

Status: Point in time view as at 01/04/2013.

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SCHEDULES

SCHEDULE 14

Section 105.

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

GENERAL

- 1 (1) The Lord Chancellor [^{F1}or Secretary of State] may by order made by statutory instrument make such transitional provisions and savings he considers appropriate in connection with the coming into force of any provision of this Act.
- (2) Nothing in the following provisions of this Schedule limits sub-paragraph (1).
- (3) Nothing in this Schedule limits the operation of sections 16 and 17 of the ^{M1}Interpretation Act 1978 (effect of repeals).

Textual Amendments

- F1** Words in Sch. 14 para. 1(1) inserted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, Sch. 2 para. 11(4)

Modifications etc. (not altering text)

- C1** Sch. 14 para. 1(1): certain functions transferred (28.2.2003) to the Scottish Ministers by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2003 (S.I. 2003/415), arts. 1, 2, Sch. (with art. 5)

Marginal Citations

- M1** 1978 c.30.

^{F2}PART II

LEGAL SERVICES COMMISSION

Textual Amendments

- F2** Sch. 14 Pt. 2 omitted (1.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 5 para. 51(b); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

Replacement of Legal Aid Board by Legal Services Commission

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Winding-down of Legal Aid Board

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Abolition of Legal Aid Board

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Further provision for Legal Aid Board and Legal Services Commission

- 8

Funding of representation by Lord Chancellor

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PART III

LEGAL SERVICES

Conditional fee agreements

- 10 Any order made under section 58(4) or (5) of the ^{M2}Courts and Legal Services Act 1990 and in force immediately before the time when section 27 of this Act comes into force shall have effect after that time (until revoked) as if made under section 58(4) as substituted by that section.

<p>Marginal Citations</p> <p>M2 1990 c.41.</p>
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- 11 Any regulations made under section 58(1)(c) of the Courts and Legal Services Act 1990 and in force immediately before the time when section 27 of this Act comes into force shall have effect after that time (until revoked) as if made under section 58(3)(c) as substituted by that section.

Legal aid in Scotland

- 12 If section 33 of this Act comes into force before section 1 of the ^{M3}Tax Credits Act 1999, the reference in section 33 to disabled person’s tax credit shall, until section 1 of the Tax Credits Act 1999 comes into force, have effect as a reference to disability working allowance.

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Marginal Citations

M3 1999 c.10.

Abolition of ACLEC

- 13 The Lord Chancellor may by order made by statutory instrument make provision in connection with the abolition of the Lord Chancellor’s Advisory Committee on Legal Education and Conduct (including, in particular, provision about its staff and property).

Regulations and rules for barristers and solicitors

- 14 F3

Textual Amendments

F3 Sch. 14 para. 14 repealed (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 210, 211, Sch. 23 (with ss. 29, 192, 193); S.I. 2009/3250, art. 2 (with art. 9)

- 15 Where a person was called to the Bar or admitted as a solicitor before the coming into force of section 36 of this Act, he shall be taken for the purposes of determining for how many years he has had one of the qualifications listed in section 71(3) of the Courts and Legal Services Act 1990 as having been granted a right of audience before every court in relation to all proceedings on his call or admission.

Existing rights of solicitors in certain Crown Court centres

- 16 (1) If section 36 of this Act comes into force before the repeal by this Act of section 83 of the [F4 Senior Courts Act 1981], section 83 shall have effect until that repeal comes into force subject to the modifications specified in sub-paragraphs (2) and (3).
- (2) Subsection (1) shall have effect as if for “may have rights of audience in the Crown Court” there were substituted “ shall be entitled to exercise their right of audience in the Crown Court even though they do not satisfy the regulations of the Law Society relating to the education and training which solicitors must receive in order to exercise their right of audience in the Crown Court ”.
- (3) Subsection (3) shall have effect as if for “with” there were substituted “ who may exercise ”.

Textual Amendments

F4 Sch. 14 para. 16: for the words "Supreme Court Act 1981" wherever they occur there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148, Sch. 11 para. 1(2); S.I. 2009/1604, art. 2

Authorised bodies

- 17 (1) An Order in Council made pursuant to a recommendation under section 29 of the Courts and Legal Services Act 1990 and in force immediately before the time when

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Schedule 5 to this Act comes into force shall have effect after that time (unless revoked) as if made pursuant to a recommendation under Part I of Schedule 4 to that Act as substituted by Schedule 5 to this Act.

