3](#) to the Judicial Review and Courts Act 2022, or
  - (b) to such extent as Procedure Rules apply to the proceedings by virtue of regulations under section 21(1)(b) of that Act.”
- (3) In section 29A (practice directions), after subsection (10) insert—
- “(11) Directions under this section do not apply to proceedings that are governed by Online Procedure Rules except—
- (a) to such extent as may be provided by—
    - (i) Online Procedure Rules, or
    - (ii) directions under paragraph 9 of [Schedule 3](#) to the Judicial Review and Courts Act 2022, or
  - (b) to such extent as Procedure Rules apply to the proceedings by virtue of regulations under section 21(1)(b) of that Act.”
- (4) In [Schedule A1](#) (inserted by [Schedule 5](#) to this Act), after paragraph 21 insert—
- “21A Procedure Rules must be framed so as not to apply to proceedings that are governed by Online Procedure Rules except to such extent as may be provided by—
- (a) Online Procedure Rules,
  - (b) directions under paragraph 9 of [Schedule 3](#) to the Judicial Review and Courts Act 2022, or
  - (c) regulations under section 21(1)(b) of that Act.”

*Civil Procedure Act 1997*

- 2 (1) The Civil Procedure Act 1997 is amended as follows.
- (2) In section 1 (Civil Procedure Rules), after subsection (3) insert—
- “(4) Civil Procedure Rules must be framed so as not to apply to proceedings that are governed by Online Procedure Rules except to such extent as may be provided by—
- (a) Online Procedure Rules,
  - (b) directions under paragraph 1 of [Schedule 3](#) to the Judicial Review and Courts Act 2022, or
  - (c) regulations under section 21(1)(b) of that Act.”

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(3) In section 5 (practice directions), after subsection (6) insert—

“(7) Practice directions under this section do not apply to proceedings that are governed by Online Procedure Rules except—

- (a) to such extent as may be provided by—
  - (i) Online Procedure Rules, or
  - (ii) directions under paragraph 1 of [Schedule 3](#) to the Judicial Review and Courts Act 2022, or
- (b) to such extent as Civil Procedure Rules apply to the proceedings by virtue of regulations under section 21(1)(b) of that Act.”

#### *Courts Act 2003*

3 (1) The Courts Act 2003 is amended as follows.

(2) In section 75 (Family Procedure Rules), after subsection (5) insert—

“(6) Family Procedure Rules must be framed so as not to apply to proceedings that are governed by Online Procedure Rules except to such extent as may be provided by—

- (a) Online Procedure Rules,
- (b) directions under paragraph 1 of [Schedule 3](#) to the Judicial Review and Courts Act 2022, or
- (c) regulations under section 21(1)(b) of that Act.”

(3) In section 81 (practice directions relating to family proceedings), at the end insert—

“(6) Directions under this section do not apply to proceedings that are governed by Online Procedure Rules except—

- (a) to such extent as may be provided by—
  - (i) Online Procedure Rules, or
  - (ii) directions under paragraph 1 of [Schedule 3](#) to the Judicial Review and Courts Act 2022, or
- (b) to such extent as Family Procedure Rules apply to the proceedings by virtue of regulations under section 21(1)(b) of that Act.”

#### *Tribunals, Courts and Enforcement Act 2007*

4 (1) The Tribunals, Courts and Enforcement Act 2007 is amended as follows.

(2) In section 22 (Tribunal Procedure Rules), after subsection (5) insert—

“(6) Tribunal Procedure Rules must be framed so as not to apply to proceedings that are governed by Online Procedure Rules except to such extent as may be provided by—

- (a) Online Procedure Rules,
- (b) directions under paragraph 5 of [Schedule 3](#) to the Judicial Review and Courts Act 2022, or
- (c) regulations under section 21(1)(b) of that Act.”

