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## SCHEDULES

### SCHEDULE 1

Section 1.

#### LEGAL SERVICES COMMISSION

##### *Incorporation and status*

- 1 The Commission shall be a body corporate.
- 2 The Commission shall not be regarded—
  - (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown;and the Commission's property shall not be regarded as property of, or held on behalf of, the Crown.

##### *Tenure of members*

PROSPECTIVE

F13 .....

##### **Textual Amendments**

- F1** Schs. 1-3A 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\(a\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

- 4 (1) A member of the Commission, or the person appointed to chair it, may resign office by giving notice in writing to the [<sup>F2</sup>Secretary of State].
- (2) If the person appointed to chair the Commission ceases to be a member of it, he shall cease to chair it.
- (3) A person who ceases to be a member of the Commission, or to chair it, shall be eligible for reappointment.

##### **Textual Amendments**

- F2** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

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- 5 The [F3Secretary of State] may terminate the appointment of a member of the Commission if satisfied that—
- (a) he has become bankrupt or made an arrangement with his creditors,
  - (b) he is unable to carry out his duties as a member of the Commission by reason of illness,
  - (c) he has been absent from meetings of the Commission for a period longer than six consecutive months without the permission of the Commission, or
  - (d) he is otherwise unable or unfit to discharge the functions of a member of the Commission.

**Textual Amendments**

**F3** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

*Members' interests*

- 6 (1) Before appointing a person to be a member of the Commission, the [F4Secretary of State] shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member of the Commission.
- (2) The [F4Secretary of State] shall from time to time satisfy himself with respect to every member of the Commission that he has no such interest as is referred to in sub-paragraph (1).
- (3) Any person whom the [F4Secretary of State] proposes to appoint as, and who has consented to be, a member of the Commission, and any member of the Commission, shall (whenever requested by the [F4Secretary of State] to do so) supply him with such information as the [F4Secretary of State] considers necessary for the performance by the [F4Secretary of State] of his duties under this paragraph.

**Textual Amendments**

**F4** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

- 7 (1) A member of the Commission who is in any way directly or indirectly interested in an individual contract entered into or proposed to be entered into, or an individual grant, loan or other payment made or proposed to be made, by the Commission shall disclose the nature of his interest at a meeting of the Commission; and—
- (a) the disclosure shall be recorded in the minutes of the Commission, and
  - (b) the member shall not take any part in any deliberation or decision of the Commission with respect to that contract or grant, loan or other payment.
- (2) For the purposes of sub-paragraph (1), a general notice given at a meeting of the Commission by a member of the Commission to the effect—

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- (a) that he is a person with whom a contract may be entered into, or to whom a grant, loan or other payment may be made, by the Commission, or
- (b) that he is a member of a specified body with which a contract may be entered into, or to which a grant, loan or other payment may be made, by the Commission,

shall be regarded as a sufficient disclosure of his interest in relation to any contract subsequently entered into with, or grant, loan or other payment made to, him or the body.

- (3) A member of the Commission need not attend in person at a meeting of the Commission in order to make any disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is brought up and read out at the meeting.

#### *Remuneration of members*

- 8 (1) The Commission may—
  - (a) pay to its members such remuneration, and
  - (b) make provision for the payment of such pensions, allowances or gratuities to or in respect of its members,as the [<sup>F5</sup>Secretary of State] may determine.
- (2) Where a person ceases to be a member of the Commission otherwise than on the expiry of his term of office, and it appears to the [<sup>F5</sup>Secretary of State] that there are special circumstances which make it right for that person to receive compensation, the [<sup>F5</sup>Secretary of State] may require the Commission to make that person a payment of such amount as the [<sup>F5</sup>Secretary of State] may determine.

#### **Textual Amendments**

**F5** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

#### *Staff*

- 9 (1) The Commission shall appoint a person to be the chief executive of the Commission who shall be responsible to the Commission for the exercise of its functions.
- (2) The Commission may appoint such other employees as it thinks fit.
- (3) The Commission may only appoint a person to be—
  - (a) its chief executive, or
  - (b) the holder of any other employment of a description specified by the [<sup>F6</sup>Secretary of State] by direction given to the Commission,after consultation with, and subject to the approval of, the [<sup>F6</sup>Secretary of State] .
- (4) An appointment under this paragraph may be made on such terms and conditions as the Commission, with the approval of the [<sup>F6</sup>Secretary of State] , may determine.

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#### Textual Amendments

**F6** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

- 10 (1) The Commission shall make, in respect of such of its employees as, with the approval of the [<sup>F7</sup>Secretary of State] , it may determine such arrangements for providing pensions, allowances or gratuities, including pensions, allowances or gratuities by way of compensation for loss of employment, as it may determine.
- (2) Arrangements under sub-paragraph (1) may include the establishment and administration, by the Commission or otherwise, of one or more pension schemes.
- (3) If an employee of the Commission—
- (a) becomes a member of the Commission, and
  - (b) was by reference to his employment by the Commission a participant in a pension scheme established and administered by it for the benefit of its employees,
- the Commission may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Commission whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 8.
- (4) Where the Commission exercises the power conferred by sub-paragraph (3), any discretion as to the benefits payable to or in respect of the member concerned which the scheme confers on the Commission shall be exercised only with the approval of the [<sup>F7</sup>Secretary of State] .

#### Textual Amendments

**F7** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

#### *Funding of costs relating to administration etc.*

- 11 (1) The [<sup>F8</sup>Secretary of State] shall pay to the Commission such sums as he may determine as appropriate for—
- (a) the exercise by the Commission of functions in relation to the Community Legal Service other than the funding of services, and
  - (b) the administrative costs of the Commission.
- (2) The [<sup>F8</sup>Secretary of State] may—
- (a) determine the manner in which and times at which the sums mentioned in sub-paragraph (1) are to be paid to the Commission, and
  - (b) impose conditions on the payment of those sums.

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#### Textual Amendments

- F8** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

#### *Proceedings*

- 12 (1) Subject to anything in any instrument made under this Part, the Commission may regulate its own proceedings.
- (2) Committees—
- (a) may be appointed, and may be dissolved, by the Commission, and
  - (b) may include, or consist entirely of, persons who are not members of the Commission,
- but the [<sup>F9</sup>Secretary of State] may by direction require the Commission to make such provision relating to committees as is specified in the direction.
- (3) A committee shall act in accordance with such instructions as the Commission may from time to time give; and the Commission may provide for anything done by a committee to have effect as if it had been done by the Commission.
- (4) The Commission may pay to the members of any committee such fees and allowances as the [<sup>F9</sup>Secretary of State] may determine.
- (5) The validity of any proceedings of the Commission or of any committee appointed by the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any member.

#### Textual Amendments

- F9** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

#### *Provision of information*

- 13 (1) The Commission shall provide the [<sup>F10</sup>Secretary of State] with such information as he may require relating to its property and to the discharge or proposed discharge of its functions.
- (2) The Commission shall—
- (a) permit any person authorised by the [<sup>F10</sup>Secretary of State] to inspect and make copies of any accounts or documents of the Commission, and
  - (b) provide such explanation of them as any such person, or the [<sup>F10</sup>Secretary of State], may require.

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**Textual Amendments**

**F10** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

*Annual report*

- 14 (1) The Commission shall provide to the [<sup>F11</sup>Secretary of State], as soon as possible after the end of each financial year, a report on how it has during that year—
- (a) funded services from the Community Legal Service Fund,
  - (b) funded services as part of the Criminal Defence Service, and
  - (c) exercised its other functions.
- (2) The [<sup>F11</sup>Secretary of State] may by direction require the Commission to deal with the matters specified in the direction in reports, or a particular report, under this paragraph.
- (3) The [<sup>F11</sup>Secretary of State] shall lay before each House of Parliament a copy of each report provided to him under this paragraph and the Commission shall publish a report once it has been so laid.
- (4) In this paragraph and paragraphs 15 and 16 “financial year” means—
- (a) the period beginning with the day on which the Commission is established and ending with the next 31st March, and
  - (b) each subsequent period of twelve months ending with 31st March.

**Textual Amendments**

**F11** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

*Annual plan*

- 15 (1) The Commission shall, before the beginning of each financial year (other than that specified in paragraph 14(4)(a)), prepare a plan setting out how it intends in that year—
- (a) to fund services from the Community Legal Service Fund,
  - (b) to fund services as part of the Criminal Defence Service, and
  - (c) to exercise its other functions,
- and the plan shall include a summary of what the Commission has ascertained in the exercise of its functions under section 4(6).
- (2) The [<sup>F12</sup>Secretary of State] may by direction require the Commission to deal with the matters specified in the direction in plans, or a particular plan, under sub-paragraph (1).

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- (3) The Commission shall send a copy of each plan prepared under sub-paragraph (1) to the [F12Secretary of State].
- (4) If the [F12Secretary of State] approves it, he shall lay a copy before each House of Parliament and the Commission shall publish the plan once it has been so laid.
- (5) If he does not approve it, he shall by direction require the Commission to revise it in accordance with the direction; and the direction shall include the [F13Secretary of State's] reasons for not approving the plan.
- (6) When the Commission has revised the plan it shall send the [F12Secretary of State] a copy of the revised plan and he shall lay a copy before each House of Parliament and the Commission shall publish the revised plan once it has been so laid.

#### Textual Amendments

- F12** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}
- F13** Words in [Sch. 1 para. 15\(5\)](#) substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\), art. 9, Sch. 2 para. 11\(3\)](#)

#### *Accounts and audit*

- 16
- (1) The Commission shall keep accounts and shall prepare in respect of each financial year a statement of accounts.
  - (2) The accounts shall be kept, and the statement of accounts shall be prepared, in such form as the [F14Secretary of State] may, with the approval of the Treasury, specify by direction given to the Commission.
  - (3) The Commission shall send a copy of the statement of accounts in respect of each financial year to the [F14Secretary of State] and to the Comptroller and Auditor General within such period after the end of the financial year to which it relates as the [F14Secretary of State] may specify by direction given to the Commission.
  - (4) The Comptroller and Auditor General shall—
    - (a) examine, certify and report on each statement of accounts received by him under sub-paragraph (3), and
    - (b) lay a copy of each such statement of accounts, and his report on it, before each House of Parliament.

#### Textual Amendments

- F14** Words in [Sch. 1](#) substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003, (S.I. 2003/1887), art. 9, {Sch. 2 para. 11(1)(f)}

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### Instruments

- 17 (1) The fixing of the seal of the Commission shall be authenticated by a member of the Commission or by some other person authorised either generally or specially by the Commission to act for that purpose.
- (2) A document purporting to be duly executed under the seal of the Commission or to be signed on the Commission’s behalf—
- (a) shall be received in evidence, and
  - (b) unless the contrary is proved, shall be deemed to be so executed or signed.

## SCHEDULE 2

Section 6.

### COMMUNITY LEGAL SERVICE: EXCLUDED SERVICES

The services which may not be funded as part of the Community Legal Service are as follows.

- 1 Services consisting of the provision of help (beyond the provision of general information about the law and the legal system and the availability of legal services) in relation to—
- (a) allegations of negligently caused injury, death or damage to property, apart from allegations relating to clinical negligence,
  - (b) conveyancing,
  - (c) boundary disputes,
  - (d) the making of wills,
  - (e) matters of trust law,
  - (f) defamation or malicious falsehood,
  - (g) matters of company or partnership law, <sup>F15</sup> . . .
  - (h) other matters arising out of the carrying on of a [<sup>F16</sup>business, or]
  - [<sup>F17</sup>(i) attending an interview conducted on behalf of the Secretary of State with a view to his reaching a decision on a claim for asylum (as defined by section 167(1) of the Immigration and Asylum Act 1999 <sup>F18</sup>).]

#### Textual Amendments

- F15** Word in Sch. 2 para. 1(g) deleted (1.4.2004) by [The Community Legal Service \(Scope\) Regulations 2004 \(S.I. 2004/1055\)](#), [reg. 2\(a\)](#)
- F16** Words in Sch. 2 para. 1(h) substituted (1.4.2004) by [The Community Legal Service \(Scope\) Regulations 2004 \(S.I. 2004/1055\)](#), [reg. 2\(b\)](#)
- F17** Sch. 2 para. 1(i) inserted (1.4.2004) by [The Community Legal Service \(Scope\) Regulations 2004 \(S.I. 2004/1055\)](#), [reg. 2\(c\)](#)
- F18** 1999 c 33.

VALID FROM 01/02/2010

[<sup>F19</sup>1A Services consisting of the provision of help to an individual in relation to matters arising out of or in connection with—

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- (a) a proposal by that individual to establish a business;
- (b) the carrying on of a business by that individual (whether or not the business is being carried on at the time the services are provided);
- (c) the termination or transfer of a business that was being carried on by that individual.]

#### Textual Amendments

**F19** Sch. 2 para. 1A inserted (prosp.) by Coroners and Justice Act 2009 (c. 25), ss. 150(3), 182 (with s. 180)

- 2 Advocacy in any proceedings except—
- (1) proceedings in—
    - (a) the House of Lords in its judicial capacity,
    - (b) the Judicial Committee of the Privy Council in the exercise of its jurisdiction under the <sup>M1</sup>Government of Wales Act 1998, the <sup>M2</sup>Scotland Act 1998 or the <sup>M3</sup>Northern Ireland Act 1998,
    - (c) the Court of Appeal,
    - (d) the High Court,
    - (e) any county court,
    - (f) the Employment Appeal Tribunal, [<sup>F20</sup>or]
    - (g) any Mental Health Review Tribunal,
    - [<sup>F21</sup>(h) the Immigration Appeal Tribunal or before an adjudicator,  
[ the Special Immigration Appeals Commission,][<sup>F23</sup> or  
<sup>F22</sup>(ha)  
<sup>F23</sup>(i) the Proscribed Organisations Appeal Commission]]
  - (2) proceedings in the Crown Court—
    - (a) for the variation or discharge of an order under section 5 of the <sup>M4</sup>Protection from Harassment Act 1997,
    - (b) which relate to an order under section <sup>F24</sup> . . . 10 of the <sup>M5</sup>Crime and Disorder Act 1998, <sup>F25</sup> . . .
    - <sup>F26</sup>(c) . . . . . [<sup>F27F28</sup> . . . . .
    - (d) which relate to an order under paragraph 6 of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001][<sup>F29</sup> or]
    - [<sup>F30</sup>(e) under the Proceeds of Crime Act 2002 to the extent specified in paragraph 3,]
  - (3) proceedings in a magistrates' court—
    - (a) under section 43 or 47 of the <sup>M6</sup>National Assistance Act 1948, section 22 of the <sup>M7</sup>Maintenance Orders Act 1950, section 4 of the <sup>M8</sup>Maintenance Orders Act 1958 or section 106 of the <sup>M9</sup>Social Security Administration Act 1992,
    - (b) under Part I of the <sup>M10</sup>Maintenance Orders (Reciprocal Enforcement) Act 1972 relating to a maintenance order made by a court of a country outside the United Kingdom,

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- (c) in relation to an application for leave of the court to remove a child from a person's custody under section 27 or 28 of the <sup>M11</sup>Adoption Act 1976 or in which the making of an order under Part II or section 29 or 55 of that Act is opposed by any party to the proceedings,
- (d) for or in relation to an order under Part I of the <sup>M12</sup>Domestic Proceedings and Magistrates' Courts Act 1978,
- [<sup>F31</sup>(da) under section 55A of the Family Law Act 1986 (declarations of parentage),]
- (e) under the <sup>M13</sup>Children Act 1989,
- (f) under section 30 of the <sup>M14</sup>Human Fertilisation and Embryology Act 1990,
- (g) under section 20 <sup>F32</sup> . . . of the <sup>M15</sup>Child Support Act 1991,
- (h) under Part IV of the <sup>M16</sup>Family Law Act 1996,
- (i) for the variation or discharge of an order under section 5 of the Protection from Harassment Act 1997, <sup>F33</sup> . . .
- (j) under [<sup>F34</sup>section 8 or 11] of the Crime and Disorder Act 1998 [<sup>F35F36</sup> . . . ,
- (k) for an order or direction under paragraph 3, 5, 6, 9 or 10 of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001]
- [<sup>F37</sup>(l) for an order or direction under section 295, 297, 298, 301 or 302 of the Proceeds of Crime Act 2002,] and
- (4) proceedings before any person to whom a case is referred (in whole or in part) in any proceedings within paragraphs (1) to (3).