- (2) Any approval under Part II of Schedule 4 to the Courts and Legal Services Act 1990 in force immediately before the time when Schedule 5 to this Act comes into force shall have effect after that time as an approval under that Part of that Schedule as substituted by Schedule 5 to this Act.

PART IV

REPORTING OF PROCEEDINGS ABOUT CHILDREN

- 18 Section 97(2) of the ^{M4}Children Act 1989 (as amended by section 72 of this Act) shall not apply in relation to proceedings before a county court or the High Court which have begun before the coming into force of that section.

Marginal Citations

M4 1989 c.41.

PART V

MAGISTRATES AND MAGISTRATES' COURTS

Commission areas

- 19 The first order under section 1 of the ^{M5}Justices of the Peace Act 1997, as substituted by section 74 of this Act, shall specify each of the areas which was a commission area immediately before the time when that section comes into force; and those areas shall continue to be commission areas from that time until the coming into force of that first order.

Marginal Citations

M5 1997 c.25.

Petty sessions areas

- 20 The first order under section 4 of the Justices of the Peace Act 1997, as substituted by section 75 of this Act, shall specify each of the areas which was a petty sessions area immediately before the time when that section comes into force; and those areas shall continue to be petty sessions areas from that time until the coming into force of that first order.

Lord Mayor and aldermen of City of London

- 21 The person who is the Lord Mayor of London, and the persons who are aldermen of the City of London, at the end of the period of two months beginning with the day on which this Act is passed shall be treated as having at that time been appointed

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in accordance with section 5 of the Justices of the Peace Act 1997 as justices of the peace for the commission area which includes the City of London; and, accordingly, subsection (1A) of section 6 of that Act (inserted by paragraph 48 of Schedule 10 to this Act) has effect in relation to them.

District Judges (Magistrates' Courts): appointment

22 Any person who is a stipendiary magistrate or a metropolitan stipendiary magistrate immediately before the time when section 78 of this Act comes into force shall be treated as having been appointed to be a District Judge (Magistrates' Courts) at that time (unless he would have been required by reason of age to vacate his office at that time).

23 Any person who, immediately before the time when section 78 of this Act comes into force, is authorised under section 13(1)(a) or 19 of the Justices of the Peace Act 1997 to act as a stipendiary magistrate or metropolitan stipendiary magistrate shall be treated as having been appointed to be a Deputy District Judge (Magistrates' Courts) at that time for the remainder of the period for which he is so authorised.

District Judges (Magistrates' Courts): pensions

24 (1) For the purposes specified in sub-paragraph (2), a person who—
(a) is a stipendiary magistrate or metropolitan stipendiary magistrate immediately before the time when section 78 of this Act comes into force, and
(b) is at that time a member of a judicial pension scheme constituted by the ^{M6}Judicial Pensions Act 1981,

shall not be regarded as having been appointed (by virtue of paragraph 22) to be a District Judge (Magistrates' Courts) but shall instead be regarded as if he continued to be a stipendiary magistrate or metropolitan stipendiary magistrate.

(2) The purposes referred to in sub-paragraph (1) are those of—
(a) the Judicial Pensions Act 1981,
(b) any scheme constituted by that Act, and
(c) any enactment made by or under an Act which applies to such a scheme or to rights arising under such a scheme.

Marginal Citations

M6 1981 c.20.

District Judges (Magistrates' Courts): retirement

25 For the purposes of section 26 of and Schedule 7 to the ^{M7}Judicial Pensions and Retirement Act 1993 (date of retirement for holders of a relevant office immediately before the time when section 26 came into force) a person who held the office of stipendiary magistrate or metropolitan stipendiary magistrate at any time during the period beginning when section 26 came into force and ending when Schedule 11 to this Act comes into force shall be treated as having held a relevant office at that time in spite of the amendment made to Schedule 5 to the Judicial Pensions and Retirement Act 1993 by Schedule 11 to this Act.

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Marginal Citations

M7 1993 c.8.

District Judges (Magistrates' Courts): legal aid

- 26 If paragraph 36 of Schedule 11 to this Act comes into force before the repeal by this Act of section 19(5) of the ^{M8}Legal Aid Act 1988, that provision shall have effect as if, in the definition of “proceedings for dealing with an offender as a fugitive offender”, the reference to a metropolitan stipendiary magistrate were to a District Judge (Magistrates' Courts).

Marginal Citations

M8 1988 c.34.

Committals for sentence

- 27 Section 79 of, and Part V(4) of Schedule 15 to, this Act do not apply to any hearing of proceedings on committal to the Crown Court if those proceedings have begun before the coming into force of that section and that Part of that Schedule.