(3) In section 23 (practice directions), after subsection (7) insert—

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- “(8) Directions under this section do not apply to proceedings that are governed by Online Procedure Rules except—
- (a) to such extent as may be provided by—
    - (i) Online Procedure Rules, or
    - (ii) directions under paragraph 5 of [Schedule 3](#) to the Judicial Review and Courts Act 2022, or
  - (b) to such extent as Tribunal Procedure Rules apply to the proceedings by virtue of regulations under section 21(1)(b) of that Act.”

## SCHEDULE 5

Section 34

### EMPLOYMENT TRIBUNAL PROCEDURE RULES: FURTHER PROVISION

#### PART 1

#### MAKING AND CONTENT OF EMPLOYMENT TRIBUNAL PROCEDURE RULES

- 1 In the Employment Tribunals Act 1996, before Schedule 1 insert—

#### “SCHEDULE A1

Section 37QA

#### PROCEDURE RULES

#### PART 1

#### OBJECTIVES

- 1 (1) The Tribunal Procedure Committee must exercise its power to make Procedure Rules with a view to securing—
- (a) that justice is done in proceedings before the tribunal,
  - (b) that the tribunal system is accessible and fair,
  - (c) that proceedings are handled quickly and efficiently,
  - (d) that Procedure Rules are both simple and simply expressed, and
  - (e) that Procedure Rules, where appropriate, confer responsibility on members of the tribunal for ensuring that proceedings before the tribunal are handled quickly and efficiently.
- (2) In sub-paragraph (1)(b), “the tribunal system” means the system for deciding matters within the jurisdiction of the tribunal.

## PART 2

### CONTENT OF PROCEDURE RULES

#### Delegation of functions to staff

- 2 (1) Procedure Rules may provide for functions of the tribunal to be exercised by staff appointed under section 2(1) of the Courts Act 2003 (court staff) or section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (tribunal staff).
- (2) In making provision of the kind mentioned in sub-paragraph (1) in relation to a function, Procedure Rules may (in particular)—
- (a) provide for the function to be exercisable by a member of staff only if the member of staff is, or is of a description, specified in exercise of a discretion conferred by Procedure Rules;
  - (b) provide for the function to be exercisable by a member of staff only if the member of staff is approved, or is of a description approved, for the purpose by a person specified in Procedure Rules.
- (3) A person may exercise functions by virtue of this paragraph only if authorised to do so by the Senior President of Tribunals.
- (4) An authorisation under this paragraph—
- (a) may be subject to conditions, and
  - (b) may be varied or revoked by the Senior President of Tribunals at any time.
- (5) The Senior President of Tribunals may delegate to one or more of the following the Senior President of Tribunals' functions under the preceding provisions of this paragraph—
- (a) a judicial office holder;
  - (b) a person appointed under section 2(1) of the Courts Act 2003 or section 40(1) of the Tribunals, Courts and Enforcement Act 2007.
- (6) A person to whom functions of the Senior President of Tribunals are delegated under sub-paragraph (5)(b) is not subject to the direction of any person other than—
- (a) the Senior President of Tribunals, or
  - (b) a judicial office holder nominated by the Senior President of Tribunals,
- when exercising the functions.
- (7) Subsections (3) to (5) of section 8 of the Tribunals, Courts and Enforcement Act 2007 apply to a delegation under sub-paragraph (5) as they apply to a delegation under subsection (1) of that section.
- (8) In this paragraph, “judicial office holder” means—

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- (a) a judicial office holder within the meaning given by section 109(4) of the Constitutional Reform Act 2005, or
- (b) the President of Employment Tribunals (Scotland).

### **Time limits**

- 3 Procedure Rules may make provision for time limits as respects initiating, or taking any step in, proceedings before the tribunal.

### **Determining where to start proceedings**

- 4 Procedure Rules may include provision for determining whether proceedings before the tribunal are to be brought in England and Wales or in Scotland.

### **Repeat applications**

- 5 Procedure Rules may make provision restricting the making of fresh applications where a previous application in relation to the same matter has been made.

### **Tribunal acting of its own initiative**

- 6 Procedure Rules may make provision about the circumstances in which the tribunal may exercise its powers of its own initiative.

