

*Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.*

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DRAFT STATUTORY INSTRUMENTS

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**2012 No.**

**PUBLIC BODIES**

**The Public Bodies (Abolition of Crown Court Rule Committee  
and Magistrates' Courts Rule Committee) Order 2012**

*Made* - - - - *\*\*\**

*Coming into force in accordance with article 1(2)*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 1, 6(1) and (5) and 35(2) of the Public Bodies Act 2011<sup>(1)</sup> (“the Act”).

The Secretary of State considers that this Order—

- (a) serves the purpose of improving the exercise of public functions, having had regard to the factors set out in section 8(1) of the Act; and
- (b) does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

The Secretary of State has consulted the Welsh Ministers in accordance with section 63(1) of the Government of Wales Act 2006<sup>(2)</sup>.

The Secretary of State has consulted in accordance with section 10 of the Act.

A draft of this Order and an explanatory document containing the information required in section 11(2) of the Act have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks mentioned in section 11(3). In accordance with section 11(4) of the Act, the draft of this Order has been approved by a resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

**Citation, commencement and extent**

**1.**—(1) This Order may be cited as the Public Bodies (Abolition of Crown Court Rule Committee and Magistrates' Courts Rule Committee) Order 2012.

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(1) [2011 c.25](#)  
(2) [2006 c.32](#)

(2) Subject to paragraph (3), this Order comes into force on the day after the day on which it is made.

(3) Articles 2(4) and 3(3) come into force on the day after the day on which the other provisions of this Order come into force.

(4) Any amendment or repeal made by this Order has the same extent as the enactment to which it relates.

### **Abolition of Crown Court Rule Committee and transfer of function of making Crown Court Rules**

**2.**—(1) The Crown Court Rule Committee (established under section 86 of the Senior Courts Act 1981<sup>(3)</sup>) is abolished.

(2) The function of making rules under section 84 of the Senior Courts Act 1981 (Crown Court rules) is transferred to the Lord Chief Justice.

(3) Schedule 1 (which makes consequential provision) has effect.

(4) In Schedule 1 to the Public Bodies Act 2011 (power to abolish: bodies and offices), the entry for the Crown Court Rule Committee is repealed.

### **Abolition of Magistrates' Courts Rule Committee**

**3.**—(1) The Magistrates' Courts Rule Committee (established under section 144 of the Magistrates' Courts Act 1980<sup>(4)</sup>) is abolished.

(2) Schedule 2 (which makes consequential provision) has effect.

(3) In Schedule 1 to the Public Bodies Act 2011 (power to abolish: bodies and offices), the entry for the Magistrates' Courts Rule Committee is repealed.

Date

*Name*  
Parliamentary Under Secretary of State  
Ministry of Justice

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(3) 1981 c.54.  
(4) 1980 c.43.

## SCHEDULE 1

Article 2(3)

### Provision consequential on the abolition of the Crown Court Rule Committee and transfer of the function of making Crown Court rules

#### **Senior Courts Act 1981 (c.54)**

1. The Senior Courts Act 1981 is amended as follows.
  - 2.—(1) Section 84(5) (power to make rules of court) is amended as follows.
    - (2) In subsection (1), after “Rules of court may be made” insert “by the Lord Chief Justice”.
    - (3) In subsection (9)—
      - (a) after “Family Procedure Rule Committee” insert “or”;
      - (b) the words “, or the Crown Court Rule Committee” are repealed.
    - (4) After subsection (9), insert—

“(10) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise the Lord Chief Justice’s functions under this section.”
  3. Section 86 (the Crown Court Rule Committee) is repealed.
  - 4.—(1) Section 86A(6) (process for making rules of court under section 84) is amended as follows.
    - (2) In subsection (1), for the words after “must be” to the end substitute “submitted to the Lord Chancellor after being made by the Lord Chief Justice.”
    - (3) In subsection (3), for “Committee” substitute “Lord Chief Justice”.
  - 5.—(1) Section 86B (rules to be made if required by Lord Chancellor) is amended as follows.
    - (2) In subsection (1), for “Crown Court Rule Committee” substitute “Lord Chief Justice”.
    - (3) In subsection (2)—
      - (a) for “Committee” substitute “Lord Chief Justice”;
      - (b) for “it” substitute “the Lord Chief Justice”.
    - (4) In subsection (3)(a), for “Committee” substitute “Lord Chief Justice”.
  6. In section 151(7) (interpretation), in subsection (3), the words “or the Crown Court Rule Committee” are repealed.

#### **Courts and Legal Services Act 1990 (c.41)**

7. In Schedule 18 to the Courts and Legal Services Act 1990 (consequential amendments), in paragraph 36, sub-paragraph (2) is repealed.

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(5) Subsection (9) was amended by section 10 of and paragraph 1(4)(d) of Schedule 2 to the Civil Procedure Act 1997; by article 3 of and paragraphs 11 and 15(1) and (4) to [S.I. 2004/2035](#); and by section 59(5) of and paragraph 26(1) and (2) of Part 4 of Schedule 11 to the Constitutional Reform Act 2005.