Youth courts

- 28 (1) Subject to any order under paragraph 6 of the Second Schedule to the ^{M9}Children and Young Persons Act 1933 (as amended by this Act), there shall from the coming into force of section 77 of this Act be a combined youth court panel for the area consisting of the inner London boroughs and the City of London (in spite of paragraph 3 of that Schedule).
- [^{F5}(2) If section 77 of this Act comes into force before section 83 of this Act, then until section 83 comes into force paragraph 9 of the Second Schedule to the Children and Young Persons Act (as amended by this Act) shall not prevent there being a combined youth panel for the City of London and any other area.]

Textual Amendments

F5 Sch. 14 para. 28(2) repealed (1.4.2001) by 1999 c.22, ss. 106, 108(1), Sch. 15 Pt. V(6); S.I. 2001/916, art. 2(c)(i)

Marginal Citations

M9 1933 c.12.

Magistrates' courts committee areas

- 29 The first order under section 27A(2) of the ^{M10}Justices of the Peace Act 1997, as substituted by section 81 of this Act, shall specify each of the areas outside Greater London which was a magistrates' courts committee area immediately before the time when that section comes into force; and those areas shall continue to be

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magistrates' courts committee areas from that time until the coming into force of that first order.

Marginal Citations

M10 1997 c.25.

Magistrates' courts committees in Greater London

- 30 (1) From the end of the period of two months beginning with the day on which this Act is passed until the Greater London Magistrates' Courts Authority becomes the magistrates' courts committee for Greater London, the Justices of the Peace Act 1997 shall continue to have effect in relation to magistrates' courts committees in Greater London without—
- (a) the amendments made by sections 81 and 82 of this Act, and
 - (b) the repeal of sections 32 and 38(6) of that Act made by Part V(5) of Schedule 15 to this Act,
- but subject to the modifications specified in sub-paragraphs (2) to (5).
- (2) Section 28 shall have effect as if—
- (a) in subsection (1), for “to (4)” there were substituted “ and (3) ”,
 - (b) in subsection (2), for “Not more than two other” there were substituted “ Other ”,
 - (c) for subsections (3) and (4) there were substituted—
 - “(3) The inner London magistrates' courts committee shall include either—
 - (a) the Senior District Judge (Chief Magistrate) and two District Judges (Magistrates' Courts) appointed by him; or
 - (b) (if he decides not to be a member) three District Judges (Magistrates' Courts) appointed by him.”,
 - and
 - (d) in subsection (5), for “subsections (3) and (4)” there were substituted “ subsection (3) ”.
- (3) Section 29 shall have effect as if—
- (a) in subsection (3), for “, (3) and (4)” there were substituted “ and (3) ”, and
 - (b) after that subsection there were inserted—
 - “(3A) The regulations may make provision for the payment of remuneration to members of a magistrates' courts committee co-opted or appointed under section 28(2) above.”
- (4) Section 30 shall have effect as if the words “Subject to subsection (2) below,” in subsection (1) and subsection (2) were omitted.
- (5) Section 38(6) shall have effect as if—
- (a) for the words “chief metropolitan stipendiary magistrate” there were substituted “ Senior District Judge (Chief Magistrate) (if he is a member) ”, and
 - (b) for “28(3) and (4)” there were substituted “ 28(3) ”.

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- (6) This paragraph has effect subject to paragraph 31.
- 31 (1) If section 78 of this Act has not come into force at the end of the period of two months beginning with the day on which this Act is passed, paragraph 30 shall apply as follows until that section comes into force.
- (2) The subsection (3) treated as substituted by sub-paragraph (2)(c) of that paragraph shall have effect as if—
- (a) for “Senior District Judge (Chief Magistrate)” there were substituted “ chief metropolitan stipendiary magistrate ”, and
 - (b) for “District Judges (Magistrates’ Courts)” (in both places) there were substituted “ metropolitan stipendiary magistrates ”.
- (3) Sub-paragraph (5) of that paragraph shall have effect as if paragraph (a) read—
- “(a) after the words “chief metropolitan stipendiary magistrate” there were inserted “(if he is a member)”, and”.