### **Hearings**

- 7 Procedure Rules may—
- (a) make provision for dealing with matters without a hearing;
  - (b) make provision as respects allowing or requiring a hearing to be in private or as respects allowing or requiring a hearing to be in public.

### **Proceedings without notice**

- 8 Procedure Rules may make provision for proceedings to take place, in circumstances described in Procedure Rules, at the request of one party even though the other, or another, party has had no notice.

### **Representation**

- 9 Procedure Rules may make provision conferring additional rights of audience before the tribunal.

### **Intervention by Secretary of State**

- 10 Procedure Rules may make provision—
- (a) for the Secretary of State to be treated (either generally or in circumstances prescribed by the Rules) as a party to any proceedings, and

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- (b) for the Secretary of State to be entitled to appear and to be heard accordingly.

### **Evidence, witnesses and attendance**

- 11 (1) Procedure Rules may make provision about evidence (including evidence on oath and administration of oaths).
- (2) Procedure Rules may modify any rules of evidence provided for elsewhere, so far as they would apply to proceedings before the tribunal.
- (3) Procedure Rules may make provision, where an employment tribunal has required a person—
  - (a) to attend at any place for the purpose of giving evidence,
  - (b) otherwise to be available to give evidence,
  - (c) to swear an oath in connection with the giving of evidence,
  - (d) to give evidence as a witness,
  - (e) to produce a document, or
  - (f) to facilitate the inspection of a document or any other thing (including any premises),for the Appeal Tribunal to deal with non-compliance with the requirement as though the requirement had been imposed by the Appeal Tribunal.
- (4) Procedure Rules may make provision for the payment of expenses and allowances to persons giving evidence, producing documents, attending proceedings or required to attend proceedings.

### **Use of information**

- 12 (1) Procedure Rules may make provision for the disclosure or non-disclosure of information received during the course of proceedings before the tribunal.
- (2) Procedure Rules may make provision for imposing reporting restrictions in circumstances described in Procedure Rules.

### **Set-off**

- 13 Procedure Rules may make provision for a party to proceedings to deduct, from amounts payable by the party, amounts payable to the party.

### **Reconsideration or review of decisions**

- 14 Procedure Rules may confer power on the tribunal to reconsider or review its decisions, and revoke or vary its orders and awards, in such circumstances as may be determined in accordance with Procedure Rules.

### **Correction of errors and setting aside of decisions on procedural grounds**

- 15 (1) Procedure Rules may make provision for the correction of accidental errors in a decision or record of a decision.

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- (2) Procedure Rules may make provision for the setting aside of a decision in proceedings before the tribunal—
- (a) where a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party's representative,
  - (b) where a document relating to the proceedings was not sent to the tribunal at an appropriate time,
  - (c) where a party to the proceedings, or a party's representative, was not present at a hearing related to the proceedings, or
  - (d) where there has been any other procedural irregularity in the proceedings.
- (3) Sub-paragraphs (1) and (2) do not affect, and are not affected by, any power to correct errors or set aside decisions that is exercisable apart from rules made by virtue of those sub-paragraphs.

#### **Registration and proof of decisions**

- 16 Procedure Rules may make provision for the registration and proof of decisions, orders and awards of the tribunal.

#### **Ancillary powers**

- 17 Procedure Rules may confer on the tribunal such ancillary powers as are necessary for the proper discharge of its functions.

#### **Rules may refer to practice directions**

- 18 Procedure Rules may, instead of providing for any matter, refer to provision made or to be made about that matter by directions under section 7A or 29A.

#### **Presumptions**

- 19 Procedure Rules may make provision in the form of presumptions (including, in particular, presumptions as to service or notification).

#### **Differential provision**

- 20 Procedure Rules may make different provision for different purposes or different areas.

### **PART 3**

#### SUPPLEMENTARY PROVISION

#### **Procedure for making Procedure Rules**

- 21 (1) Part 3 of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007 (which makes provision about how Tribunal Procedure Rules are to be made) applies to the making of Procedure Rules under this Act as it

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applies to the making of Tribunal Procedure Rules under section 22 of that Act, with the following modifications.