#### Textual Amendments

- F20** Word in Sch. 2 para. 2(1)(f) repealed (19.2.2001) by 2000 c. 11, s. 125(2), **Sch. 16 Pt. I**; S.I. 2001/421, **art. 2**
- F21** Sch. 2 para. 2(1)(h) inserted (1.4.2000) by S.I. 2000/822, **art. 3(a)**
- F22** Sch. 2 para. 2(1)(ha) inserted (1.4.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), **ss. 116**, 162 (with s. 159); S.I. 2003/754, **art. 2**, Sch. 1 (with arts. 3, 4, Sch. 2) (as amended (8.4.2003) by S.I. 2003/1040, art. 2) and (9.6.2003) by S.I. 2003/1339, art. 4)
- F23** Sch. 2 para. 2(1)(i) and preceding word inserted (19.2.2001) by 2000 c. 11, s. 125(1), **Sch. 15 para. 19**; S.I. 2001/421, **art. 2**
- F24** Words in Sch. 2 para. 2(2)(b) deleted (1.4.2000) by S.I. 2000/822, **art. 3(b)(i)**
- F25** Word in Sch. 2 para. 2(2)(b) repealed (20.12.2001) by 2001 c. 24, ss. 2(2), 125, **Sch. 8 Pt. I**; S.I. 2001/4019, **art. 2(b)(d)**
- F26** Sch. 2 para. 2(2)(c) deleted (1.4.2000) by S.I. 2000/822, **art. 3(b)(ii)**
- F27** Sch. 2 para. 2(2)(d) and preceding word inserted (20.12.2001) by 2001 c. 24, **s. 2(2)**; S.I. 2001/4019, **art. 2(b)**
- F28** Word in Sch. 2 para. 2(2)(c) omitted (30.12.2002) by virtue of Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(2)** and repealed (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 458(1), 457, **Sch. 12**; S.I. 2003/120, **art. 2**, Sch. (subject to arts. 3-7 (as amended by S.I. 2003/333, art. 14))
- F29** Sch. 2 para. 2(2)(e) and preceding word inserted (30.12.2002) by Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(2)**; S.I. 2002/3015, art. 2, **Sch.**
- F30** Sch. 2 para. 2(2)(e) and preceding word inserted (30.12.2002) by Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(2)**; S.I. 2002/3015, art. 2, **Sch.**

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- F31** Sch. 2 para. 2(3)(da) inserted (1.4.2001) by 2000 c. 19, s. 83(5), **Sch. 8 para. 15** (with s. 83(6)); S.I. 2001/774, **art. 2(c)**
- F32** Words in Sch. 2 para. 2(3)(g) repealed (1.4.2001) by 2000 c. 19, s. 85, **Sch. 9 Pt. IX** (with s. 83(6)); S.I. 2001/774, **art. 2(d)**
- F33** Word in Sch. 2 para. 2(3)(i) repealed (20.12.2001) by 2001 c. 24, ss. 2(3), 125, **Sch. 8 Pt. I**; S.I. 2001/4019, **art. 2(b)(d)**
- F34** Words in Sch. 2 para. 2(3)(j) substituted (1.4.2000) by S.I. 2000/822, **art. 3(c)**
- F35** Sch. 2 para. 2(3)(k) and preceding word inserted (20.12.2001) by 2001 c. 24, s. 2(3); S.I. 2001/4019, **art. 2(b)**
- F36** Word in Sch. 2 para. 2(3)(j) omitted (30.12.2002) by virtue of Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(3)** and repealed (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 458(1), 457, **Sch. 12**; S.I. 2003/120, **art. 2**, Sch. (subject to arts. 3-7 (as amended by S.I. 2003/333, art. 14))
- F37** Sch. 2 para. 2(3)(l) inserted (30.12.2002) by Proceeds of Crime Act 2002 (c. 29), s. 456, **Sch. 11 para. 36(3)**; S.I. 2002/3015, art. 2, **Sch.**

#### Marginal Citations

- M1** 1998 c.38.  
**M2** 1998 c.46.  
**M3** 1998 c.47.  
**M4** 1997 c.40.  
**M5** 1998 c.37.  
**M6** 1948 c.29.  
**M7** 1950 c.37.  
**M8** 1958 c.39.  
**M9** 1992 c.5.  
**M10** 1972 c.18.  
**M11** 1976 c.36.  
**M12** 1978 c.22.  
**M13** 1989 c.41.  
**M14** 1990 c.37.  
**M15** 1991 c.48.  
**M16** 1996 c.27.

- 3 (1) These are the proceedings under the Proceeds of Crime Act 2002—
- (a) an application under section 42(3) to vary or discharge a restraint order or an order under section 41(7);
  - (b) proceedings which relate to a direction under section 54(3) or 56(3) as to the distribution of funds in the hands of a receiver;
  - (c) an application under section 62 relating to action taken or proposed to be taken by a receiver;
  - (d) an application under section 63 to vary or discharge an order under any of sections 48 to 53 for the appointment of or conferring powers on a receiver;
  - (e) an application under section 72 or 73 for the payment of compensation;
  - (f) proceedings which relate to an order under section 298 for the forfeiture of cash;
  - (g) an application under section 351(3), 362(3), 369(3) or 375(2) to vary or discharge certain orders made under Part 8.
- (2) But sub-paragraph (1) does not authorise the funding of the provision of services to a defendant (within the meaning of Part 1 of that Act) in relation to—

*Status: Point in time view as at 01/01/2005.*

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- (a) proceedings mentioned in paragraph (b);
- (b) an application under section 73 for the payment of compensation if the confiscation order was varied under section 29.

PROSPECTIVE

F1

#### Textual Amendments

- F1** Schs. 1-3A 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\(a\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

### SCHEDULE 3

Section 14.

#### CRIMINAL DEFENCE SERVICE: RIGHT TO REPRESENTATION

##### *Individuals to whom right may be granted*

- 1 (1) A right to representation for the purposes of any kind of criminal proceedings before a court may be granted to an individual such as is mentioned in relation to that kind of proceedings in section 12(2).
- (2) A right to representation for the purposes of criminal proceedings may also be granted to an individual to enable him to resist an appeal to the Crown Court otherwise than in an official capacity.
- (3) In this Schedule “court” includes any body before which criminal proceedings take place.

VALID FROM 14/07/2008

##### *<sup>F38</sup>Individuals to whom right may be provisionally granted*

#### Textual Amendments

- F38** [Sch. 3 para. 1A](#) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008](#) (c. 4), [ss. 56\(6\)](#), 153; S.I. 2008/1586, [art. 2](#), [Sch. 1](#)

- 1A (1) Regulations may provide that, in prescribed circumstances, and subject to any prescribed conditions, a right to representation may be provisionally granted to an individual where—
- (a) the individual is involved in an investigation which may result in criminal proceedings, and
  - (b) the right is so granted for the purposes of criminal proceedings that may result from the investigation.

*Status: Point in time view as at 01/01/2005.*

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- (2) Regulations under sub-paragraph (1) may, in particular, make provision about—
  - (a) the stage in an investigation at which a right to representation may be provisionally granted;
  - (b) the circumstances in which a right which has been so granted—
    - (i) is to become, or be treated as if it were, a right to representation under paragraph 1, or
    - (ii) is to be, or may be, withdrawn.]

*Grant of right by court*

- 2 (1) A court before which any criminal proceedings take place, or are to take place, has power to grant a right to representation in respect of those proceedings except in such circumstances as may be prescribed.
- (2) Where a right to representation is granted for the purposes of criminal proceedings it includes the right to representation for the purposes of any related bail proceedings and any preliminary or incidental proceedings; and regulations may make provision specifying whether any proceedings are or are not to be regarded as preliminary or incidental.
- (3) A court also has power to grant a right to representation for the purposes of criminal proceedings before another court in such circumstances as may be prescribed.
- (4) The form of the application for a grant of a right to representation under this paragraph, and the form of the grant of such a right, shall be such as may be prescribed.
- (5) A right to representation in respect of proceedings may be withdrawn by any court before which the proceedings take place; and a court must consider whether to withdraw a right to representation in such circumstances as may be prescribed.
- (6) The powers of a magistrates' court for any area under this paragraph may be exercised by a single justice of the peace for the area.
- (7) <sup>F39</sup> .....

**Textual Amendments**  
**F39** Sch. 3 para. 2(7) omitted (1.9.2004) by virtue of [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), arts. 2, 3, [Sch. para. 38](#)

*Grant of right by commission*

VALID FROM 02/10/2006

2A (1) Regulations may—

*Status: Point in time view as at 01/01/2005.*

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- (a) provide that the Commission shall have power to grant rights to representation in respect of criminal proceedings of a prescribed description;

(b) provide that the Commission shall, except in such circumstances as may be prescribed, have power to withdraw any rights to representation granted in respect of proceedings of a description prescribed under paragraph (a).

(2) In sub-paragraph (1)(a), the reference to criminal proceedings does not include proceedings prescribed under section 12(2)(g).

(3) Regulations under sub-paragraph (1) may make such consequential amendment or repeal of any enactment, including an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978), as the Lord Chancellor may consider appropriate.
- 3 (1) Regulations may provide that the Commission shall have power to grant rights to representation in respect of any one or more of the descriptions of proceedings prescribed under section 12(2)(g), and to withdraw any rights to representation granted by it.
- (2) The form of any application for a grant of a right to representation under this paragraph, and the form of the grant of such a right, shall be such as may be prescribed.
- (3) Regulations under sub-paragraph (1) may make such transitional provisions as the [F40Secretary of State] may consider appropriate.

#### Textual Amendments

**F40** Words in Sch. 3 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(f\)](#)

VALID FROM 02/10/2006

- 3A (1) The form of the grant of a right to representation under paragraph 2A or 3 shall be such as may be prescribed.
- (2) Regulations under paragraph 2A or 3 may make such transitional provision as the Lord Chancellor may consider appropriate.

*Status: Point in time view as at 01/01/2005.*

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VALID FROM 02/10/2006

### *[<sup>F41</sup>Financial eligibility*

#### **Textual Amendments**

**F41** Sch. 3 para. 3B and heading inserted (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\), ss. 2\(2\), 5\(2\); S.I. 2006/2491, art. 2](#)

- 3B (1) Power under this Schedule to grant a right to representation may only be exercised in relation to an individual whose financial resources appear to the relevant authority to be such that, under regulations, he is eligible to be granted such a right.
- (2) Power under this Schedule to withdraw a right to representation shall be exercised in relation to an individual if it appears to the relevant authority—
- (a) that his financial resources are not such that, under regulations, he is eligible to be granted such a right, or
  - (b) that he has failed, in relation to the right, to comply with regulations under this paragraph about the furnishing of information.
- (3) Regulations may make provision for exceptions from sub-paragraph (1) or (2).
- (4) Regulations under this paragraph may include—
- (a) provision requiring the furnishing of information;
  - (b) provision for the notification of decisions about the application of—
    - (i) sub-paragraph (1) or (2), or
    - (ii) regulations under sub-paragraph (3);
  - (c) provision for the review of such decisions;
  - (d) such transitional provision as the Lord Chancellor may consider appropriate.
- (5) The provision which may be made under sub-paragraph (4)(c) includes provision prescribing circumstances in which the person or body reviewing a decision may refer a question to the High Court for its decision.
- (6) Section 16 of the Supreme Court Act 1981 (appeals from the High Court) shall not apply to decisions of the High Court on a reference under regulations under this paragraph.]

### *Appeals*

- 4 Except where regulations otherwise provide, an appeal shall lie to such court or other person or body as may be prescribed against a decision to refuse to grant a right to representation or to withdraw a right to representation.

*Status: Point in time view as at 01/01/2005.*

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### *Criteria for grant of right*

- 5 (1) Any question as to whether a right to representation should be granted shall be determined according to the interests of justice.
- (2) In deciding what the interests of justice consist of in relation to any individual, the following factors must be taken into account—
- (a) whether the individual would, if any matter arising in the proceedings is decided against him, be likely to lose his liberty or livelihood or suffer serious damage to his reputation,
  - (b) whether the determination of any matter arising in the proceedings may involve consideration of a substantial question of law,
  - (c) whether the individual may be unable to understand the proceedings or to state his own case,
  - (d) whether the proceedings may involve the tracing, interviewing or expert cross-examination of witnesses on behalf of the individual, and
  - (e) whether it is in the interests of another person that the individual be represented.
- (3) The [<sup>F42</sup>Secretary of State] may by order amend sub-paragraph (2) by adding new factors or varying any factor.
- (4) A right to representation shall always be granted in such circumstances as may be prescribed.

#### **Textual Amendments**

**F42** Words in Sch. 3 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(f\)](#)

VALID FROM 14/07/2008

### *[<sup>F43</sup>Information requests*

#### **Textual Amendments**

**F43** Sch. 3 paras. 6-8 inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 57\(3\), 153](#); [S.I. 2008/1586](#), [art. 2](#), Sch. 1

- 6 (1) The relevant authority may make an information request to—
- (a) the Secretary of State, or
  - (b) the Commissioners,
- for the purpose of facilitating the making of a decision by the authority about the application of paragraph 3B(1) or (2), or regulations under paragraph 3B(3), in relation to an individual.

*Status: Point in time view as at 01/01/2005.*

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- (2) An information request made to the Secretary of State is a request for the disclosure of some or all of the following information—
  - (a) the individual's full name;
  - (b) the individual's address;
  - (c) the individual's date of birth;
  - (d) the individual's national insurance number;
  - (e) the individual's benefit status;
  - (f) information of any description specified in regulations.
- (3) An information request made to the Commissioners is a request for the disclosure of some or all of the following information—
  - (a) whether or not the individual is employed;
  - (b) the name and address of the employer (if the individual is employed);
  - (c) the individual's national insurance number;
  - (d) information of any description specified in regulations made with the agreement of the Commissioners.
- (4) The information that may be specified under subsection (3)(d) includes, in particular, information relating to the individual's income (as defined in the regulations) for a period so specified.
- (5) On receiving an information request, the Secretary of State or (as the case may be) the Commissioners may disclose the information requested to the relevant authority.

VALID FROM 14/07/2008

*Restrictions on disclosure*

- 7
- (1) A person to whom information is disclosed under paragraph 6(5), or this sub-paragraph, may disclose the information to any person to whom its disclosure is necessary or expedient in connection with facilitating the making of a decision by the relevant authority about the application of paragraph 3B(1) or (2), or regulations under paragraph 3B(3), in relation to an individual.
  - (2) A person to whom such information is disclosed commits an offence if the person—
    - (a) discloses or uses the information, and
    - (b) the disclosure is not authorised by sub-paragraph (1) or (as the case may be) the use is not for the purpose of facilitating the making of such a decision as is mentioned in that sub-paragraph.
  - (3) But it is not an offence under sub-paragraph (2)—
    - (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
    - (b) to disclose any information which has previously been lawfully disclosed to the public.
  - (4) It is a defence for a person charged with an offence under sub-paragraph (2) to prove that the person reasonably believed that the disclosure or use was lawful.

*Status: Point in time view as at 01/01/2005.*

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- (5) A person guilty of an offence under sub-paragraph (2) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.
- (6) In sub-paragraph (5)(b) the reference to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.
- (7) Nothing in section 20 applies in relation to the disclosure of information to which sub-paragraph (1) applies.

VALID FROM 14/07/2008

*Paragraphs 6 and 7: supplementary*

- 8 (1) This paragraph applies for the purposes of paragraphs 6 and 7.
- (2) “Benefit status”, in relation to an individual, means whether or not the individual is in direct or indirect receipt of any prescribed benefit or benefits and, if so (in the case of each benefit)—
- (a) which benefit the individual is so receiving, and
  - (b) (in prescribed cases) the amount the individual is so receiving by way of the benefit.
- (3) “The Commissioners” means the Commissioners for Her Majesty's Revenue and Customs.
- (4) “Information” means information held in any form.
- (5) Nothing in paragraph 6 or 7 authorises the making of a disclosure which contravenes the Data Protection Act 1998.]

VALID FROM 12/11/2009

[<sup>F44</sup>SCHEDULE 3A

MOTOR VEHICLE ORDERS

**Textual Amendments**

**F44** Sch. 3A inserted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), ss. 152(4), 182, Sch. 18 (with s. 180)

*Status: Point in time view as at 01/01/2005.*

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SCHEDULE 4

Section 24.

**AMENDMENTS CONSEQUENTIAL ON PART I**

*The Public Records Act 1958 (c.51)*

- 1 In the First Schedule to the Public Records Act 1958 (definition of public records), in Part I of the Table at the end of paragraph 3, in the second column, after “Legal Aid Board.” insert—

“Legal Services Commission”

*The Parliamentary Commissioner Act 1967 (c.13)*

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (which lists the bodies subject to the jurisdiction of the Parliamentary Commissioner), insert (at the appropriate place in alphabetical order)—

“Legal Services Commission”

*The Criminal Appeal Act 1968 (c.19)*

- 3 In section 50 of the Criminal Appeal Act 1968 (meaning of “sentence”), at the end insert—

“(3) An order under section 17 of the Access to Justice Act 1999 is not a sentence for the purposes of this Act.”

*The Children and Young Persons Act 1969 (c.54)*

- 4 The Children and Young Persons Act 1969 has effect subject to the following amendments.

F455 .....

**Textual Amendments**

**F45** Sch. 4 para. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

- 6 In section 23 (remands and committals to local authority accommodation), in subsection (5A) (restrictions on imposing a security requirement on person who is not legally represented)—

(a) for paragraph (a) substitute—

“(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and

(b) in paragraph (b), for “legal aid” substitute “such representation”.

- 7 In that section as it has effect pursuant to section 98 of the Crime and Disorder Act 1998 (alternative provision for 15 and 16 year old boys), in subsection (4A) (restrictions on remand of boy who is not legally represented)—

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- (a) for paragraph (a) substitute—
- “(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and
- (b) in paragraph (b), for “legal aid” substitute “such representation”.

*The Attachment of Earnings Act 1971 (c.32)*

- 8 In section 1(3)(c) of the Attachment of Earnings Act 1971 (magistrates’ court may make order to secure payment of any sum required to be paid by legal aid contribution order), for “legal aid contribution order” substitute “order under section 17(2) of the Access to Justice Act 1999”.

*The Powers of Criminal Courts Act 1973 (c.62)*

F469 .....

**Textual Amendments**

**F46** Sch. 4 para. 9 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Solicitors Act 1974 (c.47)*

- 10 (1) Section 47 of the Solicitors Act 1974 (jurisdiction of Solicitors Disciplinary Tribunal) is amended as follows.
- (2) In subsection (2)(d) (exclusion of solicitor from legal aid work), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.
- (3) In subsection (2A) (exclusion of solicitor from providing legal aid work because of conduct in connection with services under the Legal Aid Act 1988)—
- (a) for “legal aid work” substitute “providing representation”, and
- (b) in paragraph (a), for “under the Legal Aid Act 1988” substitute “funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service”.
- (4) In subsection (2B) (exclusion of member of solicitor’s firm from legal aid work), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.
- (5) In subsection (2D) (person excluded from legal aid work may apply for termination of exclusion), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.