The Greater London Magistrates’ Courts Authority

- 32 (1) The Lord Chancellor may by order made by statutory instrument make provision in connection with the establishing of the Greater London Magistrates’ Courts Authority, including—
- (a) provision for the Authority to incur liabilities and to exercise any function before the time when it becomes the magistrates’ courts committee for Greater London, and
 - (b) provision for the abolition of the magistrates’ courts committees for areas in Greater London immediately before that time.
- (2) For the purposes of sections 39A and 39B of the ^{M11}Justices of the Peace Act 1997 (inserted by section 86 of this Act) the Authority shall be treated as a magistrates’ courts committee until it actually becomes the magistrates’ courts committee for Greater London.

Marginal Citations

M11 1997 c.25.

Schemes for transfer of property etc. to GLMCA

- 33 (1) The Lord Chancellor may make one or more schemes for the transfer to the Greater London Magistrates’ Courts Authority of such of the property, rights and liabilities of—
- (a) a magistrates’ courts committee,
 - (b) the Receiver for the Metropolitan Police District,
 - (c) the council of an outer London borough, or
 - (d) the Common Council of the City of London,
- as appear to him to be appropriate to be transferred for the performance of the Authority’s functions.

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- (2) In this paragraph references to the “transferor”, in relation to a scheme, are to the person mentioned in sub-paragraph (1) from whom property is transferred under the scheme.
- (3) A scheme under this paragraph may—
 - (a) provide for transfers under the scheme to be on such terms (including terms requiring payment to the transferor) as the Lord Chancellor thinks fit,
 - (b) apportion or create rights and liabilities in relation to any property transferred, and
 - (c) make any appropriate, consequential, incidental or supplementary provisions.
- (4) On the day appointed by a scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this sub-paragraph, and in spite of any provision (of whatever nature) which would otherwise prevent or restrict the transfer, be transferred in accordance with the scheme.
- (5) Anything done (or having effect as if done) by or in relation to the transferor before the time when a scheme comes into effect for the purposes of, or in connection with, anything transferred under the scheme shall, so far as is required for continuing its effect after that time, have effect as if done by or in relation to the Authority.
- (6) Any reference to the transferor in any document, including any enactment, constituting or relating to anything transferred under a scheme shall, so far as is required for giving effect to the scheme, be construed as a reference to the Authority.
- (7) Where rights and liabilities under a contract of employment are transferred under a scheme under this paragraph—
 - (a) for the purposes of Part XI of the ^{M12}Employment Rights Act 1996 (redundancy payments etc.), the employee shall not be regarded as having been dismissed by virtue of the transfer, and
 - (b) for the purposes of that Act, the employee’s period of employment with the transferor shall count as a period of employment with the Authority, and the change of employment shall not break the continuity of the period of employment.

Marginal Citations

M12 1996 c.18.

Stamp duty on transfer schemes

- 34 (1) Stamp duty shall not be chargeable—
- (a) on any scheme under paragraph 33, or
 - (b) on any instrument or agreement which is certified to the Commissioners of Inland Revenue by the Lord Chancellor as made in pursuance of such a scheme.
- (2) No such scheme, and no instrument or agreement which is certified as mentioned in sub-paragraph (1)(b), shall be taken to be duly stamped unless—

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- (a) it has, in accordance with section 12 of the ^{M13}Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with that duty or that it is duly stamped, or
 - (b) it is stamped with the duty to which it would be liable, apart from this paragraph.
- (3) Section 12 of the ^{M14}Finance Act 1895 shall not operate to require—
- (a) the delivery to the Inland Revenue of a copy of this Act, or
 - (b) the payment of stamp duty under that section on any copy of this Act,
- and shall not apply in relation to any instrument on which, by virtue of sub-paragraph (1), stamp duty is not chargeable.

Marginal Citations

M13 1891 c.39.

M14 1895 c.16.

^{F6}Transfer schemes: stamp duty land tax

Textual Amendments

F6 Sch. 14 para. 34A and heading inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 2, **Sch. para. 29**

- 34A (1) For the purposes of stamp duty land tax, a land transaction effected by or in pursuance of a scheme under paragraph 33 is exempt from charge.
- (2) Relief under this paragraph must be claimed in a land transaction return or an amendment of such a return.
- (3) In this paragraph—
- “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
 - “land transaction return” has the meaning given by section 76(1) of that Act.]