- (2) In paragraph 28(1)(a) of that Schedule, the reference to the Chamber Presidents is to be read as a reference to the President of the Employment Tribunals (England and Wales) and the President of the Employment Tribunals (Scotland).
- (3) In paragraph 28A(1) of that Schedule—
  - (a) the reference to the First-tier Tribunal or Upper Tribunal is to be read as a reference to an employment tribunal or the Employment Appeal Tribunal, and
  - (b) the reference to paragraph 3 of that Schedule is to be read as a reference to paragraph 2 of this Schedule.

### **Interpretation**

- 22 In this Schedule, “the tribunal” means—
- (a) an employment tribunal, in relation to Procedure Rules in respect of employment tribunals;
  - (b) the Appeal Tribunal, in relation to Procedure Rules in respect of the Appeal Tribunal.”

## **PART 2**

### **OTHER AMENDMENTS OF THE EMPLOYMENT TRIBUNALS ACT 1996**

#### *Introduction*

- 2 The Employment Tribunals Act 1996 is amended as follows.

#### *Employment tribunals*

- 3 (1) Section 7A (practice directions) is amended as follows.
- (2) In subsection (A1), after “about the” insert “practice and”.
  - (3) For subsection (1) substitute—

“(1) The territorial President may make directions about the practice and procedure of employment tribunals.”
  - (4) Omit subsection (2).
  - (5) In subsection (2A), for “power under subsection (A1) includes” substitute “powers under subsections (A1) and (1) include”.
  - (6) In subsection (2C), for “(1)(a)” substitute “(1)”.
- 4 (1) Section 7B (mediation) is amended as follows.
- (2) Before subsection (1) insert—

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- “(A1) A person exercising power to make Procedure Rules or give practice directions must, when making provision in relation to mediation, have regard to the following principles—
- (a) mediation of matters in dispute between parties to proceedings is to take place only by agreement between those parties;
  - (b) where parties to proceedings fail to mediate, or where mediation between parties to proceedings fails to resolve disputed matters, the failure is not to affect the outcome of the proceedings.”
- (3) In subsection (1), for the words from “Employment” to “directions to” substitute “Practice directions under section 7A may”.
- (4) In subsection (2)—
- (a) for “included in employment tribunal procedure regulations” substitute “made”;
  - (b) omit “enabling practice directions to provide for”.
- 5 (1) Section 9 (pre-hearing reviews) is amended as follows.
- (2) For the heading substitute “Preliminary hearings”.
- (3) For subsection (1) substitute—
- “(1) If Procedure Rules authorise an employment tribunal to carry out a preliminary hearing, Procedure Rules may make provision for enabling such powers as may be prescribed by the Rules to be exercised in connection with the hearing.”
- (4) In subsection (2)—
- (a) in the words before paragraph (a), for “regulations” substitute “Rules”;
  - (b) in paragraph (a)—
    - (i) for “pre-hearing review” substitute “preliminary hearing”;
    - (ii) omit “under the regulations”;
    - (iii) for “regulations” (in the remaining place it occurs) substitute “Rules”;
    - (iv) omit “of an amount not exceeding £1,000”.
- (5) After subsection (2) insert—
- “(2ZA) Procedure Rules of the kind mentioned in subsection (2)(a) may not provide for a deposit of an amount exceeding £1,000.”
- (6) For subsection (2A) substitute—
- “(2A) Procedure Rules may not enable a power of striking out to be exercised in a preliminary hearing on a ground which does not apply outside a preliminary hearing.”
- (7) In subsection (3)—
- (a) for “Secretary of State” substitute “Lord Chancellor”;
  - (b) for “(2)(a)” substitute “(2ZA)”.
- (8) Omit subsection (4).
- (9) At the end insert—