**Commencement Information**

**II** Sch. 4 para. 10 wholly in force; Sch. 4 para. 10 not in force at Royal Assent see s. 108; Sch. 4 para. 10(1)(3)(b) in force at 1.4.2000 by S.I. 2000/774, art. 2(a)(ii) (subject to arts. 3, 4); Sch. 4 para. 10 in force insofar as not already in force at 2.4.2001 by S.I. 2001/916, art. 3(a)(ii)

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*The House of Commons Disqualification Act 1975 (c.24)*

- 11 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—

“The Legal Services Commission”

*The Northern Ireland Assembly Disqualification Act 1975 (c.25)*

- 12 In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—

“The Legal Services Commission.”

*The Sex Discrimination Act 1975 (c.65)*

- 13 In section 75(4) of the Sex Discrimination Act 1975 (charges to recover costs of assistance in legal proceedings subject to charges under the Legal Aid Act 1988 or any provision in that Act for sum payable to Legal Aid Board)—

- (a) for “under the Legal Aid Act 1988” substitute “ imposed by section 10(7) of the Access to Justice Act 1999 ”,
- (b) after “any provision in” insert “ , or made under, ”, and
- (c) for “Legal Aid Board” substitute “ Legal Services Commission ”.

*The Race Relations Act 1976 (c.74)*

- 14 In section 66(6) of the Race Relations Act 1976 (charges to recover costs of assistance in legal proceedings subject to charges under the Legal Aid Act 1988 or any provision in that Act for sum payable to Legal Aid Board)—

- (a) for “under the Legal Aid Act 1988” substitute “ imposed by section 10(7) of the Access to Justice Act 1999 ”,
- (b) after “any provision in” insert “ , or made under, ”, and
- (c) for “Legal Aid Board” substitute “ Legal Services Commission ”.

*The Magistrates’ Courts Act 1980 (c.43)*

- 15 The Magistrates’ Courts Act 1980 has effect subject to the following amendments.

- 16 In section 8(4) (matters which may be contained in a report of committal proceedings without an order), for paragraph (i) substitute—

“(i) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

- 17 In section 92(1)(b) (no restriction on power to impose imprisonment for default in paying contribution ordered under section 23 of the Legal Aid Act 1988), for the words from “section 23” to “to” substitute “ section 17(2) of the Access to Justice Act 1999 (payment by individual in respect of ”.

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- 18 In section 130(3) (power of alternate court in remand hearings to grant legal aid), for “the grant of legal aid” substitute “ the grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service ”.
- 19 In section 145A(4) (rules about costs may include provision for the reimbursement of sums paid by the Legal Aid Board), for “Legal Aid Board” substitute “ Legal Services Commission ”.
- 20 In Part I of Schedule 6 (fees), in paragraph 1(a) of the Note at the end (persons from whom fees not required), for the words from “a legally assisted person” to “1988” substitute “ receiving services funded by the Legal Services Commission as part of the Community Legal Service ”.

*The Supreme Court Act 1981 (c.54)*

- 21 The Supreme Court Act 1981 has effect subject to the following amendments.
- 22 In section 28 (appeal by way of case stated from decisions of Crown Court, other than those relating to trial on indictment), at the end insert—
  - “(4) In subsection (2)(a) the reference to a decision of the Crown Court relating to trial on indictment does not include a decision relating to an order under section 17 of the Access to Justice Act 1999.”
- 23 In section 29 (judicial review of decisions of Crown Court, other than matters relating to trial on indictment), at the end insert—
  - “(6) In subsection (3) the reference to the Crown Court’s jurisdiction in matters relating to trial on indictment does not include its jurisdiction relating to orders under section 17 of the Access to Justice Act 1999.”

F47 24 .....

**Textual Amendments**  
 F47 Sch. 4 para. 24 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Criminal Justice Act 1982 (c.48)*

F48 25 .....

**Textual Amendments**  
 F48 Sch. 4 para. 25 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Telecommunications Act 1984 (c.12)*

*Status: Point in time view as at 01/01/2005.*

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[<sup>F49</sup>In section 52(5) of the Telecommunications Act 1984 (charges to recover costs of assistance in legal proceedings subject to legal aid charges), for paragraph (a) substitute—

“(a) any charge imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission;”.]

#### Textual Amendments

**F49** Sch. 4 para. 26 repealed (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(6)(7), 408, 411, **Sch. 19(1)** (with Sch. 18, Sch. 19 Note 1); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)

#### *The Prosecution of Offences Act 1985 (c.23)*

27 The Prosecution of Offences Act 1985 has effect subject to the following amendments.

28 In section 19(2)(b) (in making an order for costs account to be taken of grant of representation under Legal Aid Act 1988), for the words from “or any grant” to the end substitute “ or any grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service; ”.

29 In section 20(2) (recovery of sums paid by Legal Aid Board where legally assisted person is awarded costs), for “Legal Aid Board” substitute “ Legal Services Commission ”.

30 (1) Section 21 (interpretation) is amended as follows.

(2) In subsection (1), in the definition of “legally assisted person”, for “representation under the Legal Aid Act 1988” substitute “ a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service ”.

(3) In subsection (4A)—

(a) in paragraph (a), for the words from “include” to “of contribution;” substitute “ the cost of representation funded for him by the Legal Services Commission as part of the Criminal Defence Service; ”, and

(b) in paragraph (b), for the words from “and 19” to the end substitute “ , 19 and 19A of this Act, his costs shall be taken to include the cost of representation funded for him by the Legal Services Commission as part of the Criminal Defence Service; ”.

#### *The Child Abduction and Custody Act 1985 (c.60)*

31 In section 11 of the Child Abduction and Custody Act 1985 (costs of application for child custody or access), for the words from “by virtue of” to “1988,” substitute “by virtue of—

(a) the provision of any service funded by the Legal Services Commission as part of the Community Legal Service, or

(b) the grant of legal aid or legal advice and assistance under.”

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*Status: Point in time view as at 01/01/2005.*

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*The Administration of Justice Act 1985 (c.61)*

- 32 The Administration of Justice Act 1985 has effect subject to the following amendments.
- 33 In section 40(1) (legal aid complaints), for “under the Legal Aid Act 1988” substitute “ funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service ”.
- 34 In section 41(2) (reduction of fees payable in connection with services provided by barristers under Legal Aid Act 1988), for paragraphs (a) and (b) substitute “ otherwise payable by the Legal Services Commission in connection with services provided by him as part of the Community Legal Service or Criminal Defence Service ”.
- 35 In section 42 (exclusion of barristers from legal aid work), in subsections (1) and (3), for “legal aid work” substitute “ providing representation funded by the Legal Services Commission as part of the Criminal Defence Service ”.
- 36 In section 43(3) (reduction of costs payable in connection with services provided by solicitors under Legal Aid Act 1988), for the words from “any costs” to “solicitor” substitute “ any costs otherwise payable by the Legal Services Commission in connection with services provided by the solicitor as part of the Community Legal Service or Criminal Defence Service ”.

*The Housing Act 1985 (c.68)*

- 37 In section 170(5) of the Housing Act 1985 (charges to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “ imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission. ”

*The Criminal Justice Act 1987 (c.38)*

- 38 The Criminal Justice Act 1987 has effect subject to the following amendments.
- 39 In section 4(1) (functions of magistrates’ court to cease when case transferred to Crown Court, except for purposes of grant of legal aid), for “section 20(4) of the Legal Aid Act 1988” substitute “ paragraph 2 of Schedule 3 to the Access to Justice Act 1999 ”.
- 40 In section 11(12) (matters to which restrictions on reporting do not apply), for paragraph (h) substitute—
- “(h) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

*The Consumer Arbitration Agreements Act 1988 (c.21)*

- 41 In section 4(3) of the Consumer Arbitration Agreements Act 1988 (availability of legal aid to be considered in determining whether to make reference to arbitration), for “legal aid” substitute “ services funded by the Legal Services Commission as part of the Community Legal Service ”.

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*The Housing Act 1988 (c.50)*

- 42 The Housing Act 1988 has effect subject to the following amendments.
- 43 In section 82(4) (charge to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “ imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission. ”
- 44 In section 107(4) (charge to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “ imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission. ”

*The Children Act 1989 (c.41)*

- 45 In section 25(6) of the Children Act 1989 (child without legal representation not to be placed in secure accommodation without having been informed of right to apply for legal aid), for “legal aid” substitute “ representation funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service ”.

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

- 46 In section 17(3)(c)(iii) of the Courts and Legal Services Act 1990 (effect of rules of a professional body relating to the withholding of services from persons receiving support under the Legal Aid Act 1988), for “under the Legal Aid Act 1988” substitute “ as part of the Community Legal Service or Criminal Defence Service ”.

*The Criminal Justice Act 1991 (c.53)*

- 47 In section 53(3) of the Criminal Justice Act 1991 (functions of magistrates’ court to cease when case transferred to Crown Court, except for purposes of grant of legal aid), for “section 20(4) of the Legal Aid Act 1988” substitute “ paragraph 2 of Schedule 3 to the Access to Justice Act 1999 ”.

*The Social Security Administration Act 1992 (c.5)*

- 48 (1) Section 108(7) of the Social Security Administration Act 1992 (Secretary of State to inform Legal Aid Board if he recovers maintenance arrears for a person who owes money to the Board) is amended as follows.
- (2) For “the Legal Aid Board” substitute “ the Legal Services Commission ”.
- (3) In paragraph (a), for “; and” substitute “; or  
(iii) received services funded by the Legal Services Commission as part of the Community Legal Service; and”.
- (4) In paragraph (b), after paragraph (ii) insert “or

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(iii) by virtue of section 10 of the Access to Justice Act 1999 in respect of services funded by the Legal Services Commission as part of the Community Legal Service.”

*The Criminal Procedure and Investigations Act 1996 (c.25)*

49 In section 37(9) of the Criminal Procedure and Investigations Act 1996 (matters to which restrictions on reporting do not apply), for paragraph (g) substitute—

“(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

*The Family Law Act 1996 (c.27)*

50 The Family Law Act 1996 has effect subject to the following amendments.

51 (1) Section 8 (information meetings) is amended as follows.

(2) In subsection (9) (matters about which regulations must be made for the purposes of information given at information meetings), for paragraph (h) substitute—

“(h) the availability of services funded by the Legal Services Commission as part of the Community Legal Service, and where parties can get advice about obtaining such services;”.

(3) In subsection (12) (contributions), for “provided for him under Part IIIA of the Legal Aid Act 1988” substitute “funded for him by the Legal Services Commission as part of the Community Legal Service”.

52 (1) Section 23 (provision of marriage counselling) is amended as follows.

(2) In subsection (3) (contributions), for “provided for them under Part IIIA of the Legal Aid Act 1988” substitute “funded for them by the Legal Services Commission as part of the Community Legal Service”.

(3) In subsection (8) (powers of the Legal Aid Board)—

(a) for “the Legal Aid Board” substitute “the Legal Services Commission”,

(b) for “the Board” substitute “the Commission”,

(c) for “the Legal Aid Act 1988” substitute “Part I of the Access to Justice Act 1999”, and

(d) after “purposes of”, in the second place, insert “that Part of”.

*The Crime and Disorder Act 1998 (c.37)*

53 The Crime and Disorder Act 1998 has effect subject to the following amendments.

54 In section 50(2) (procedure at early administrative hearing), for paragraphs (a) to (c) substitute “the accused shall be asked whether he wishes to be granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service and, if he does, the justice shall decide whether or not to grant him such a right.”

55 In paragraph 3(8) of Schedule 3 (matters which may be contained in a report of an application for dismissal of charges), for paragraph (g) substitute—

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“(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

*The Disability Rights Commission Act 1999 (c. 17)*

56 In section 8(4)(a) of the Disability Rights Commission Act 1999 (charges to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under” to “Board” substitute “ imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission ”.

SCHEDULE 5

Section 41.

AUTHORISED BODIES: DESIGNATION AND REGULATIONS AND RULES

1 For sections 29 and 30 of the <sup>M17</sup>Courts and Legal Services Act 1990 substitute—

“**29 Authorised bodies.**

The provisions of Schedule 4 shall have effect with respect to the authorisation of bodies for the purposes of sections 27 and 28 and the approval and alteration of qualification regulations and rules of conduct.”

**Marginal Citations**

M17 1980 c.41.

2 For Schedule 4 to that Act substitute—

“SCHEDULE 4

Section 29.

AUTHORISED BODIES

**PART I**

DESIGNATION OF BODIES AND APPROVAL OF REGULATIONS AND RULES

*Application to Lord Chancellor*

1 (1) If a professional or other body wishes to grant rights of audience or rights to conduct litigation to any of its members, it shall apply to the Lord Chancellor in writing for him—  
(a) to recommend to Her Majesty that an Order in Council be made designating the body as an authorised body for the purposes of

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- section 27 (if it proposes to grant rights of audience) or section 28 (if it proposes to grant rights to conduct litigation); and
- (b) to approve what the body proposes as qualification regulations and rules of conduct in relation to the proposed rights.
- (2) An application under this paragraph shall be accompanied by—
- (a) a statement of the proposed rights;
- (b) the proposed qualification regulations and rules of conduct; and
- (c) such explanatory material (including material about the applicant’s constitution and activities) as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.
- (3) The applicant shall provide the Lord Chancellor with such additional information as he may reasonably require.
- (4) The Lord Chancellor shall send a copy of—
- (a) the application and accompanying material; and
- (b) any information provided under sub-paragraph (3),
- to the Consultative Panel, the Director and each of the designated judges.

*Advice of Consultative Panel*

- 2 (1) The Consultative Panel shall consider whether the application should be granted.
- (2) The applicant shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its consideration it shall give such advice to the Lord Chancellor as it thinks fit.
- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 3 (1) The Director shall consider whether granting the application would have, or be likely to have, any significant effect on competition.
- (2) The applicant shall provide the Director with such additional information as he may reasonably require.
- (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (4) The Director shall publish any advice given by him under this paragraph.
- (5) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in the Director’s opinion, seriously and prejudicially affect the interests of that person.

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- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

*Representations by applicant*

- 4 (1) When the Lord Chancellor has received the advice of the Consultative Panel and the Director, he shall send a copy of the advice to the applicant.
- (2) The applicant shall be allowed a period of 28 days beginning with the day on which the copy is sent to him, or such other period as the applicant and the Lord Chancellor may agree, to make representations about the advice to the Lord Chancellor.

*Advice of designated judges*

- 5 (1) The Lord Chancellor shall send to each of the designated judges a copy of—
- (a) the advice of the Consultative Panel and the Director; and
  - (b) any representations made under paragraph 4(2).
- (2) Each of the designated judges shall then consider whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

*Decision by Lord Chancellor*

- 6 (1) After considering—
- (a) the advice given by the Consultative Panel and any representations made about it;
  - (b) the advice given by the Director and any representations made about it; and
  - (c) the advice given by each of the designated judges,
- the Lord Chancellor shall decide whether to grant the application.
- (2) When the Lord Chancellor has made his decision he shall notify the applicant of it.
- (3) If the Lord Chancellor has decided to refuse the application he shall also notify the applicant of the reasons for his decision.

*Effect of grant of application*

- 7 Where the application is granted—
- (a) the Lord Chancellor may recommend to Her Majesty that an Order in Council be made designating the body as an authorised body for the purposes of section 27 (if it proposes to grant rights of audience) or section 28 (if it proposes to grant rights to conduct litigation); and

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- (b) the proposed regulations and rules are approved as qualification regulations and rules of conduct in relation to the proposed rights.

## PART II

### APPROVAL IN CASES OF ALTERED REGULATIONS, RULES OR RIGHTS

#### *Requirement of approval*

- 8 (1) If an authorised body makes an alteration of its qualification regulations or rules of conduct, the alteration shall not have effect unless approved by the Lord Chancellor.
- (2) If an authorised body makes an alteration of—
- (a) any rights of audience granted by it (including the grant of a new right of audience); or
  - (b) any rights to conduct litigation granted by it (including the grant of a new right to conduct litigation),
- the qualification regulations and rules of conduct of the body shall not have effect in relation to the rights as altered unless approved by the Lord Chancellor.
- (3) If a question arises whether approval is required by virtue of this paragraph it shall be for the Lord Chancellor to decide.

#### *Application to Lord Chancellor*

- 9 (1) An application by a body for the Lord Chancellor to approve—
- (a) an alteration of qualification regulations or rules of conduct; or
  - (b) qualification regulations or rules of conduct in relation to altered rights,
- shall be made in writing.
- (2) The application shall be accompanied by—
- (a) the qualification regulations and rules of conduct;
  - (b) a statement of the alteration of the regulations, rules or rights; and
  - (c) such explanatory material as the applicant considers is likely to be needed for the purposes of this Part of this Schedule.
- (3) The applicant shall provide the Lord Chancellor with such additional information as he may reasonably require.
- (4) The Lord Chancellor shall—
- (a) send a copy of the application and accompanying material and any information provided under sub-paragraph (3) to each of the designated judges; and
  - (b) consider whether it would be appropriate to seek the advice of either or both of the Consultative Panel and the Director.

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*Early advice of designated judges*

- 10 (1) If the Lord Chancellor considers that it would not be appropriate to seek the advice of the Consultative Panel or the Director, he—
- (a) shall inform each of the designated judges that that is his view; and
  - (b) may inform each of them of his provisional view as to whether or not the application should be granted.
- (2) If so informed, each of the designated judges shall consider whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (5) After considering the advice given by each of the designated judges, the Lord Chancellor shall consider again whether or not it would be appropriate to seek the advice of either or both of—
- (a) the Consultative Panel; and
  - (b) the Director,
- before deciding whether to grant the application.