(6) Sections 86A and 86B were inserted by section 15(1) of and paragraphs 114 and 138 of Part 1 of Schedule 4 to the Constitutional Reform Act 2005.

(7) Subsection (3) was amended by section 10 of and paragraph 1(7)(a) of Schedule 2 to the Civil Procedure Act 1997; and by section 59(5) of and paragraph 26(1) and (2) of Part 4 of Schedule 11 to the Constitutional Reform Act 2005.

### **Freedom of Information Act 2000 (c.36)**

8. In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices – general), the entry for the Crown Court Rule Committee is repealed.

### **Constitutional Reform Act 2005 (c.4)**

9. In Part 1 of Schedule 4 to the Constitutional Reform Act 2005 (other functions of the Lord Chancellor and organisation of the courts), paragraph 137 is repealed.

### **Legal Services Act 2007 (c.29)**

10. In Schedule 21 to the Legal Services Act 2007 (minor and consequential amendments), paragraph 46 is repealed.

## SCHEDULE 2

Article 3(2)

Provision consequential on the abolition of the Magistrates' Courts Rule Committee

### **Magistrates' Courts Act 1980 (c.43)**

1.—(1) Section 144(8) of the Magistrates' Courts Act 1980 (rule committee and rules of procedure) is amended as follows.

(2) In the side-note, the words “Rule committee and” are repealed.

(3) Subsection (A1) is repealed.

(4) In subsection (1), the words “on the advice of or after consultation with the rule committee, and” are repealed.

(5) In subsection (1A), the words “and the rules committee” are repealed.

(6) Subsections (2), (3) and (3A) are repealed.

### **Courts and Legal Services Act 1990 (c.41)**

2. In Schedule 18 to the Courts and Legal Services Act 1990 (consequential amendments), in paragraph 25, sub-paragraph (7) is repealed.

### **Freedom of Information Act 2000 (c.36)**

3. In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices – general), the entry for the Magistrates' Courts Rules Committee is repealed.

### **Courts Act 2003 (c.39)**

4. The Courts Act 2003 is amended as follows.

5. In section 20(9) (rules), in subsection (2)—

(a) at the end of paragraph (a) insert “and”;

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(8) Relevant amendments to section 144 were made by section 15(1) of and paragraphs 99 and 102 of Part I of Schedule 4 to the Constitutional Reform Act 2005 (inserting subsections (A1), (1A) and (4A) and amending subsections (1) and (2)); and by section 208(1) of and paragraphs 42 and 43(b) of Schedule 21 to the Legal Services Act 2007 (inserting subsection (3A)).

(9) Section 20 was amended by section 15(1) of and paragraphs 308 and 321 of Part 1 of Schedule 4 to the Constitutional Reform Act 2005.

- (b) paragraph (c), and the word “and” which precedes it, are repealed.
- 6. In section 28 (functions), in subsection (9)—
  - (a) at the end of paragraph (a) insert “and”;
  - (b) paragraph (c), and the word “and” which precedes it, are repealed.
- 7. In section 107 (interpretation), subsection (6) is repealed.
- 8. In Schedule 8 (minor and consequential amendments), in paragraph 245, sub-paragraph (4) is repealed.

#### **Constitutional Reform Act 2005 (c.4)**

- 9. In Part 1 of Schedule 4 to the Constitutional Reform Act 2005 (other functions of the Lord Chancellor and organisation of the courts), in paragraph 102, sub-paragraphs (2) and (5) are repealed.

#### **Legal Services Act 2007 (c.29)**

- 10. In Schedule 21 to the Legal Services Act 2007 (minor and consequential amendments), paragraph 43 is repealed.

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### **EXPLANATORY NOTE**

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

This Order makes provision for the abolition, under powers conferred by the Public Bodies Act 2011 (“the 2011 Act”), of two bodies listed in Schedule 1 to that Act – the Crown Court Rule Committee and the Magistrates’ Courts Rule Committee – together with provision for the transfer to the Lord Chief Justice of the rule-making functions of the Crown Court Rule Committee and for amendments to other legislation consequential on the abolition of the two bodies and transfer of the Crown Court Rule Committee’s functions.

*Article 1* provides for the Order’s title, the date of commencement and its extent.

*Article 2* abolishes the Crown Court Rule Committee and transfers its rule-making function to the Lord Chief Justice (who already has the function of making various other rules including Magistrates’ Courts Rules); and it introduces *Schedule 1* (which makes the necessary consequential amendments to other legislation), and repeals the entry for the Crown Court Rule Committee in Schedule 1 to the 2011 Act.

*Article 3* abolishes the Magistrates’ Courts Rule Committee; and it introduces *Schedule 2* (which makes amendments to other legislation consequential on that abolition), and repeals the entry for the Magistrates’ Courts Rule Committee in Schedule 1 to the 2011 Act.