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- “(5) In this section “preliminary hearing” means a hearing in any proceedings before an employment tribunal which takes place at a time before a hearing held for the purpose of determining them.”
- 6 (1) Section 10 (national security) is amended as follows.
- (2) In subsections (2), (5) and (6), omit “Employment tribunal procedure”.
- (3) In subsections (6) and (7), omit “employment tribunal procedure”.
- (4) After subsection (9) insert—
- “(10) Regulations under this section are to be made by the Lord Chancellor.”
- 7 Omit section 10A (confidential information).
- 8 In section 11 (restriction of publicity in cases involving sexual misconduct)—
- (a) in subsection (1), for “Employment tribunal procedure regulations” substitute “Procedure Rules”;
- (b) in subsection (6), in paragraph (a) of the definition of “restricted reporting order”, for “regulations made by virtue of this section” substitute “Procedure Rules of the kind mentioned in subsection (1)(b)”.
- 9 In section 12 (restriction of publicity in disability cases)—
- (a) in subsection (2), for “Employment tribunal procedure regulations” substitute “Procedure Rules”;
- (b) in subsection (7)—
- (i) in the definition of “promulgation”, for “regulations made by virtue” substitute “Procedure Rules made for the purposes”;
- (ii) in paragraph (a) of the definition of “restricted reporting order”, for “regulations made by virtue of this section” substitute “Procedure Rules of the kind mentioned in subsection (2)(a)”.
- 10 In section 12A(9) (subsequent award of compensation not to necessitate review of financial penalties), in the words before paragraph (a), after “be” insert “reconsidered or”.
- 11 (1) Section 13 (costs and expenses) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Procedure Rules may make provision for regulating matters relating to—
- (a) costs or expenses;
- (b) allowances payable under section 5(2)(c) or (3).”
- (3) In subsection (1A)—
- (a) for “Regulations under subsection (1) may” substitute “Procedure Rules may, in particular,”;
- (b) omit “under such regulations”.
- (4) In subsection (1B), for “Employment tribunal procedure regulations may” substitute “Procedure Rules may, in particular,”.
- (5) In subsection (1C), for “Employment tribunal procedure regulations may also” substitute “Procedure Rules may, in particular,”.

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

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- (6) In subsection (2), for “employment tribunal procedure regulations shall” substitute “Procedure Rules must”.
  - (7) In subsection (3)—
    - (a) for the words from “Provision” to “must” substitute “If Procedure Rules make provision of the kind mentioned in subsection (1)(a), Procedure Rules must also”;
    - (b) for “regulations” (in the remaining place it occurs) substitute “Rules”.
  - (8) In subsection (4)(a), for “the regulations” substitute “Procedure Rules”.
- 12 (1) Section 13A (payments in respect of preparation time) is amended as follows.
- (2) In subsection (1), for “Employment tribunal procedure regulations” substitute “Procedure Rules”.
  - (3) In subsection (2)—
    - (a) for “Regulations under subsection (1) may” substitute “Procedure Rules may, in particular,”;
    - (b) for “under such regulations” substitute “as described in subsection (1)”.
  - (4) In subsection (2A)—
    - (a) for the words from “Provision” to “must” substitute “If Procedure Rules include provision of the kind mentioned in subsection (1), Procedure Rules must also”;
    - (b) for “regulations” (in the remaining place it occurs) substitute “Rules”.
  - (5) In subsection (2B)(a), for “the regulations” substitute “Procedure Rules”.
  - (6) In subsection (3)—
    - (a) in the words before paragraph (a), for “employment tribunal procedure regulations” substitute “Procedure Rules”;
    - (b) in paragraph (b), for “of the kind mentioned in section 13(1)(a)” substitute “for the award of costs or expenses”.
  - (7) In subsection (4)—
    - (a) in the words before paragraph (a), for “the regulations” substitute “Procedure Rules”;
    - (b) in paragraph (b), for “of the kind mentioned in section 13(1)(a)” substitute “of costs or expenses”.
- 13 In section 14 (interest), in subsections (1) and (3)(f), for “Secretary of State” substitute “Lord Chancellor”.
- 14 In section 15 (enforcement)—
  - (a) in subsection (1), for “employment tribunal procedure regulations” substitute “Procedure Rules”;
  - (b) in subsection (3), in paragraphs (a) and (b), after “being” insert “reconsidered or”.
- 15 (1) Section 18A (requirement to contact ACAS before instituting proceedings) is amended as follows.
- (2) In subsection (10), for “employment tribunal procedure regulations” substitute “regulations made by the Secretary of State”.