*Advice of Consultative Panel*

- 11 (1) If the Lord Chancellor decides (after considering the matter under paragraph 9(4)(b) or 10(5)) to seek the advice of the Consultative Panel, he shall send to the Consultative Panel a copy of—
- (a) the application and accompanying material; and
  - (b) any information provided under paragraph 9(3).
- (2) The Consultative Panel shall consider whether the application should be granted.
- (3) The applicant shall provide the Consultative Panel with such additional information as it may reasonably require.
- (4) When the Consultative Panel has completed its consideration it shall give such advice to the Lord Chancellor as it thinks fit.
- (5) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 12 (1) If the Lord Chancellor decides (after considering the matter under paragraph 9(4)(b) or 10(5)) to seek the advice of the Director, he shall send to the Director a copy of—
- (a) the application and accompanying material; and
  - (b) any information provided under paragraph 9(3).

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- (2) The Director shall consider whether granting the application would have, or be likely to have, any significant effect on competition.
- (3) The applicant shall provide the Director with such additional information as he may reasonably require.
- (4) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (5) The Director shall publish any advice given by him under this paragraph.
- (6) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (5) any matter which relates to the affairs of a particular person (other than the applicant) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- (7) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

*Representations by applicant*

- 13 (1) If the Lord Chancellor has sought the advice of the Consultative Panel or the Director he shall, on receiving it, send a copy to the applicant.
- (2) The applicant shall be allowed a period of 28 days beginning with the day on which the copy is sent to him, or such other period as the applicant and the Lord Chancellor may agree, to make representations about the advice to the Lord Chancellor.

*Advice or further advice of designated judges*

- 14 (1) If the Lord Chancellor has sought the advice of the Consultative Panel or the Director he shall, on receiving it, send to each of the designated judges a copy of—
  - (a) the advice; and
  - (b) any representations made under paragraph 13(2).
- (2) Each of the designated judges shall then consider (or consider again) whether the application should be granted.
- (3) The applicant shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

*Decision by Lord Chancellor*

- 15 (1) After considering—
  - (a) any advice given by the Consultative Panel and any representations made about it;

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- (b) any advice given by the Director and any representations made about it; and
  - (c) the advice given by each of the designated judges (under paragraph 10 or 14 or both of those paragraphs),
- the Lord Chancellor shall decide whether to grant the application.
- (2) The Lord Chancellor may not refuse the application unless he has received advice from the Consultative Panel.
  - (3) When the Lord Chancellor has made his decision he shall notify the applicant of it.
  - (4) If the Lord Chancellor has decided to refuse the application he shall also notify the applicant of the reasons for his decision.

#### *Effect of grant of application*

- 16 Where the application is granted—
- (a) in a case within sub-paragraph (1) of paragraph 8, the alteration of the qualification regulations or rules of conduct is approved; and
  - (b) in a case within sub-paragraph (2) of that paragraph, the qualification regulations or rules of conduct are approved in relation to the rights as altered.

### **PART III**

#### ALTERATION OF REGULATIONS AND RULES BY ORDER

##### *Notice to authorised body*

- 17 (1) If the Lord Chancellor considers—
- (a) that any of the qualification regulations of an authorised body may unduly restrict a right of audience or right to conduct litigation or the exercise of such a right, or
  - (b) that any of the rules of conduct of an authorised body may unduly restrict the exercise of such a right,
- he may give written notice to the body.
- (2) Before giving notice to an authorised body under sub-paragraph (1) the Lord Chancellor shall inform each of the designated judges that he intends to do so.

##### *Representations by authorised body*

- 18 (1) The notice shall invite the authorised body to make representations in writing to the Lord Chancellor.
- (2) Any such representations must be made before the end of—
- (a) the period of three months beginning with the date on which the notice was given; or
  - (b) such other period as the authorised body and the Lord Chancellor may agree.

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- (3) When that period has expired the Lord Chancellor shall consider, in the light of any representations made under sub-paragraph (2), whether he proposes to make alterations of the qualification regulations or rules of conduct.
- (4) If the Lord Chancellor proposes to make alterations of the qualification regulations or rules of conduct he shall send a copy of—
  - (a) the alterations which he proposes to make; and
  - (b) any representations made under sub-paragraph (2),
 to the Consultative Panel, the Director and each of the designated judges.

*Advice of Consultative Panel*

- 19 (1) The Consultative Panel shall consider whether the alterations should be made.
- (2) The Lord Chancellor and the authorised body shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its consideration it shall give such advice to the Lord Chancellor as it thinks fit.
- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 20 (1) The Director shall consider whether making the alterations would have, or be likely to have, any significant effect on competition.
- (2) The Lord Chancellor and the authorised body shall provide the Director with such additional information as he may reasonably require.
- (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (4) The Director shall publish any advice given by him under this paragraph.
- (5) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the authorised body) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

*Further representations by authorised body*

- 21 (1) When the Lord Chancellor has received the advice of the Consultative Panel and the Director, he shall send a copy of the advice to the authorised body.
- (2) The authorised body shall be allowed a period of 28 days, beginning with the day on which the copy is sent to him, or such other period as the authorised

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body and the Lord Chancellor may agree, to make representations about the advice to the Lord Chancellor.

*Advice of designated judges*

- 22 (1) The Lord Chancellor shall send to each of the designated judges a copy of—
- (a) the advice of the Consultative Panel and the Director; and
  - (b) any representations made under paragraph 21(2).
- (2) Each of the designated judges shall then consider whether the alterations should be made.
- (3) The Lord Chancellor and the authorised body shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

*Decision by Lord Chancellor*

- 23 (1) After considering—
- (a) the advice given by the Consultative Panel and any representations made about it;
  - (b) the advice given by the Director and any representations made about it; and
  - (c) the advice given by each of the designated judges under paragraph 22,
- the Lord Chancellor shall decide whether to make the alterations.
- (2) When the Lord Chancellor has made his decision he shall notify the authorised body of it.
- (3) If the Lord Chancellor has decided to make the alterations he shall also notify the authorised body of the reasons for his decision.

*Order effecting alterations*

- 24 If the Lord Chancellor has decided to make the alterations he may make an order giving effect to the alterations.

**PART IV**

REVOCATION OF DESIGNATION

*Order in Council*

- 25 (1) Where an Order in Council has been made designating a body as an authorised body for the purposes of section 27, or for the purposes of section 28, the Lord Chancellor may recommend to Her Majesty that an Order in Council be made revoking that designation.
- (2) A recommendation may be made under sub-paragraph (1) only if—

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- (a) the authorised body has made a written request to the Lord Chancellor asking for it to be made;
- (b) the authorised body has agreed in writing to its being made; or
- (c) the Lord Chancellor is satisfied that the circumstances at the time when he is considering whether to make the recommendation are such that, had that body then been applying to become an authorised body, its application would have failed.

*Requirement to seek advice*

- 26 Where the Lord Chancellor considers that it may be appropriate for him to make a recommendation in reliance on paragraph 25(2)(c), he shall seek the advice of the Consultative Panel and the Director.

*Advice of Consultative Panel*

- 27 (1) The Consultative Panel shall carry out such investigations with respect to the authorised body as it considers appropriate.
- (2) The Lord Chancellor and the authorised body shall provide the Consultative Panel with such additional information as it may reasonably require.
- (3) When the Consultative Panel has completed its investigations it shall—
- (a) advise the Lord Chancellor as to whether or not there appear to be grounds for making the recommendation; and
  - (b) if its advice is that there appear to be such grounds, advise the Lord Chancellor as to the transitional and incidental provision (if any) which it considers should be included in any Order made in pursuance of it.
- (4) The Consultative Panel shall publish any advice given by it under this paragraph.

*Advice of Director General of Fair Trading*

- 28 (1) The Director shall consider whether revoking the designation would have, or be likely to have, any significant effect on competition.
- (2) The Lord Chancellor and the authorised body shall provide the Director with such additional information as he may reasonably require.
- (3) When the Director has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.
- (4) The Director shall publish any advice given by him under this paragraph.
- (5) The Director shall, so far as practicable, exclude from anything published under sub-paragraph (4) any matter which relates to the affairs of a particular person (other than the authorised body) the publication of which would, or might in the Director's opinion, seriously and prejudicially affect the interests of that person.
- (6) Section 46 shall apply in relation to the investigation of any matter with a view to its consideration under this paragraph as it applies in relation to the investigation of any matter under section 45.

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*Notice to authorised body*

- 29 (1) When the Lord Chancellor has received the advice of the Consultative Panel and the Director, he may give to the body a notice containing—
- (a) a copy of the advice; and
  - (b) a statement of the effect of an Order made in pursuance of the recommendation.
- (2) The notice shall invite the authorised body to make representations in writing to the Lord Chancellor.
- (3) Any such representations must be made before the end of—
- (a) the period of three months beginning with the date on which the notice was given; or
  - (b) such other period as the authorised body and the Lord Chancellor may agree.

*Notice to members of authorised body*

- 30 (1) Where the Lord Chancellor—
- (a) has given a notice to an authorised body under paragraph 29(1); or
  - (b) is proposing to make a recommendation in relation to an authorised body in reliance on paragraph 25(2)(a) or (b),
- he shall take such steps as are reasonably practicable to bring the matter to the attention of the members of the authorised body and of any other persons who, in his opinion, are likely to be affected by an Order made in pursuance of the recommendation.
- (2) Any such steps shall include inviting those members and other persons to make representations to the Lord Chancellor.
- (3) Any such representations—
- (a) shall, except in such circumstances as the Lord Chancellor may specify, be in writing; and
  - (b) must be made before the end of the period of three months beginning with such date as may be specified by the Lord Chancellor.

*Advice of designated judges*

- 31 (1) The Lord Chancellor shall send to each of the designated judges—
- (a) a copy of any written representations made under paragraph 30 and a note of any oral representations made under that paragraph; and
  - (b) in a case where he is required to seek the advice of the Consultative Panel and the Director, a copy of the advice given to him by the Consultative Panel and the Director and of any representations made under paragraph 29.
- (2) Each of the designated judges shall then consider whether the Lord Chancellor should make the recommendation.

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- (3) The Lord Chancellor and the authorised body shall provide each of the designated judges with such additional information as he may reasonably require.
- (4) When each of the designated judges has completed his consideration he shall give such advice to the Lord Chancellor as he thinks fit.

*Consideration by Lord Chancellor*

- 32 Before deciding whether to make the recommendation the Lord Chancellor shall consider—
- (a) any representations made under paragraph 30 and the advice given by each of the designated judges; and
  - (b) in a case where he is required to seek the advice of the Consultative Panel and the Director, the advice given to him by the Consultative Panel and the Director and of any representations made under paragraph 29.

*The Order*

- 33 (1) An Order made in pursuance of a recommendation under paragraph 25 may include any appropriate transitional and incidental provision.
- (2) Where an Order is made in relation to a body in pursuance of such a recommendation, the grant of any rights of audience, or rights to conduct litigation, to any person by the body shall cease to have effect, subject to any transitional provision included in the Order.
- (3) Where such an Order is made, the Lord Chancellor shall—
- (a) give the body written notice of the making of the Order and of his reasons for recommending that it be made;
  - (b) take such steps as are reasonably practicable to bring the making of the Order to the attention of the members of that body; and
  - (c) publish notice of the making of the Order in such manner as he considers appropriate for bringing it to the attention of persons (other than those members) who, in his opinion, are likely to be affected by the Order.”

SCHEDULE 6

Section 43.

RIGHTS OF AUDIENCE AND RIGHTS TO CONDUCT LITIGATION

*The Solicitors Act 1974 (c.47)*

- 1 The Solicitors Act 1974 has effect subject to the following amendments.
- 2 In section 2(4) (Lord Chief Justice or Master of the Rolls deemed to concur in making of regulations approved by him under Schedule 4 to the <sup>M18</sup>Courts and

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Legal Services Act 1990), for the words from “, the Lord Chief Justice” to the end substitute “ approves any regulation such as is mentioned in subsection (1), the requirement of the concurrence of the Lord Chief Justice and the Master of the Rolls imposed by that subsection shall not apply. ”

**Marginal Citations**

M18 1990 c.41.

- 3 In section 31(3) (Master of the Rolls deemed to concur in making of rules approved by him under Schedule 4 to the <sup>M19</sup>Courts and Legal Services Act 1990), for the words from “Master of the Rolls” to the end substitute “ Lord Chancellor approves any rule such as is mentioned in subsection (1), the requirement of the concurrence of the Master of the Rolls imposed by that subsection shall not apply. ”

**Marginal Citations**

M19 1990 c.41.

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

- 4 The Courts and Legal Services Act 1990 has effect subject to the following amendments.
- 5 (1) Section 18 (duty to exercise functions as soon as reasonably practicable and in accordance with that section) is amended as follows.
- (2) In subsection (1) (matters to which duty relates), in paragraph (c) (approval of qualification regulations or rules of conduct), after “approval” insert “or alteration”.
- (3) After that subsection insert—
- “(1A) Where any person other than the Lord Chancellor is called upon to exercise any such functions, the Lord Chancellor may require him to do so within such time as the Lord Chancellor may reasonably specify.”
- 6 (1) Section 27 (rights of audience) is amended as follows.
- (2) In subsection (2)(a)(ii) (approval of qualification regulations and rules of conduct in relation to granting of right), omit “the granting of”.
- (3) After subsection (8) insert—
- “(8A) But a court may not limit the right to appear before the court in any proceedings to only some of those who have the right by virtue of the provisions of this section.”
- (4) In subsection (9)—
- (a) in the definition of “qualification regulations”, after “entitled to” insert “, or to exercise, ”, and

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- (b) in the definition of “qualified litigator”, for “(“practising” having the same meaning as in section 19(8)(b))” substitute “(that is, one who has a practising certificate in force or is employed wholly or mainly for the purpose of providing legal services to his employer) ”.
- 7 (1) Section 28 (rights to conduct litigation) is amended as follows.
- (2) In subsection (2)(a)(ii) (approval of qualification regulations and rules of conduct in relation to granting of right), omit “the granting of”.
- (3) After subsection (4) insert—
- “(4A) A court may not limit the right to conduct litigation in relation to proceedings before the court to only some of those who have the right by virtue of the provisions of this section.”
- (4) In subsection (5), in the definition of “qualification regulations”, after “entitled to” insert “, or to exercise, ”.
- 8 In section 53(6)(a) (Council for Licensed Conveyancers), for “section 29” substitute “ Schedule 4 ”.
- 9 In section 71 (qualification for judicial appointments), for subsection (6) substitute—
- “(6) Any period during which a person had a right of audience but was, as a result of disciplinary proceedings, prevented by the authorised body concerned from exercising it shall not count towards the period mentioned in subsection (5)(b).”
- 10 (1) Section 119(1) (interpretation) is amended as follows.
- (2) In the definition of “right of audience”, for “exercise any of the functions of appearing before and addressing a court including the calling and examining of” substitute “ appear before and address a court including the right to call and examine ”.
- (3) In the definition of “right to conduct litigation”, for “exercise all or any of the functions of issuing a writ or otherwise commencing” substitute “ issue ”.
- 11 (1) Section 120 (subordinate legislation) is amended as follows.
- (2) In subsection (4) (orders and regulations subject to affirmative procedure), for “or paragraph 4” substitute “ , paragraph 24 of Schedule 4, paragraph 4 ”.
- (3) In subsection (5) (Orders in Council subject to affirmative procedure), for “section 29(2) or 30(1)” substitute “ Part I or Part IV of Schedule 4 ”.

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## SCHEDULE 7

Section 48.

### POWERS OF LAW SOCIETY

#### *Monitoring of compliance with rules*

- 1 In section 31(1) of the <sup>M20</sup>Solicitors Act 1974 (power of Council of the Law Society to make rules about professional practice, conduct and discipline), insert at the end “ and for empowering the Society to take such action as may be appropriate to enable the Society to ascertain whether or not the provisions of rules made, or of any code or guidance issued, by the Council are being complied with. ”

#### **Marginal Citations**

**M20** 1974 c.47.

#### *Bank and building society accounts*

- 2 In—
- (a) section 32(4) of that Act (power of Council of the Law Society to disclose report or information about solicitor’s accounts to Director of Public Prosecutions for investigation and prosecution of offences), and
  - (b) paragraph 3 of Schedule 2 to the <sup>M21</sup>Administration of Justice Act 1985 (corresponding provision in relation to accounts of incorporated practices),
- omit “to the Director of Public Prosecutions” and “, if the Director thinks fit”.

#### **Marginal Citations**

**M21** 1985 c.61.

- 3 In the Solicitors Act 1974, after section 33 insert—

#### **“33A Inspection of practice bank accounts etc.**

- (1) The Council may make rules, with the concurrence of the Master of the Rolls, empowering the Council to require a solicitor to produce documents relating to any account kept by him at a bank or with a building society—
    - (a) in connection with his practice; or
    - (b) in connection with any trust of which he is or formerly was a trustee,for inspection by a person appointed by the Council pursuant to the rules.
  - (2) The Council shall be at liberty to disclose information obtained in exercise of the powers conferred by rules made under subsection (1) for use in investigating the possible commission of an offence by the solicitor and for use in connection with any prosecution of the solicitor consequent on the investigation.”
- 4 In section 87(1) of that Act (interpretation), in the definition of “building society”, omit “; and a reference to an account with a building society is a reference to a deposit account”.