Continuing provision of court-houses, accommodation etc

- 35 (1) The Lord Chancellor may by regulations provide that any petty sessional court-house or other accommodation specified in the regulations which immediately before the time when paragraph 33 comes into force was provided by—
- (a) the council of an outer London borough, or
 - (b) the Common Council of the City of London,
- pursuant to section 55 of the ^{M15}Justices of the Peace Act 1997 (and is not transferred under a scheme under paragraph 33) shall after that time be provided by that council to the Greater London Magistrates’ Courts Authority for the performance of the functions referred to in section 59A(1) of that Act.
- (2) Regulations under sub-paragraph (1) may—

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- (a) prescribe terms and conditions, including conditions as to payment, on which any court-house or other accommodation is to be provided, and
 - (b) prohibit a council providing a court-house or other accommodation under sub-paragraph (1) from altering or extending it without the consent of the Lord Chancellor.
- (3) Any duty imposed on a council by regulations under sub-paragraph (1) may at any time be—
- (a) varied or restricted by agreement between the council and the Lord Chancellor, or
 - (b) terminated by the Lord Chancellor after consulting the council.
- (4) Regulations under sub-paragraph (1) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M15 1997 c.25.

Pensions of inner London court staff

- 36 (1) The Lord Chancellor may by order made by statutory instrument make provision about the provision of pensions for or in respect of persons who are or have been members of the inner London court staff.
- (2) An order under this paragraph may include provision for, or in connection with—
- (a) enabling persons to participate, or continue to participate, in any pension scheme and requiring their employers to make contributions under that scheme, and
 - (b) the administration or management of pension schemes or pension funds.
- (3) Provision of the kind specified in sub-paragraph (2)(a) may—
- (a) with the consent of the Minister for the Civil Service, include provision for section 1 of the ^{M16}Superannuation Act 1972 (pensions of civil servants etc.) to apply to persons who are or have been members of the inner London court staff, or
 - (b) include provision for persons who have been members of the inner London court staff but who are employees of the Greater London Magistrates' Courts Authority by virtue of a scheme under paragraph 33 to be regarded as continuing to be members of the metropolitan civil staffs for the purposes of section 15 of the ^{M17}Superannuation (Miscellaneous Provisions) Act 1967 (pensions of metropolitan civil staffs).
- (4) An order under this paragraph containing provision of the kind specified in sub-paragraph (3)(a) may also contain provision for such body or person as may be specified in the order to pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to such provision (so far as referable to that body or person) in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.

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- (5) Where an order is made under this paragraph containing provision of the kind specified in sub-paragraph (3)(a), the Minister for the Civil Service may, to such extent and subject to such conditions as he thinks fit—
- (a) delegate to any person the function of administering a scheme made under section 1 of the Superannuation Act 1972, so far as relating to persons who are or have been members of the inner London court staff, or
 - (b) authorise the exercise of that function (so far as so relating) by, or by employees of, any person.
- (6) A person to whom the function of administering a scheme made under section 1 of the Superannuation Act 1972 is delegated under sub-paragraph (5)(a) may, to such extent and subject to such conditions as he may determine, authorise the exercise of that function by, or by employees of, any person.
- (7) Where a person is authorised under sub-paragraph (5)(b) or (6) to exercise the function of administering a scheme made under section 1 of the Superannuation Act 1972, anything done or omitted to be done by or in relation to him (or an employee of his) in, or in connection with, the exercise or purported exercise of the function shall be treated for all purposes as done or omitted to be done by the person who authorised him.
- (8) Sub-paragraph (7) does not apply for the purposes of—
- (a) any criminal proceedings against the authorised person (or any employee of his), or
 - (b) any contract between him and the person who authorised him, so far as relating to the function.
- (9) An order under this paragraph may provide that any enactment repealed by this Act shall continue to have effect for any purpose specified in the order with such modifications as may be so specified.
- (10) A statutory instrument containing an order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this paragraph the “inner London court staff” means—
- (a) the justices’ chief executive employed by the magistrates’ courts committee for the area consisting of the inner London boroughs,
 - (b) any justices’ clerk for that area, and
 - (c) staff of the magistrates’ courts committee for that area.

Marginal Citations

M16 1972 c.11.

M17 1967 c.28.

Justices’ chief executives

- 37 (1) If section 90 of this Act comes into force before the repeal by this Act of Schedule 3 to the ^{M18}Legal Aid Act 1988, that Schedule shall have effect until that repeal comes into force subject to the modifications specified in sub-paragraphs (2) and (3).

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- (2) Paragraphs 3(1) and (2) and 4(1) shall have effect as if for “clerk of” there were substituted “justices’ chief executive for”.
- (3) Paragraph 4(2) shall have effect—
- (a) as if for “clerk of” there were substituted “justices’ chief executive for”, and
 - (b) as if the words from “and section” to the end were omitted.

Marginal Citations

M18 1988 c.34.

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