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

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- (3) In subsection (11), omit “employment tribunal procedure”.
- (4) In subsection (12)—
  - (a) in the words before paragraph (a), for “Employment tribunal procedure regulations” substitute “The regulations”;
  - (b) in paragraph (a), for “such regulations” substitute “the regulations”.
- 16 In section 19(1) (conciliation procedure), for “Employment tribunal procedure regulations shall” substitute “Procedure Rules must”.
- 17 In section 19A(9) (power to provide time limits for certain applications about settlement sums), for “Employment tribunal procedure regulations” substitute “Procedure Rules”.

#### *Employment Appeal Tribunal*

- 18 In section 29A (practice directions)—
  - (a) in subsection (1), after “about the” insert “practice and”;
  - (b) in subsection (5), after “about the” insert “practice or”.
- 19 After section 30 insert—

#### **“30A National security**

- (1) The Lord Chancellor may by regulations make provision about the composition of the Appeal Tribunal (including provision disapplying or modifying section 28) for the purposes of proceedings in relation to which—
  - (a) a direction is given under subsection (2), or
  - (b) an order is made under subsection (3).
- (2) A direction may be given under this subsection by a Minister of the Crown if—
  - (a) it relates to particular Crown employment proceedings, and
  - (b) the Minister considers it expedient in the interests of national security.

“Crown employment proceedings” is to be read in accordance with section 10(8).

- (3) An order may be made under this subsection by a judge of the Appeal Tribunal in relation to particular proceedings if the judge considers it expedient in the interests of national security.
- (4) The Lord Chancellor may by regulations make, in relation to the Appeal Tribunal, provision of a kind which may be made in relation to employment tribunals under section 10(5), (6) or (7).
- (5) For the purposes of subsection (4), references in section 10(6) and (7) to things enabled or done by virtue of any provision in section 10(5) or (6) are to be read as references to things enabled or done by virtue of subsection (4) so far as it refers to that provision.
- (6) Section 10B applies in relation to a direction to, or determination of, the Appeal Tribunal as it applies in relation to a direction to or determination of an employment tribunal.

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

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- (7) For the purposes of subsection (6), the references in section 10B(1) to section 10(5) and 10(6) are to be read as references to subsection (4) of this section so far as it refers to section 10(5) or (as the case may be) 10(6).”
- 20 In section 31 (restriction of publicity in cases involving sexual misconduct)—
- (a) in subsection (1), for “Appeal Tribunal procedure rules” substitute “Procedure Rules”;
- (b) in subsection (7)(a)(i), for “rules made by virtue of this section” substitute “Procedure Rules of the kind mentioned in subsection (1)(b)”.
- 21 In section 32 (restriction of publicity in disability cases)—
- (a) in subsection (2), for “Appeal Tribunal procedure rules” substitute “Procedure Rules”;
- (b) in subsection (7)(b)(i), for “rules made by virtue of this section” substitute “Procedure Rules of the kind mentioned in subsection (2)(a)”;
- (c) in subsection (8), in the definition of “promulgation”, for “rules made by virtue” substitute “Procedure Rules made for the purposes”.
- 22 (1) Section 34 (costs and expenses) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Procedure Rules may make provision for regulating matters relating to costs and expenses.”
- (3) In subsection (2), for “Rules under subsection (1) may” substitute “Procedure Rules may, in particular,”.
- (4) In subsection (3), for “Appeal Tribunal procedure rules may” substitute “Procedure Rules may, in particular,”.
- (5) In subsection (4), for “Appeal Tribunal procedure rules may also” substitute “Procedure Rules may, in particular,”.