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- 5 In Schedule 2 to the <sup>M22</sup>Administration of Justice Act 1985, after paragraph 4 insert—

*“ Inspection of bank accounts*

(4A) Where rules made under section 33A(1) of the 1974 Act are applied to recognised bodies in accordance with section 9(2)(f) of this Act, the Council shall be at liberty to disclose information about a recognised body’s accounts obtained in pursuance of the rules for use in investigating the possible commission of an offence by that body and for use in connection with any prosecution of that body consequent on the investigation.”

**Marginal Citations**

**M22** 1985 c.61.

*Intervention for breach of rules on practice, conduct and discipline*

- 6 In Schedule 1 to the <sup>M23</sup>Solicitors Act 1974 (intervention in solicitor’s practice), in paragraph 1(1) (circumstances in which Law Society may intervene), in paragraph (c) (failure to comply with rules made by virtue of section 32 or 37(2) (c)), after “section” insert “ 31, ”.

**Marginal Citations**

**M23** 1974 c.47.

*Solicitors’ employees and consultants*

- 7 (1) Section 43 of that Act (control of employment of clerks) is amended as follows.
- (2) In subsection (1) (power of Law Society to apply to Solicitors Disciplinary Tribunal for order in the case of clerk guilty of an offence of dishonesty or other act which makes it undesirable for him to be employed by solicitor)—
- (a) for “a clerk to a solicitor” substitute “ employed or remunerated by a solicitor in connection with his practice ”,
  - (b) after “employed” (in both places) insert “ or remunerated ”,
  - (c) for “to whom he is or was clerk” substitute “ by whom he is or was employed or remunerated ”, and
  - (d) for the words from “an application” to the end substitute “ the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) with respect to him. ”
- (3) After that subsection insert—
- “(1A) Where the Society investigates whether there are grounds for making, or making an application to the Tribunal for it to make, an order under

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- subsection (2) with respect to a person, the Council may direct him to pay to the Council an amount which—
- (a) is calculated by the Council as the cost to the Society of investigating the matter; or
  - (b) in the opinion of the Council represents a reasonable contribution towards that cost.”
- (4) In subsection (2) (order of Tribunal barring solicitor from employing the clerk)—
- (a) for the words from the beginning to “an order” substitute “ An order under this subsection made by the Society or the Tribunal shall state ”, and
  - (b) for “application is” substitute “ order is ”.
- (5) For subsection (3) (revocation by Tribunal) substitute—
- “(3) Where an order has been made under subsection (2) with respect to a person by the Society or the Tribunal—
- (a) that person or the Society may make an application to the Tribunal for it to be reviewed, and
  - (b) whichever of the Society and the Tribunal made it may at any time revoke it.
- (3A) On the review of an order under subsection (3) the Tribunal may order—
- (a) the quashing of the order;
  - (b) the variation of the order; or
  - (c) the confirmation of the order;
- and where in the opinion of the Tribunal no prima facie case for quashing or varying the order is shown, the Tribunal may order its confirmation without hearing the applicant.”
- (6) In subsection (5) (inspection of orders), for “this section and filed with the Society” substitute “ subsection (2) by the Society, or made, varied or confirmed under this section by the Tribunal and filed with the Society, ”.
- (7) In the sidenote, for “employment of certain clerks” substitute “ solicitors’ employees and consultants ”.
- 8 In section 44(2) of that Act (breach of order by solicitor), for the words from “an order” to the end of paragraph (b) substitute “ an order under section 43(2) is in force in respect of a person ”.
- 9 (1) Section 49 of that Act (appeals from Tribunal) is amended as follows.
- (2) In subsection (3) (who can appeal)—
- (a) for “43(2)” substitute “ 43(3A) ”, and
  - (b) for “application” substitute “ order ”.
- (3) In subsection (6) (finality of appeal), for “43(2)” substitute “ 43(3A) ”.
- 10 In paragraph 11(1) of Schedule 2 to the <sup>M24</sup>Administration of Justice Act 1985 (control of employment of employees of recognised bodies)—
- (a) after “employed” (in each place) insert “ or remunerated ”, and

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- (b) for the words from “an application” to the end substitute “ the Society may either make, or make an application to the Tribunal for it to make, an order under subsection (2) of section 43 of the 1974 Act with respect to him. ”

**Marginal Citations**

M24 1985 c.61.

*Power to examine files*

- 11 (1) Section 44B of the <sup>M25</sup>Solicitors Act 1974 (power of Law Society to examine files of solicitor or his firm in connection with complaints) is amended as follows.

- (2) In subsection (1), for the words from “investigating” to the end of paragraph (b) substitute “investigating—

- (a) whether there has been professional misconduct by a solicitor;
- (b) whether a solicitor has failed to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council;
- (c) whether any professional services provided by a solicitor were not of the quality which it is reasonable to expect of him as a solicitor; or
- (d) whether there are grounds for making, or making an application to the Tribunal for it to make, an order under section 43(2) with respect to a person who is or was employed or remunerated by a solicitor in connection with his practice,”;

and for the words from “all documents” to the end substitute “ all relevant documents in the possession of the solicitor or his firm. ”

- (3) For the sidenote substitute “ Examination of files. ”

**Marginal Citations**

M25 1974 c.47.

- 12 In paragraph 14(1) of Schedule 2 to the <sup>M26</sup>Administration of Justice Act 1985 (power of Law Society to examine files of recognised body in connection with complaints), for paragraphs (a) and (b) substitute—

- “(a) whether a recognised body has failed to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council and applicable to it by virtue of section 9 of this Act;
- (b) whether any professional services provided by a recognised body were not of the quality which it is reasonable to expect of it as a recognised body; or
- (c) whether there are grounds for making, or making an application to the Tribunal for it to make, an order under section 43(2) with respect to a person who is or was employed or remunerated by a recognised body in connection with its business,”;

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and for the words from “all documents” to the end substitute “ all relevant documents in the body’s possession. ”

**Marginal Citations**

M26 1985 c.61.

*Payment of costs by solicitor under investigation*

13 In the Solicitors Act 1974, after section 44B insert—

“ *Costs of investigations*

**44C Payment of costs of investigations.**

Where the Society investigates possible professional misconduct by a solicitor, or a failure or apprehended failure by a solicitor to comply with any requirement imposed by or by virtue of this Act or any rules made by the Council, the Council may direct him to pay to the Council an amount which—

- (a) is calculated by the Council as the cost to the Society of investigating and dealing with the matter; or
- (b) in the opinion of the Council represents a reasonable contribution towards that cost.”

14 In Schedule 2 to the <sup>M27</sup>Administration of Justice Act 1985, after paragraph 14 insert—

“ *Payment of costs of investigations*

14A Where the Society investigates a failure or apprehended failure by a recognised body to comply with any requirement imposed by or by virtue of this Act or any rules applicable to it by virtue of section 9 of this Act, the Council may direct the body to pay to the Council an amount which—

- (a) is calculated by the Council as the cost to the Society of the investigation; or
- (b) in the opinion of the Council represents a reasonable contribution towards that cost.”

**Marginal Citations**

M27 1985 c.61.

*Registered foreign lawyers*

15 Subsections (5) to (7) of section 89 of the <sup>M28</sup>Courts and Legal Services Act 1990 power to apply existing provisions to registered foreign lawyers with or without modifications and power to modify existing provisions in their application

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to recognised bodies whose officers include registered foreign lawyers) apply in relation to the provisions contained in this Schedule as if they were contained in an Act passed before the commencement of that section.

**Marginal Citations**

**M28** 1990 c.41.

SCHEDULE 8

Section 51.

LEGAL SERVICES COMPLAINTS COMMISSIONER

*Provision for discharge of functions*

- 1 (1) The [<sup>F50</sup>Secretary of State] may give general directions concerning the discharge of the functions of the Legal Services Complaints Commissioner.
- (2) Any such directions shall be published by the [<sup>F50</sup>Secretary of State] in such manner as appears to him to be appropriate.
- (3) Subject to any such direction and to the provisions of this Act, the Commissioner may make such provision as he considers appropriate for the discharge of his functions.

**Textual Amendments**

**F50** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, [Sch. 2 para. 11\(1\)\(f\)](#)

*Delegation of functions*

- 2 (1) The Commissioner may delegate any of his functions to such members of his staff as he thinks fit.
- (2) All reports prepared by or on behalf of the Commissioner must be signed by him.

*Remuneration*

- 3 (1) The [<sup>F51</sup> Secretary of State] shall pay to, or in respect of, the Commissioner such amounts—
- (a) by way of remuneration, pensions, allowances or gratuities, or
- (b) by way of provision for any such benefits,
- as he may determine.
- (2) If—
- (a) the Commissioner ceases to hold office, and
- (b) it appears to the [<sup>F51</sup> Secretary of State] that there are special circumstances which make it right that he should receive compensation,
- the [<sup>F51</sup> Secretary of State] may pay to him such sum as the [<sup>F51</sup> Secretary of State] may determine.

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#### Textual Amendments

**F51** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, **Sch. 2 para. 11(1)(f)**

#### *Staff*

- 4
- (1) The Commissioner may appoint such staff as he thinks necessary for the discharge of his functions.
  - (2) Appointments shall be made by the Commissioner on such terms and conditions (including terms as to pensions, allowances and gratuities) as he may, with the approval of the [<sup>F52</sup>Secretary of State], determine.
  - (3) The reference in sub-paragraph (2) to pensions, allowances or gratuities includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Commissioner's staff who suffer loss of employment or loss or diminution of emoluments.

#### Textual Amendments

**F52** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, **Sch. 2 para. 11(1)(f)**

#### *Annual and other reports*

- 5
- (1) The Commissioner shall make an annual report to the [<sup>F53</sup> Secretary of State] on the discharge of his functions during the year to which the report relates.
  - (2) The Commissioner may, in addition, report to the [<sup>F53</sup> Secretary of State] at any time on any matter relating to the discharge of the Commissioner's functions.
  - (3) The Commissioner shall provide the [<sup>F53</sup> Secretary of State] with such information relating to the discharge of his functions as the [<sup>F53</sup> Secretary of State] may see fit to require.
  - (4) The [<sup>F53</sup> Secretary of State] shall lay before each House of Parliament a copy of any annual report made to him under sub-paragraph (1).

#### Textual Amendments

**F53** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, **Sch. 2 para. 11(1)(f)**

#### *Accounts and audit*

- 6
- (1) The Commissioner shall keep accounts with respect to his receipts and expenditure and shall prepare a statement of accounts with respect to each financial year.
  - (2) The accounts shall be kept, and the statement of accounts prepared, in such form as the [<sup>F54</sup> Secretary of State] may, with the approval of the Treasury, direct.

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- (3) The accounts shall be audited by persons appointed by the [F54 Secretary of State] in respect of each financial year.
- (4) The auditors shall send to the [F54 Secretary of State] a copy of the statement of accounts and of their report.
- (5) The [F54 Secretary of State] shall lay before each House of Parliament a copy of every statement of accounts and auditors' report sent to him under this paragraph.

#### Textual Amendments

**F54** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, **Sch. 2 para. 11(1)(f)**

#### *Financial provisions*

- 7 (1) The [F55 Secretary of State] may require any professional body in relation to which a direction under section 52 of this Act has been given (and not revoked) to make payments of such amounts as the [F55 Secretary of State] considers appropriate to the Commissioner towards meeting the expenditure incurred (or to be incurred) by him in the discharge of his functions.
- (2) To the extent that that expenditure is not met by payments under sub-paragraph (1), it shall be met by the [F55 Secretary of State] out of money provided by Parliament.
- (3) The Commissioner may, with the approval of the [F55 Secretary of State], pay fees or allowances to any person who, in the Commissioner's opinion, is qualified to assist him in the discharge of his functions and who so assists him.

#### Textual Amendments

**F55** Words in Sch. 8 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/18887\)](#), art. 9, **Sch. 2 para. 11(1)(f)**

#### Modifications etc. (not altering text)

**C1** [Sch. 8 para. 7](#) modified (temp.) (1.1.2010) by [The Legal Services Act 2007 \(Commencement No. 6, Transitory, Transitional and Saving Provisions\) Order 2009 \(S.I. 2009/3250\)](#), arts. 1(2), **8(10)** (with art. 9)

#### *Parliamentary disqualification*

- 8 In Part III of Schedule 1 to—
  - (a) the <sup>M29</sup>House of Commons Disqualification Act 1975, and
  - (b) the <sup>M30</sup>Northern Ireland Assembly Disqualification Act 1975, (disqualifying offices), insert (at the appropriate place in alphabetical order)—
 

“The Legal Services Complaints Commissioner.”

#### Marginal Citations

**M29** 1975 c.24.

*Status: Point in time view as at 01/01/2005.*

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**M30** 1975 c.25.

### *Parliamentary Commissioner*

- 9 In Schedule 2 to the <sup>M31</sup>Parliamentary Commissioner Act 1967 (which lists the bodies subject to the jurisdiction of the Parliamentary Commissioner), insert (at the appropriate place in alphabetical order)—

“The Legal Services Complaints Commissioner.”

#### **Marginal Citations**

**M31** 1967 c.13.

### *Acting Commissioner*

- 10 (1) The [<sup>F56</sup> Secretary of State] may appoint a person to exercise the functions of the Commissioner where—
- (a) the Commissioner’s office becomes vacant, or
  - (b) the Commissioner is incapable of exercising his functions or considers that it would be inappropriate for him to exercise any of his functions in connection with a particular matter (because of a possible conflict of interests or for any other reason).
- (2) A person so appointed shall have the powers of the Commissioner but shall act only in accordance with the terms on which he is appointed.
- (3) The [<sup>F56</sup> Secretary of State] may pay to any person so appointed such remuneration as he may determine.

#### **Textual Amendments**

**F56** Words in Sch. 8 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/18887), art. 9, Sch. 2 para. 11(1)(f)

## <sup>F57</sup>SCHEDULE 9

#### **Textual Amendments**

**F57** Sch. 9 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

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## SCHEDULE 10

Section 76.

### COMMISSION AREAS AND PETTY SESSIONS AREAS

#### *The Parochial Libraries Act 1708 (c.14)*

1            **F58** .....

#### **Textual Amendments**

**F58** Sch. 10 para. 1 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), {Sch. 1 Pt. 6 Group 5}; and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

#### *The Distress for Rent Act 1737 (c.19)*

2            In section 4 of the Distress for Rent Act 1737 (procedure where goods fraudulently carried off), for “county, riding, or division or such county,” substitute “ commission area ”.

#### *The Inclosure Act 1773 (c.81)*

3            In section 4 of the Inclosure Act 1773 (expenses), for “county” substitute “ commission area ”.

#### *The Burial Ground Act 1816 (c.141)*

4            In section 2 of the Burial Ground Act 1816 (valuation of land), for “county, town, or district” substitute “ commission area ”.

#### *The Inclosure and Drainage (Rates) Act 1833 (c.35)*

5            In section 1 of the Inclosure and Drainage (Rates) Act 1833 (recovery of rates or assessments), for “county, riding, or division” substitute “ commission area ”.

#### *The Ordnance Survey Act 1841 (c.30)*

6            In section 2 of the Ordnance Survey Act 1841 (powers of entry), for “of the county” substitute “ of the place ”.

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*Status: Point in time view as at 01/01/2005.*

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*The Geological Survey Act 1845 (c.63)*

- 7 In section 1 of the Geological Survey Act 1845 (powers of entry), for “county in which” substitute “ place where ”.

*The Inclosure Act 1845 (c.118)*

- 8 In section 159 of the Inclosure Act 1845 (recovery of penalties), after “county” insert “ or other jurisdiction ”.

*The Hares Act 1848 (c.29)*

- 9 In section 2 of the Hares Act 1848 (authority to kill hares to be delivered to clerk for petty sessions division), for “petty sessions division” substitute “ petty sessions area ”.

*The Fairs Act 1873 (c.37)*

- 10 In section 6 of the Fairs Act 1873 (alteration of fair day on representation of justices for petty sessional division), for “petty sessional division” (in both places) substitute “ petty sessions area ”.

*The Commons Act 1876 (c.56)*

- 11 In section 20 of the Commons Act 1876 (prohibition on gravel digging on certain commons without authority of justices for petty sessional division), for “petty sessional division” substitute “ petty sessions area ”.

*The Municipal Corporations Act 1882 (c.50)*

- 12 In section 153(3) of the Municipal Corporations Act 1882 (warrant of two justices for the county requiring payment to county treasurer), for “for the county” substitute “ for a commission area consisting of or including the whole or part of the county ”.

*The Local Government Act 1888 (c.41)*

- 13 In section 28(2) of the Local Government Act 1888 (power of county council to delegate to justices of the county functions relating to contagious diseases of animals), for “county sitting in petty sessions” substitute “ peace for a commission area consisting of or including the whole or part of the county ”.

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*The Children and Young Persons Act 1933 (c.12)*

- 14        The Children and Young Persons Act 1933 has effect subject to the following amendments.
- 15        In section 48(3) (power of youth court acting for same petty sessional division as remanding court), for “petty sessional division” substitute “petty sessions area”.
- 16        (1) The Second Schedule (constitution of youth courts) is amended as follows.
- (2) In paragraph 1 (Part I to have effect as respects any area outside the inner London area and the City), for the words from “any area” to the end substitute “petty sessions areas falling wholly outside the area consisting of the inner London boroughs and the City of London.”
- (3) In paragraph 8 (restrictions on forming combined panels), for the words from “which” to the end substitute “unless the area consists of, or is wholly included in, a single commission area”.
- (4) In paragraph 13 (Part II to have effect as respects the inner London area and the City), for the words from “as respects” to “of London” substitute “as respects the area consisting of the petty sessions areas falling wholly or partly within the area consisting of the inner London boroughs and the City of London”.

*The Criminal Justice Act 1948 (c.58)*

F59 17 .....

**Textual Amendments**

**F59** Sch. 10 para. 17 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g), Table

*The Prevention of Damage by Pests Act 1949 (c.55)*

- 18        In section 15(1) of the Prevention of Damage by Pests Act 1949 (appeal to court for petty sessional division), for “petty sessional division” substitute “petty sessions area”.

*The National Parks and Access to the Countryside Act 1949 (c.97)*

- 19        In section 68(3) of the National Parks and Access to the Countryside Act 1949 (complaint to court of petty sessional division about notice to enforce access), for “petty sessional division” substitute “petty sessions area”.

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*The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.65)*

20 (1) Paragraph 4 of Part II of Schedule 2 to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (allocation of functions to make up civil remuneration of justices' clerks) is amended as follows.

(2) In the first column—

- (a) for “Clerk to county justices” substitute “ Justices’ clerk ”, and
- (b) for “said Act” substitute “ Justices of the <sup>M38</sup>Peace Act 1997 ”.

(3) For the entry in the third column substitute—

“The paying authority is the authority which is the paying authority in relation to the magistrates’ courts committee for the purposes of section 55 of the Justices of the Peace Act 1997 (and where there are two or more such authorities, the proportions in which they contribute to give effect to any determination shall be such as they may agree or, in default of agreement, as may be determined by the Lord Chancellor).

The justices for whom the clerk acts are the authority entitled to appeal against a determination.”

**Marginal Citations**

M38 1997 c.25.

*The Prison Act 1952 (c.52)*

21 In section 19(1) of the Prison Act 1952 (right of justice to visit prison)—  
(a) for “county”, in the first place, substitute “ commission area ”, and  
(b) for “county”, in the second and third places, substitute “ area ”.

*The Maintenance Orders Act 1958 (c.39)*

22 In section 21(1) of the Maintenance Orders Act 1958 (interpretation), in the definition of “magistrates’ court” and “petty sessions area”, for the words from “and “petty sessions area”” to “court” substitute “ has the meaning assigned to it by the <sup>M39</sup>Magistrates’ Courts Act 1980 and ”.

**Marginal Citations**

M39 1980 c.43.

*The Licensing Act 1964 (c.26)*

23 The Licensing Act 1964 has effect subject to the following amendments.

*Status: Point in time view as at 01/01/2005.*

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- 24 In section 2 (licensing justices and districts), for subsection (2) substitute—  
“(2) The licensing justices for any petty sessions area shall be a committee (which shall be known as the area licensing committee) of the justices acting for that area.”
- 25 In section 85(1) (search warrants for parties organised for gain), for “county or borough” substitute “ commission area ”.
- 26 In section 187(1) (search warrants), for “county or borough” substitute “ commission area ”.
- 27 In section 188(1) (closing of licensed premises in case of riot or tumult), for “county or borough” (in both places) substitute “ commission area ”.
- 28 (1) Section 193 (disqualification of justices) is amended as follows.  
(2) In subsection (1) (disqualifying trades)—  
(a) for “any county” substitute “ any commission area ”, and  
(b) for “county or borough” substitute “ area ”.  
(3) In subsection (2) (disqualifying shareholdings)—  
(a) for “any county” substitute “ any commission area ”, and  
(b) for “that county” substitute “ that area ”.
- 29 In section 201(1) (interpretation), in the definition of “the metropolis”, for the words from “an area” to the end substitute “ the area consisting of the inner London boroughs and the City of London; ”.

*The Administration of Justice Act 1964 (c.42)*

- 30 (1) Section 19 of the Administration of Justice Act 1964 (sheriff of Greater London and under-sheriffs for London commission areas) is amended as follows.  
(2) In subsection (1) (appointment of sheriff of Greater London and under-sheriff for each London commission area), for “and for each London commission area an under-sheriff shall be so appointed” substitute “ and an under-sheriff shall be so appointed for each area of Greater London (not including any part of the City) specified by the Lord Chancellor by order; and an order under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament ”  
(3) In subsection (2) (application of enactments to under-sheriffs as if London commission areas were counties), for “London commission area” substitute “ area specified by virtue of subsection (1) of this section ”.

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- (4) In subsection (4) (modification of <sup>M40</sup>Sheriffs Act 1887 in its application to Greater London)—
- (a) for “London commission area” substitute “ area specified by virtue of subsection (1) of this section ”,
  - (b) for “a justice of the peace for any of the London commission areas” substitute “ any justice of the peace for a commission area consisting of or including the whole or part of Greater London ”, and
  - (c) for the words from “shall be sent” to the end substitute “ shall be sent to the officer specified by the Lord Chancellor by order made by statutory instrument. ”

**Marginal Citations**

**M40** [1887 c.55.](#)

*The Sunday Theatre Act 1972 (c.26)*

- 31 In section 2(2) of the Sunday Theatre Act 1972 (definition of “inner London area”), for the words from “which” to the end substitute “ consisting of the inner London boroughs ”.

*The Solicitors Act 1974 (c.47)*

- 32 In section 38(2) of the Solicitors Act 1974 (disqualification of a solicitor who is a justice of the peace for an area divided into petty sessional divisions)—
- (a) for “is divided into petty sessional divisions” substitute “ consists of two or more petty sessions areas ”, and
  - (b) for “petty sessional division” substitute “ petty sessions area ”.

*The Magistrates’ Courts Act 1980 (c.43)*

- 33 The Magistrates’ Courts Act 1980 has effect subject to the following amendments.
- 34 In section 70 (jurisdiction in inner London for family proceedings), in subsection (3), in the definition of “inner London petty sessions area”, for the words after “means” substitute “ any petty sessions area falling wholly or partly within the area consisting of the inner London boroughs and the City of London. ”
- 35 In section 146(5) (rules relating to youth courts), for “inner London area” substitute “ area consisting of the inner London boroughs ”.
- 36 In section 150(1) (interpretation), in the definition of “petty sessional court-house”, for “petty sessional division” substitute “ petty sessions area ”.

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*The Public Passenger Vehicles Act 1981 (c.14)*

37 In section 82(1) of the Public Passenger Vehicles Act 1981 (interpretation), in the definition of “magistrates’ court” and “petty sessions area”, for “and “petty sessions area” have the same meanings” substitute “ has the same meaning ”.

*The Road Traffic Regulation Act 1984 (c.27)*

38 In section 142(1) of the Road Traffic Regulation Act 1984 (interpretation), in the definition of “magistrates’ court” and “petty sessions area”, for “and “petty sessions area” have the same meanings” substitute “ has the same meaning ”.

*The Criminal Justice Act 1991 (c.53)*

39 F60 .....

**Textual Amendments**  
F60 Sch. 10 para. 39 repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6) (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 2(c); and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Local Government Finance Act 1992 (c.14)*

40 (1) Section 46 of the Local Government Finance Act 1992 (special expenses of precepting authority) is amended as follows.  
(2) In subsection (2)(d) (expenses of the Receiver relating to magistrates’ courts in the inner London area)—  
(a) F61 .....  
(b) for “that area” substitute “ the inner London area ”.  
(3) In subsection (4) (interpretation), in the definition of “inner London area”, for “has the same meaning as in the Justices of the Peace Act 1997” substitute “ means the area consisting of the inner London boroughs ”.

**Textual Amendments**  
F61 Sch. 10 para. 40(2)(a) repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6) (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 2

*The Probation Service Act 1993 (c.47)*

F62 41 .....

**Textual Amendments**  
F62 Sch. 10 para. 41 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g), Table

F63 42 .....

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**Textual Amendments**

**F63** Sch. 10 para. 42 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g), Table

<sup>F64</sup>43 .....

**Textual Amendments**

**F64** Sch. 10 para. 43 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g), Table

<sup>F65</sup>44 .....

**Textual Amendments**

**F65** Sch. 10 para. 44 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g), Table

<sup>F66</sup>45 .....

**Textual Amendments**

**F66** Sch. 10 para. 45 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g), Table

*The Local Government (Wales) Act 1994 (c.19)*

46 In section 55(3) of the Local Government (Wales) Act 1994 (alteration of areas in Wales in connection with alteration of local government area), for paragraphs (a) to (c) substitute “ the commission areas, petty sessions area or areas of magistrates’ courts committees in Wales. ”

*The Justices of the Peace Act 1997 (c.25)*

47 The Justices of the Peace Act 1997 has effect subject to the following amendments.

48 In section 6 (residence qualification for justices), after subsection (1) insert—

“(1A) If a person who is the Lord Mayor or an alderman of the City of London is appointed in accordance with section 5 above as a justice of the peace for a commission area including the City of London, subsection (1) above shall not apply in relation to his appointment as a justice of the peace for that area so long as he holds either of those offices.”

49 (1) Section 10 (allowances for justices) is amended as follows.

(2) In subsection (7) (meaning of “the appropriate authority”), for the words from “means” to the end substitute “means, in relation to a justice—

(a) the council of the local government area which consists of or includes the petty sessions area for which he acts; or

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- (b) where he acts for a petty sessions area which is partly included in two or more local government areas, the councils of those local government areas.”

(3) For subsection (8) (meaning of “local government area”) substitute—

“(8) In subsection (7) above “local government area” means—

- (a) in relation to England, the City of London, a London borough, a metropolitan district, a non-metropolitan county for which there is a council or a unitary district; and
- (b) in relation to Wales, a county or a county borough;

and for the purposes of that subsection the Common Council shall be regarded as the council of the City of London.”

(4) In subsection (9) (joint payment of allowances), for “subsection (7)(d)(ii)” substitute “subsection (7)(b)”.

50 For section 26 (Greater Manchester, Merseyside and Lancashire) substitute—

**“26 Greater Manchester, Merseyside and Lancashire.**

(1) This section applies to the area consisting of the counties of Greater Manchester and Merseyside and the retained county of Lancashire; and for this purpose the retained county of Lancashire is that county as it stood immediately before 1st April 1995.

(2) Sections 5(1), 6 and 25 above have effect—

- (a) in the case of a commission area which is wholly included within the area to which this section applies with the substitution, for any reference to the Lord Chancellor, of a reference to the Chancellor of the Duchy of Lancaster; and
- (b) in the case of a commission area which is partly included within that area with the substitution, for any reference to the Lord Chancellor, of a reference to the Lord Chancellor and the Chancellor of the Duchy of Lancaster acting jointly.

(3) Sections 7(4) to (6) and 8 above have effect—

- (a) in the case of a person who is a justice of the peace only for a commission area which is wholly included within that area with the substitution, for any reference to the Lord Chancellor, of a reference to the Chancellor of the Duchy of Lancaster; and
- (b) in the case of a person who is a justice either for such a commission area and another commission area or for a commission area which is partly included within that area with the substitution, for any reference to the Lord Chancellor, of a reference to the Lord Chancellor and the Chancellor of the Duchy of Lancaster acting jointly.”

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**Textual Amendments**

**F67** Sch. 10 para. 51 repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6) (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 2(c); and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

- 52 (1) Section 72(1) (definitions) is amended as follows.
- (2) <sup>F68</sup> .....
- (3) In the definition of “petty sessional court-house”, for “petty sessional division” substitute “ petty sessions area ”.

**Textual Amendments**

**F68** Sch. 10 para. 52(2) repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6) (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 2(c)

- 53 <sup>F69</sup> .....

**Textual Amendments**

**F69** Sch. 10 para. 53 repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6) (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, art. 2(c); and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

SCHEDULE 11

Section 78.

UNIFICATION AND RENAMING OF STIPENDIARY BENCH

*The Metropolitan Police Act 1839 (c.47)*

- 1 The Metropolitan Police Act 1839 has effect subject to the following amendments.
- 2 In section 52 (prevention of obstruction in neighbourhood of public buildings), for “police courts” substitute “ magistrates’ courts ”.
- 3 In section 75 (“magistrate” to mean every justice of the peace appointed to be a magistrate of a police court), for the words from “justice” to the end substitute “ District Judge (Magistrates’ Courts) ”.
- 4 In section 76 (complaints to be heard and determined by one of the police magistrates), for the words from “by one” to the end substitute “ by a District Judge (Magistrates’ Courts) ”.

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*The Metropolitan Police Courts Act 1840 (c.84)*

- 5 In section 13 of the Metropolitan Police Courts Act 1840 (duties of police magistrates in relation to deserted premises), for “police magistrates” (in both places) substitute “District Judges (Magistrates’ Courts)”.

*The London Hackney Carriages Act 1843 (c.86)*

- 6 In section 24 of the London Hackney Carriages Act 1843 (application for summons to police court of district)—
- (a) for “police court of the district” substitute “magistrates’ court for the petty sessions area”, and
  - (b) for “police court”, in each other place, substitute “magistrates’ court”.

*The London Hackney Carriages Act 1850 (c.7)*

- 7 In section 4 of the London Hackney Carriages Act 1850 (notice of hackney carriage standings to be hung in police courts), for “police courts” substitute “magistrates’ courts acting for an area falling wholly within an inner London borough”.

*The London Hackney Carriage Act 1853 (c.33)*

- 8 In section 18 of the London Hackney Carriage Act 1853 (jurisdiction of police magistrates)—
- (a) for “any one of the police magistrates at any of the Metropolitan Police Courts” substitute “two justices of the peace”, and
  - (b) omit the words from “or if the offence,”, in the first place, to “the county,”.

*The Regulation of Railways Act 1871 (c.78)*

- 9 In section 7(1) of the Regulation of Railways Act 1871 (orders directing specified officials to hold investigation of a railway accident with the assistance of an inspector or other assessor), for “stipendiary magistrate, metropolitan police magistrate,” substitute “District Judge (Magistrates’ Courts), stipendiary magistrate,”.

*The Metropolitan Police Courts Act 1897 (c.26)*

- 10 **F70** .....

**Textual Amendments**

**F70** Sch. 11 para. 10 repealed (1.4.2001) by 1999 c. 22, ss. 106, 108(1), Sch. 15 Pt. V(6); S.I. 2001/916, {art, 2}

*The Law of Distress Amendment Act 1908 (c.53)*

- 11 In section 2 of the Law of Distress Amendment Act 1908 (order by stipendiary magistrate or two justices for restoration of goods illegally distrained by landlord

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etc.), for the words from “a stipendiary” to “or justices” substitute “two justices who”.

*The Children and Young Persons Act 1933 (c.12)*

12 (1) The Second Schedule to the Children and Young Person Act 1933 (constitution of youth courts) is amended as follows.

(2) Before paragraph 2 insert—

*“Qualification to sit as member of youth court.”*

(3) In paragraph 2 (justice not qualified to sit as member of youth court unless he is a member of a youth court panel), after “he is” insert—

“(a) a District Judge (Magistrates’ Courts), or  
(b)”.

(4) After that paragraph insert—

**Constitution by single District Judge (Magistrates’ Court.**

“2A A youth court may consist of a District Judge (Magistrates’ Courts) sitting alone.

*Youth court panels”.*

*The Local Government Act 1948 (c.26)*

13 (1) Section 121 of the Local Government Act 1948 (precept for expenses of metropolitan police) is amended as follows.

(2) In subsection (3) (precepts for expenses of metropolitan police courts and probation system in the metropolitan police court area)—

(a) for the first paragraph substitute—

“(3) In relation to expenses of and incidental to magistrates’ courts acting for petty sessions areas falling wholly within the inner London boroughs and the probation system within those petty sessions areas respectively, precepts issued under this section shall be issued to all rating authorities with areas falling wholly within the area comprising those petty sessions areas:”, and

(b) in the proviso, for “metropolitan police court area” substitute “the area comprising those petty sessions areas”.

(3) In subsection (6) (receipts), for “metropolitan police courts and the probation system within the metropolitan police court area” substitute “magistrates’ courts acting for petty sessions areas falling wholly within the inner London boroughs and the probation system within those petty sessions areas”.

(4) In subsection (7) (receipts exceeding expenses), for “metropolitan police courts or the probation system within the metropolitan police court area” substitute “

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magistrates’ courts acting for petty sessions areas falling wholly within the inner London boroughs or the probation system within those petty sessions areas ”.

*The Metropolitan Magistrates’ Courts Act 1959 (c.45)*

14 The Metropolitan Magistrates’ Courts Act 1959 (functions of Receiver) has effect subject to the following amendments.

F71 15 .....

**Textual Amendments**

**F71** Sch. 11 para. 15 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g), Table

16 In section 4(2) (borrowing power of Receiver), for the words “of the metropolitan magistrates’ courts” substitute “ of the magistrates’ courts acting for petty sessions areas falling wholly within the inner London boroughs ”.

*The Licensing Act 1964 (c.26)*

17 In section 29(2) of the Licensing Act 1964 (fees chargeable in stipendiary magistrates’ court), for “stipendiary magistrates’ court” substitute “ court of a District Judge (Magistrates’ Courts) ”.

*The Backing of Warrants (Republic of Ireland) Act 1965 (c.45)*

18 F72 .....

**Textual Amendments**

**F72** Sch. 11 para. 18 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, Sch. 4; S.I. 2003/3103, art. 2 (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2)); and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, Sch. 10; S.I. 2005/910, art. 3(aa)(bb)

*The Courts Act 1971 (c.23)*

19 In Part IA of Schedule 2 to the Courts Act 1971 (certain office-holders eligible for appointment as Circuit judges), for “Stipendiary magistrate” substitute “ District Judge (Magistrates’ Courts). ”

*The Local Government Act 1972 (c.70)*

20 In section 67(2)(b) of the Local Government Act 1972 (which provides that regulations may make provision about the functions or areas of jurisdiction of certain bodies or officers in connection with changes in local government areas in Wales)—

(a) for “justice of the peace, stipendiary magistrate” substitute “ justice of the peace other than a District Judge (Magistrates’ Courts), ” and

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- (b) after “police officers)” insert “, and the functions of any District Judge (Magistrates’ Courts),”.