### *General*

- 23 In the heading of Part 3, at the beginning insert “General and”.
- 24 After section 37QA (inserted by section 34(4) of this Act) insert—

#### **“37QB Power to amend legislation in connection with Procedure Rules**

- (1) The Lord Chancellor may by regulations amend, repeal or revoke any enactment to the extent that the Lord Chancellor considers necessary or desirable—
- (a) in order to facilitate the making of Procedure Rules, or
- (b) in consequence of—
- (i) section 37QA,
- (ii) Schedule A1, or
- (iii) Procedure Rules.
- (2) In subsection (1) “enactment” means any enactment whenever passed or made, including an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978.”

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

- 25 (1) Section 41 (orders, regulations and rules) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) No recommendation may be made to Her Majesty to make an Order in Council under section 38(4) unless a draft of the Order in Council has been laid before Parliament and approved by a resolution of each House of Parliament.”
- (3) In subsection (2)—
- (a) for the words from the beginning to “no order shall be made under” substitute “A statutory instrument containing—
- (a) an order under”;
- (b) for “and no regulations are to be made under” substitute—
- “(b) regulations under”;
- (c) for the words from “unless a draft” to the end substitute “, or
- (c) regulations under section 37QB that amend or repeal provision made by an Act,
- may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
- (4) After subsection (4) insert—
- “(5) This section does not apply in relation to Procedure Rules (the procedure for which is provided for by Schedule A1).”
- 26 In section 42(1) (definition of terms)—
- (a) omit the definitions of “Appeal Tribunal procedure rules” and “employment tribunal procedure regulations”;
- (b) at the appropriate place insert—
- ““Procedure Rules” is to be read in accordance with section 37QA(2), and—
- (a) in Part 1, means Procedure Rules in respect of employment tribunals;
- (b) in Part 2, means Procedure Rules in respect of the Appeal Tribunal.”;
- (c) omit the “and” immediately before the definition of “trade union”;
- (d) after that definition insert—
- ““Tribunal Procedure Committee” means the committee of that name constituted under Part 2 of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007.”

### PART 3

#### RELATED AMENDMENTS OF OTHER LEGISLATION

##### *Employment Rights Act 1996*

- 27 In section 163 of the Employment Rights Act 1996 (references to employment tribunals about redundancy payments), after subsection (5) insert—

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

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“(6) Where in accordance with Employment Tribunal Procedure Rules an employment tribunal determines in the same proceedings a complaint presented under section 111 (unfair dismissal) and a question referred under this section, subsection (2) has no effect for the purposes of the proceedings in so far as they relate to the complaint under section 111.”

*Tribunals, Courts and Enforcement Act 2007*

28 In section 8(2) of the Tribunals, Courts and Enforcement Act 2007 (functions of the Senior President of Tribunals not capable of delegation under that section), at the end insert—

“paragraph 2 of Schedule A1 to the Employment Tribunals Act 1996.”

29 (1) Schedule 5 to the Tribunals, Courts and Enforcement Act 2007 (which, among other things, deals with membership of the Tribunals Procedure Committee) is amended as follows.

(2) In paragraph 21 (Lord Chancellor’s appointees)—

- (a) in sub-paragraph (1)(a), for “three” substitute “four”;
- (b) after sub-paragraph (1) insert—

“(1A) At least one of those persons must have experience of—

- (a) practice in employment tribunals and the Employment Appeal Tribunal, or
- (b) advising persons involved in employment tribunal proceedings and the Employment Appeal Tribunal.”

(3) In paragraph 22(1) (Lord Chief Justice’s appointees)—

- (a) omit “and” at the end of paragraph (b);
- (b) at the end of paragraph (c) insert “, and
- (d) one person who is a judge, or other member, of the Employment Appeal Tribunal or a member of a panel of members of employment tribunals (whether or not a panel of Employment Judges).”