*The Administration of Justice Act 1973 (c.15)*

- 21 In section 9(1) of the Administration of Justice Act 1973 (judicial salaries charged on and paid out of the Consolidated Fund), for paragraphs (e) and (f) (metropolitan stipendiary magistrates and other stipendiary magistrates) substitute—  
“(e) District Judges (Magistrates’ Courts);”.

*The Juries Act 1974 (c.23)*

- 22 F73 .....

**Textual Amendments**

F73 Sch. 11 para. 22 repealed (5.4.2004) by Criminal Justice Act 2003 (c. 44), ss. 332, 336, Sch. 37 Pt. 10; S.I. 2004/829, art. 2(1)(2)(j)(I)(iv) (subject to art. 2(3)-(6))

*The Solicitors Act 1974 (c.47)*

- 23 In section 38 of the Solicitors Act 1974 (disqualification of a solicitor who is a justice of the peace), after subsection (3) insert—  
“(3A) Subsection (1) does not apply where a solicitor is a Deputy District Judge (Magistrates’ Courts); but where a solicitor is acting as a Deputy District Judge (Magistrates’ Courts) for any petty sessions area it shall not be lawful for him, or for any partner of his, to act in connection with proceedings before any justice of the peace acting for that area as solicitor or agent for the solicitor of any person concerned in those proceedings.”

*The House of Commons Disqualification Act 1975 (c.24)*

- 24 In Part I of Schedule 1 to the House of Commons Disqualification Act 1975 (judicial offices disqualifying for membership of the House of Commons), for “Stipendiary Magistrate within the meaning of the <sup>M41</sup>Justices of the Peace Act 1997.” substitute “District Judge (Magistrates’ Courts) (but not Deputy District Judge (Magistrates’ Courts)).”

**Marginal Citations**

M41 1997 c.25.

*The Northern Ireland Assembly Disqualification Act 1975 (c.25)*

- 25 In Part I of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (judicial offices disqualifying for membership of the Northern Ireland Assembly), for “Stipendiary Magistrate within the meaning of the <sup>M42</sup>Justices of the Peace Act 1949.” substitute “District Judge (Magistrates’ Courts) (but not Deputy District Judge (Magistrates’ Courts)).”

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### Marginal Citations

M42 1949 c.101.

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

26 The Magistrates' Courts Act 1980 has effect subject to the following amendments.

27 For section 66 substitute—

**“66 Composition of magistrates' courts for family proceedings: general.**

(1) A magistrates' court when hearing family proceedings shall be composed of—

- (a) two or three lay justices; or
- (b) a District Judge (Magistrates' Courts) as chairman and one or two lay justices;

or, if it is not practicable for such a court to be so composed, a District Judge (Magistrates' Courts) sitting alone.

(2) Except where such a court is composed of a District Judge (Magistrates' Courts) sitting alone, it shall, so far as practicable, include both a man and a woman.

(3) In this section and section 67 below “lay justices” means justices of the peace who are not District Judges (Magistrates' Courts).”

28 (1) Section 67 (family courts and panels) is amended as follows.

(2) In subsection (2) (justice not to be qualified to hear family proceedings unless a member of a family panel of justices), for the words from “he” to “justices” substitute—

- “(a) he is a District Judge (Magistrates' Courts) nominated by the Lord Chancellor to do so; or
- (b) he is a member of a family panel, that is to say a panel of lay justices”.

(3) Omit subsection (7) (stipendiary magistrate may hear and determine family proceedings sitting alone if a member of a family panel).

29 In section 144(2) (rule committee for magistrates' courts to include chief metropolitan stipendiary magistrate), for “chief metropolitan stipendiary magistrate” substitute “Senior District Judge (Chief Magistrate)”.

30 In section 150(1) (interpretation), in the definition of “petty-sessional court-house”, for “stipendiary magistrate” substitute “District Judge (Magistrates' Courts)”.

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*The Extradition Act 1989 (c.33)*

31 F74 .....

**Textual Amendments**

**F74** Sch. 11 paras. 31 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2))

32 F75 .....

**Textual Amendments**

**F75** Sch. 11 para. 32 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2)); and this same provision expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art 3(aa)(bb)**

33 F76 .....

**Textual Amendments**

**F76** Sch. 11 paras. 33 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2))

34 F77 .....

**Textual Amendments**

**F77** Sch. 11 paras. 34 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2))

35 F78 .....

**Textual Amendments**

**F78** Sch. 11 paras. 35 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2))

36 F79 .....

**Textual Amendments**

**F79** Sch. 11 para. 36 repealed (1.1.2004) by Extradition Act 2003 (c. 41), ss. 220, 221, **Sch. 4**; S.I. 2003/3103, **art. 2** (subject to arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2) and S.I. 2003/3312, art. 2(2)); and Sch. 11 para. 36(3)(4)(a) expressed to be repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, **art 3(aa)(bb)**

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

- 37 In Schedule 11 to the Courts and Legal Services Act 1990 (judges etc. barred from legal practice), for “Stipendiary Magistrate” substitute “ District Judge (Magistrates’ Courts) ”.

*The Local Government Act 1992 (c.19)*

- 38 In section 19(2)(d) of the Local Government Act 1992 (which provides that regulations may make provision about the functions or areas of jurisdiction of certain bodies or officers in connection with changes in local government areas in England)—
- (a) in sub-paragraph (i), for “justice of the peace, stipendiary magistrate” substitute “ justice of the peace other than a District Judge (Magistrates’ Courts), ” and
  - (b) before “and the costs” insert “ , and the functions of any District Judge (Magistrates’ Courts), ”.

*The Judicial Pensions and Retirement Act 1993 (c. 8)*

- 39 The Judicial Pensions and Retirement Act 1993 has effect subject to the following amendments.
- 40 In Part I of Schedule 1 (qualifying offices), after “County Court Judge in Northern Ireland” insert “ District Judge (Magistrates’ Courts) ”.
- 41 In Schedule 5 (retirement), for “Stipendiary magistrate in England and Wales” substitute “ District Judge (Magistrates’ Courts) ”.

*The Probation Service Act 1993 (c.47)*

<sup>F80</sup>42 .....

**Textual Amendments**

**F80** Sch. 11 para. 42 repealed (1.4.2001) by 2000 c. 43, s. 75, Sch. 8; S.I. 2001/919, art. 2(g), Table

*The Justices of the Peace Act 1997 (c.25)*

- 43 The Justices of the Peace Act 1997 has effect subject to the following amendments.
- 44 In subsection (2)(a) of section 5 (which specifies that the provision made by subsection (1) about the appointment and removal of justices does not apply to stipendiary magistrates), and in the heading preceding that section, for “stipendiary magistrates” substitute “ District Judges (Magistrates’ Courts) ”.
- 45 In section 7(7) (which provides that the provisions about the supplemental list do not apply to stipendiary magistrates), for “stipendiary magistrate” substitute “ District Judge (Magistrates’ Courts) ”.

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- 46 In section 10(4) (provisions about travelling, subsistence and financial loss allowances not to apply to stipendiary magistrates), for “stipendiary magistrate” substitute “ District Judge (Magistrates’ Courts) ”.
- 47 In section 22(4)(c) (chairman or deputy chairman of justices not to preside when stipendiary magistrate is administering justice), for “stipendiary magistrate” substitute “ District Judge (Magistrates’ Courts) ”.
- 48 In section 69(4) (oaths required to be taken by acting stipendiary magistrate may be taken before a metropolitan stipendiary magistrate), for the words “a metropolitan” to the end substitute “ a Deputy District Judge (Magistrates’ Courts) may be taken before any District Judge (Magistrates’ Courts). ”
- 49 In section 72(1) (interpretation), in the definition of “petty sessional court-house”, for “stipendiary magistrate” substitute “ District Judge (Magistrates’ Courts) ”.
- 50 In paragraph 7 of Schedule 4 (inner London), in sub-paragraph (2)(a)(ii) (continued operation of section 58 of the <sup>M43</sup>Justices of the Peace Act 1979), after “have effect” insert “ (with the reference in subsection (3) to metropolitan stipendiary magistrates being construed as a reference to District Judges (Magistrates’ Courts) ”.

**Marginal Citations**

**M43** 1979 c.55.

SCHEDULE 12

Section 83.

GREATER LONDON MAGISTRATES’ COURTS AUTHORITY

*The Public Works Loans Act 1965 (c.63)*

- 1 In section 2(1)(a) of the Public Works Loans Act 1965 (authorities to which Public Works Loans Commissioners may make unsecured loans), after sub-paragraph (iv) insert “and  
(v) the Greater London Magistrates’ Courts Authority;”.

*The National Loans Act 1968 (c.13)*

- 2 In paragraph 1(a) of Schedule 4 to the National Loans Act 1968 (authorities to which local loans may be made), after sub-paragraph (iv) insert “and  
(v) the Greater London Magistrates’ Courts Authority;”.

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*The Road Traffic Offenders Act 1988 (c.53)*

- 3 In section 82(2A) of the Road Traffic Offenders Act 1988 (definition of “paying authority” and “responsible authority”), at the end insert “ ; except that, in relation to the Greater London Magistrates’ Courts Authority, the Authority is the paying authority and responsible authority. ”

*The Local Government and Housing Act 1989 (c.42)*

- 4 The Local Government and Housing Act 1989 has effect subject to the following amendments.

.....

- 5 **F81** .....

**Textual Amendments**

**F81** Sch. 12 para. 5 repealed (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004 and 1.4.2004 for E.) by [Local Government Act 2003 \(c. 26\)](#), ss. 127(2), 128, [Sch. 8 Pt. 1](#); S.I. 2003/3034, [art. 2\(1\)](#), Sch. 1 Pt. 1 (with [art. 3](#), Sch. 2); S.I. 2003/2938, [art. 7\(e\)\(ix\)](#) (subject to [art. 8](#), Sch.)

- 6 In section 67(3) (authorities to which provisions about interests in companies apply), after paragraph (g) insert—  
“(ga) the Greater London Magistrates’ Courts Authority;”

*The Criminal Justice Act 1991 (c.53)*

- 7 (1) Section 76 of the Criminal Justice Act 1991 as amended by Schedule 10 to this Act (provision of court security officers) is amended as follows.
- (2) In subsection (1) (determination as to provision of officers), after “area” insert “ outside Greater London ”.
- (3) After subsection (4) insert—  
“(4A) In relation to each petty sessions area within Greater London, the Greater London Magistrates’ Courts Authority shall from time to time determine—  
    (a) whether court security officers should be provided; and  
    (b) if so, how many such officers should be provided.  
(4B) As soon as practicable after making a determination under subsection (4A) (b) above, the Greater London Magistrates’ Courts Authority shall provide the required number of court security officers, on such terms and conditions as they may determine—  
    (a) by employing persons to act as court security officers; or

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- (b) by entering into a contract with another person for the employment by him of persons to act as such officers.”

*The Local Government Finance Act 1992 (c.14)*

- 8 In section 19(2) of the Local Government Finance Act 1992 (exclusion of Crown exemption in relation to certain authorities), after paragraph (e) insert—  
“(ea) the Greater London Magistrates’ Courts Authority;”.

*The Justices of the Peace Act 1997 (c.25)*

- 9 The Justices of the Peace Act 1997 has effect subject to the following amendments.

- 10 In section 10(7) as amended by Schedule 10 to this Act (authority responsible for paying allowances to justices), after “justice” insert “ for a commission area consisting wholly or partly of Greater London, the Greater London Magistrates’ Courts Authority, and in relation to any other justice ”.

- 11 In section 40(8) (regulations about appointment of justices’ chief executive), after “by statutory instrument” insert “ which may make different provision in relation to the Greater London Magistrates’ Courts Authority and other magistrates’ courts committees ”.

- 12 In section 44 (terms of employment), after subsection (1) insert—  
“(1A) The approval of the Lord Chancellor shall be required for any determination by a magistrates’ courts committee reducing the salary of a justices’ clerk or justices’ chief executive, unless the justices’ clerk or justices’ chief executive concerned consents to the reduction.”

- 13 For section 50 substitute—

**“50 Pensions of employees of GLMCA.**

- (1) The Lord Chancellor may, with the consent of the Minister for the Civil Service, make provision by order made by statutory instrument for section 1 of the <sup>M44</sup>Superannuation Act 1972 (pensions of civil servants etc.) to apply to persons employed by the Greater London Magistrates’ Courts Authority (and may make such provision by amendment of that Act).
- (2) An order under subsection (1) above may provide for the Authority 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 in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.

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- (3) Where an order under subsection (1) above is made, 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 employees of the Authority; or
  - (b) authorise the exercise of that function (so far as so relating) by, or by employees of, any person.
- (4) A person to whom the function of administering a scheme made under section 1 of the Superannuation Act 1972 is delegated under subsection (3) (a) above 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.
- (5) Where a person is authorised under subsection (3)(b) or (4) above to exercise the function of administering a scheme made under section 1 of the <sup>M45</sup>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.
- (6) Subsection (5) above 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.
- (7) A statutory instrument containing an order under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

**Marginal Citations**

**M44** 1972 c.11.

**M45** 1972 c.11.

- 14 (1) Section 54 (indemnification of justices’ and their clerks) is amended as follows.
- (2) In subsection (2) (indemnification out of local funds), for “out of local funds” (in both places) substitute “ by the appropriate authority ”.
- (3) After that subsection insert—
- “(2A) In subsection (2) above the “appropriate authority” means—
- (a) the Greater London Magistrates’ Courts Authority, where at the material time the justice or justices’ clerk was acting for an area consisting of or falling within Greater London; or
  - (b) the paying authority or authorities, where at the material time the justice or justices’ clerk was acting for an area outside Greater London.”

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- (4) In subsection (7) (apportionment between paying authorities), for the words from “there are” to “clerk,” substitute “, in relation to any justice or justices’ clerk acting for an area outside Greater London, there are two or more paying authorities,”.
- (5) In subsection (9) (interpretation), in the definition of “paying authority”, for the words from “, in relation” to the end substitute—
- “(a) in relation to any justice or justices’ clerk who at the material time acted for an area outside Greater London, means any authority which is a paying authority for the purposes of section 55 below in relation to the magistrates’ courts committee for that area; and
  - (b) in relation to a justice or justices’ clerk who at the material time acted for an area consisting of or falling within Greater London, means the council of any London borough or the Common Council of the City of London.”
- 15 Before section 55 insert the heading—
- “Magistrates’ courts committees outside Greater London”.*
- 16 (1) Section 55 (duties of local authorities) is amended as follows.
- (2) In subsection (1) (duties of local authorities), after “committee”, in the first place, insert “ for an area outside Greater London ”.
  - (3) In subsections (4) and (5) (duty of paying authority or authorities to pay expenses of magistrates’ courts committee), after “courts’ committee” insert “ for an area outside Greater London ”.
  - (4) In subsection (10) (interpretation), after “courts’ committee” insert “ for an area outside Greater London ”.
- 17 (1) Section 56 (provision supplementary to section 55) is amended as follows.
- (2) In subsection (1) (determination by committee)—
    - (a) in paragraph (b), after “committee” insert “ for an area outside Greater London ”, and
    - (b) in paragraph (c), after “which” insert “ such ”.
  - (3) In subsection (2) (apportionment), after “committee”, in the first place, insert “ for an area outside Greater London ”.
- 18 In section 59(1) (regulations relating to accounts of magistrates’ courts committees), after “magistrates’ courts committees” insert “ for areas outside Greater London ”.
- 19 After section 68 insert—

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**“68A Provision of accommodation for justices and staff.**

Any accommodation provided under any enactment for any justice, justices’ clerk or justices’ chief executive may be outside the area for which the justices act and, in the case of a petty sessional court-house, shall be treated as being in that area for the purposes of the jurisdiction of the justices when acting in the court-house.”

SCHEDULE 13

Section 90.

FUNCTIONS TRANSFERRED TO JUSTICES’ CHIEF EXECUTIVES

*The London Hackney Carriages Act 1843 (c.86)*

- 1           In section 24 of the London Hackney Carriages Act 1843 (application for summons), for “clerk of” substitute “ justices’ chief executive for ”.

*The Evidence Act 1851 (c.99)*

- 2           (1) Section 13 of the Evidence Act 1851 (proof of previous conviction by copy of record certified by clerk) is amended as follows.
- (2) Number the existing provision as subsection (1) and for the words from “under the hand” to “such clerk or other officer,” substitute “ by the proper officer of the court where such conviction or acquittal took place ”.
- (3) After that subsection insert—
- “(2) In subsection (1) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court or other officer having the custody of the records of the court, or the deputy of such clerk or other officer.”

*The Criminal Procedure Act 1865 (c.18)*

- 3           (1) Section 6 of the Criminal Procedure Act 1865 (proof of previous conviction of witness by certificate signed by clerk) is amended as follows.
- (2) Number the existing provision as subsection (1) and for the words from “the clerk” to “such clerk or officer,” substitute “ the proper officer of the court where the offender was convicted ”.
- (3) After that subsection insert—
- “(2) In subsection (1) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and

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- (b) in relation to any other court, the clerk of the court or other officer having the custody of the records of the court, or the deputy of such clerk or other officer.”

*The Prevention of Crimes Act 1871 (c.112)*

- 4 (1) Section 18 of the Prevention of Crimes Act 1871 (evidence of previous conviction by record signed by clerk) is amended as follows.
- (2) For the words from “clerk of the court” to “such clerk or officer;” substitute “ proper officer of the court by which such conviction was made; ”.
- (3) For “clerk or other officer” substitute “ proper officer ”.
- (4) At the end of that section insert—

“In this section “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court or other officer having the custody of the records of the court, or the deputy of such clerk or other officer.”

*The Fairs Act 1873 (c.37)*

- 5 In section 6 of the Fairs Act 1873 (alteration of fair day on representation of justices), for “clerk to the justices acting in and for” substitute “ justices’ chief executive for ”.

*The Public Health Acts Amendment Act 1907 (c.53)*

- 6 In section 94(7) of the Public Health Acts Amendment Act 1907 (licensing of pleasure boats), for “clerk” substitute “ justices’ chief executive for the court ”.

*The Maintenance Orders (Facilities for Enforcement) Act 1920 (c.33)*

- 7 (1) Section 4 of the Maintenance Orders (Facilities for Enforcement) Act 1920 (power of magistrates’ courts to confirm maintenance orders made in certain Commonwealth countries) is amended as follows (but that section as modified in relation to Northern Ireland by section 11 of that Act is not so amended).
- (2) In subsection (5B) (powers of court), for—
  - (a) “the clerk of the court or the clerk of any other magistrates’ court”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates’ court,”,substitute “ a justices’ chief executive ”.
- (3) In subsection (6A) (application of section 60 of the <sup>M46</sup>Magistrates’ Courts Act 1980)

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- (a) in paragraph (b), in the paragraph to be regarded as substituted for subsection (4)(b) of that section, for “the clerk of the court, or to the clerk of any other magistrates’ court,” substitute “ a justices’ chief executive ”, and
- (b) in paragraph (c) (words to be regarded as replaced in subsection (5) of that section), for “clerk” substitute “ justices’ chief executive for the court ”.

**Marginal Citations**

**M46** 1980 c.43.

*The Children and Young Persons Act 1933 (c.12)*

- 8 The Children and Young Persons Act 1933 has effect subject to the following amendments.
- 9 In section 42(2)(b) (transmission of deposition of child), for “clerk” substitute “ proper officer ”.
- 10 In section 45 (constitution of youth courts), number the existing provision as subsection (1) and insert—
- “(2) The justices’ chief executive appointed by a magistrates’ courts committee is the justices’ chief executive for every youth court for their area.”
- 11 In—
- (a) section 46(1A) (notification of guilty plea),
  - <sup>F82</sup>(b) .....
  - <sup>F82</sup>(c) .....
- for “clerk of” substitute “ justices’ chief executive for ”.

**Textual Amendments**

**F82** Sch. 13 para. 11(b)(c) repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*The Maintenance Orders Act 1950 (c.37)*

- 12 Part II of the Maintenance Orders Act 1950 (enforcement of certain maintenance orders made in another part of the United Kingdom) has effect subject to the following amendments.
- 13 (1) Section 18 (enforcement of registered orders) is amended as follows.
- (2) In subsection (2ZA) (application of section 76 of the <sup>M47</sup>Magistrates’ Courts Act 1980), in the subsection to be regarded as substituted as subsection (5) of that section, for—
- (a) “the clerk of the court or the clerk of any other magistrates’ court”, and

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- (b) “the clerk of the court, or to the clerk of any other magistrates’ court,”, substitute “ a justices’ chief executive ”.
- (3) In subsection (2A) (requirement of person liable under order to notify change of address to clerk of the court), for “clerk” substitute “ proper officer ”.
- (4) After that subsection insert—
  - “(2B) In subsection (2A) of this section “proper officer” means—
    - (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
    - (b) in relation to a court of summary jurisdiction in Northern Ireland, the clerk of the court.”

**Marginal Citations**

**M47** 1980 c.43.

- 14 (1) Section 22 (discharge and variation of registered orders) is amended as follows.
  - (2) In subsection (1B) (powers of court), for—
    - (a) “the clerk of the court or the clerk of any other magistrates’ court in England and Wales”, and
    - (b) “the clerk of the court, or to the clerk of any other magistrates’ court in England and Wales,”,substitute “ a justices’ chief executive ”.
  - (3) In subsection (1E) (application of section 60 of the <sup>M48</sup>Magistrates’ Courts Act 1980) —
    - (a) in paragraph (a), in the paragraph to be regarded as substituted for subsection (4)(b) of that section, for “the clerk of the court, or to the clerk of any other magistrates’ court,” substitute “ a justices’ chief executive ”, and
    - (b) in paragraph (b) (words to be regarded as replaced in subsection (5) of that section), for “clerk” substitute “ justices’ chief executive for the court ”.

**Marginal Citations**

**M48** 1980 c.43.

- 15 In section 24(5A)(b) (order requiring payment to the clerk of a magistrates’ court to cease to have effect on cancellation of registration of order), for “the clerk of a magistrates’ court in England and Wales” substitute “ a justices’ chief executive ”.

*The Army Act 1955 (c.18)*

- 16 The Army Act 1955 has effect subject to the following amendments.
- 17 (1) Section 189 (delivery into military custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.

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- (2) In subsection (1) (fee payable to clerk of the court), for “clerk” substitute “ proper officer ”.
- (3) After subsection (3) insert—
- “(3A) In subsection (1) of this section “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.”
- 18 (1) Section 199 (proof of outcome of civil trial) is amended as follows.
- (2) In subsections (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “ proper officer ”.
- (3) For subsection (4) substitute—
- “(4) In this section “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”
- The Air Force Act 1955 (c.19)*
- 19 The Air Force Act 1955 has effect subject to the following amendments.
- 20 (1) Section 189 (delivery into air-force custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.
- (2) In subsection (1) (fee payable to clerk of the court), for “clerk” substitute “ proper officer ”.
- (3) After subsection (3) insert—
- “(3A) In subsection (1) of this section “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.”
- 21 (1) Section 199 (proof of outcome of civil trial) is amended as follows.
- (2) In subsections (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “ proper officer ”.
- (3) For subsection (4) substitute—
- “(4) In this section “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

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*The Naval Discipline Act 1957 (c.53)*

- 22 The Naval Discipline Act 1957 has effect subject to the following amendments.
- 23 (1) Section 110 (delivery into naval custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.
- (2) In subsection (2) (fee payable to clerk of the court), for “clerk” substitute “ proper officer ”.
- (3) After subsection (2) insert—
- “(2A) In subsection (2) of this section “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.”
- 24 (1) Section 129B (proof of outcome of civil trial) is amended as follows.
- (2) In subsections (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “ proper officer ”.
- (3) For subsection (4) substitute—
- “(4) In this section “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

*The Maintenance Orders Act 1958 (c.39)*

- 25 The Maintenance Orders Act 1958 has effect subject to the following amendments.
- 26 (1) Section 2 (registration of orders) is amended as follows.
- (2) In subsection (2)(b) (procedure on application for registration of order), for “clerk of” substitute “ justices’ chief executive for ”.
- (3) In subsection (5) (registration of orders), for “or clerk of” substitute “ of, or justices’ chief executive for, ”.
- (4) In subsection (6) (effect on magistrates’ court order of registration in the High Court), for “the clerk of a magistrates’ court” (in both places) substitute “ a justices’ chief executive ”.
- (5) In subsection (6ZA)(b) (effect on High Court order or county court order of registration in magistrates’ court), for “the clerk of the court or the clerk of any other magistrates’ court” substitute “ a justices’ chief executive ”.
- (6) In subsection (6ZC) (payments under order becoming or ceasing to be payable to clerk of a magistrates’ court), for “the clerk of a magistrates’ court” substitute “ a justices’ chief executive ”.

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- 27 In section 3(3A) (requirement of person liable under order to notify change of address to clerk of the court), for “clerk of” substitute “ justices’ chief executive for ”.
- 28 (1) Section 4(5B) (application of section 60 of the <sup>M49</sup>Magistrates’ Courts Act 1980) is amended as follows.
- (2) In paragraph (a), in the paragraph to be regarded as substituted for subsection (4)(b) of that section, for “the clerk of the court, or to the clerk of any other magistrates’ court,” substitute “ a justices’ chief executive ”.
- (3) In paragraph (b) (words to be regarded as replaced in subsection (5) of that section), for “clerk” substitute “ justices’ chief executive for the court ”.
- (4) In paragraph (e), in the subsection (9) to be regarded as substituted for subsections (9) and (10) of that section, for—
- (a) “the clerk of the court or the clerk of any other magistrates’ court”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates’ court.”,
- substitute “ a justices’ chief executive ”.

**Marginal Citations**

**M49** 1980 c.43.

- 29 (1) Section 5 (cancellation of registration) is amended as follows.
- (2) In subsection (5) (cancellation of registration of High Court or county court order), for “the clerk of a magistrates’ court” (in both places) substitute “ a justices’ chief executive ”.
- (3) In subsection (6)(b) (cancellation of registration of magistrates’ court order), for “clerk of” substitute “ justices’ chief executive for ”.
- 30 In section 18 (powers of magistrates to review committals), for “clerk of” (in each place) substitute “ justices’ chief executive for ”.
- 31 In section 20(1) (clerk of magistrates’ court entitled to receive payments for transmission to another)—
- (a) for “the clerk of a magistrates’ court” substitute “ a justices’ chief executive ”, and
  - (b) for “the clerk is” substitute “ a justices’ chief executive is ”.

*The Betting, Gaming and Lotteries Act 1963 (c.2)*

- 32 The Betting, Gaming and Lotteries Act 1963 has effect subject to the following amendments.

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- 33 (1) Section 10A (cancellation of betting office licence) is amended as follows.
- (2) In subsection (4) (notification of cancellation)—
- (a) for “clerk of” substitute “ proper officer of ”, and
- (b) for “clerk to” (in both places) substitute “ proper officer of ”.
- (3) After that subsection insert—
- “(5) In subsection (4)—
- “the proper officer of the authority” has the same meaning as in Schedule 1; and
- “the proper officer of the court” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court of summary jurisdiction in Scotland, the clerk of the court.”
- 34 (1) Section 11 (cancellation of and disqualification for bookmaker’s permit or betting agency permit) is amended as follows.
- (2) In subsection (5) (notification of cancellation)—
- (a) for “clerk of” substitute “ proper officer of ”, and
- (b) for “clerk to” (in both places) substitute “ proper officer of ”.
- (3) After that subsection insert—
- “(6) In subsection (5)—
- “the proper officer of the authority” has the same meaning as in Schedule 1; and
- “the proper officer of the court” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court.”
- 35 (1) Schedule 1 (bookmaker’s permits, betting agency permits and betting offices licences) is amended as follows.
- (2) In paragraph 2 (interpretation), for the definition of “clerk to the appropriate authority” substitute—
- ““the proper officer of the appropriate authority” means—
- (a) in England, the chief executive to the justices comprising the committee referred to in paragraph 1 of this Schedule; and
- (b) in Scotland, the clerk to the licensing court;”.
- (3) In paragraphs 5 and 6 (applications for grant of permit or licence), for “clerk to” substitute “ proper officer of ”.
- (4) In paragraph 7 (notification of meeting to consider application)—
- (a) for “clerk to”, in both places, substitute “ proper officer of ”, and
- (b) for “clerk”, in the remaining four places, substitute “ proper officer ”.

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- (5) In paragraph 8 (applications for renewal of permit or licence), for “clerk to” (in each place) substitute “proper officer of”.
- (6) In paragraph 9 (person to whom application to be made)—
- (a) for “clerk to” (in both places) substitute “proper officer of”, and
  - (b) in paragraph (a), for “clerk” substitute “proper officer”.
- (7) In paragraph 11(b) (receipt of objections), for “clerk to” substitute “proper officer of”.
- (8) In paragraph 12 (procedure where objection received), for “clerk” substitute “proper officer”.
- (9) In paragraph 20 (grant or renewal of permit or licence)—
- (a) in sub-paragraph (1), for “clerk to” substitute “proper officer of”, and
  - (b) in sub-paragraph (2), for “clerk to” substitute “proper officer of”.
- (10) In paragraph 20A (clerk to act on unopposed applications for renewal)—
- (a) in sub-paragraph (1), for “clerk to” substitute “proper officer of” and for “clerk may” substitute “clerk to the authority may”, and
  - (b) after sub-paragraph (4) insert—
    - “(5) For the purposes of this paragraph, the clerk to the appropriate authority, where the authority is a committee of the justices acting for a petty sessions area, is the clerk to those justices or, if there are two or more clerks to those justices—
    - (a) such one of those clerks as the magistrates’ courts committee having power over the appointment of clerks to justices for that area may direct; or
    - (b) in default of any such direction, any of those clerks.”
- (11) In—
- (a) paragraph 21(1), (2) and (4)(b) (appeals),
  - (b) paragraph 25 (notification of change in directors),
  - (c) paragraphs 26 (in both places) and 27(1) (cancellation of bookmaker’s permit),
  - (d) paragraphs 28A(1)(a) and (2), 28B(2) and (3) and 28C(1) and (2) (cancellation of betting office licence),
  - (e) paragraph 34 (registers), and
  - (f) paragraphs 36 and 37(1) (provision of information),
- for “clerk to” substitute “proper officer of”.

*The Licensing Act 1964 (c.26)*

36           The Licensing Act 1964 has effect subject to the following amendments.

37           In—

- (a) section 8A(2) (approval of prospective licensee),

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- (b) section 9A(2) (grant of interim authority), and
  - (c) section 19(1) and (2) (requirement for structural alterations),for “clerk” substitute “ chief executive ”.
  
- 38 (1) Section 20 (consent for alteration of premises) is amended as follows.
  - (2) In subsection (2) (plans to be deposited with clerk), for “clerk” substitute “ chief executive ”.
  - (3) In subsection (4) (notice of order forfeiting licence or directing restoration of premises)—
    - (a) for “clerk of” substitute “ justices’ chief executive for ”, and
    - (b) for “clerk to” (in each place) substitute “ chief executive to ”.
  
- 39 In section 20A(3) (revocation of justices’ licences), for “clerk” substitute “ chief executive ”.
  
- 40 (1) Section 22 (procedural provisions as to appeals) is amended as follows.
  - (2) In subsections (1) and (2) (notice to be given to clerk), for “clerk” substitute “ chief executive ”.
  - (3) In subsection (4) (clerk to send notice of appeal to Crown Court), for “clerk to” substitute “ chief executive to ”.
  - (4) In subsection (5) (recording by clerk of persons opposing grant), for “clerk” substitute “ chief executive ”.
  
- 41 In section 27(4)(c)(ii) (notice for renewal of licence given to clerk), for “clerk” substitute “ chief executive ”.
  
- 42 (1) Section 28 (clerk to licensing justices) is amended as follows.
  - (2) In the heading and in the sidenote, after “clerk” insert “ and chief executive ”.
  - (3) After subsection (4) insert—
    - “(5) The justices’ chief executive for a petty sessions area shall be chief executive to the licensing justices for the licensing district consisting of that area.”
  
- 43 In section 30 (register of licences), in—
  - (a) subsection (1) (clerk to keep register), and
  - (b) subsection (4) (certification of entry by clerk),for “clerk” substitute “ chief executive ”.
  
- 44 (1) Section 31 (matters to be entered in register) is amended as follows.

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- (2) In subsection (1) (notice of conviction to be entered in register)—
- (a) for “clerk”, in the first place, substitute “ chief executive ”,
  - (b) for “clerk of” substitute “ justices’ chief executive for ”,
  - (c) for “clerk”, in the third place, substitute “ chief executive ”, and
  - (d) for “that clerk” substitute “ him ”.
- (3) In subsection (2), for “clerk” substitute “ chief executive ”.
- 45 In section 32(1) and (2) (persons with interest in property to be registered), for “clerk” substitute “ chief executive ”.
- 46 In section 33 (notice of conviction of licence holder to be served on registered owner), in—
- (a) subsection (1) (clerk to serve notice), and
  - (b) subsection (2) (provisions about service) (in both places),
- for “clerk” substitute “ chief executive ”.
- 47 In section 34(3) (refusal of inspection of register), for “clerk” substitute “ chief executive ”.
- 48 In section 46(2) (notice to fire authority of application for registration certificate), for “clerk” substitute “ chief executive ”.
- 49 (1) Section 51 (register of clubs) is amended as follows.
- (2) In subsection (1) (clerk to keep register), for “clerk” substitute “ chief executive ”.
  - (3) In subsection (2) (particulars to be registered), for “clerk” substitute “ chief executive ”.
  - (4) In subsection (4) (notice of change of particulars), for “clerk” substitute “ chief executive ”.
- 50 In—
- (a) section 62(3) (permitted hours in clubs),
  - (b) section 75(2) and (3) (application for exemption order) (in each place),
  - (c) section 87A(5) (permitted hours in vineyard premises),
  - (d) sections 133(1) and 142(1) (restoration of suspended licence),
  - (e) sections 150(3) and (4)(a), 151(6), 153A(3) and 154(1)(b) (canteen licences),
  - (f) section 180(3) and (4) (occasional licences) (in each place), and
  - (g) section 199(c) (saving relating to theatres),
- for “clerk” substitute “ chief executive ”.

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- 51 In Schedule 2 (applications for justices’ licences), in—
- (a) paragraph 1(a) (notice to clerk),
  - (b) paragraph 3 (deposition of plan), and
  - (c) paragraph 6 (list of applicants),
- for “clerk” substitute “ chief executive ”.
- 52 (1) Schedule 6 (applications and complaints relating to registration certificates) is amended as follows.
- (2) In paragraphs 1(1) and (3) and 2 (procedure on making of application), for “clerk” substitute “ chief executive ”.
- (3) In paragraph 4 (copies of application)—
- (a) for “clerk to” substitute “ chief executive to ”,
  - (b) for “clerk is” substitute “ chief executive is ”, and
  - (c) for “clerk needs” substitute “ chief executive needs ”.
- (4) In paragraphs 6(1) and 7 (objections), for “clerk” substitute “ chief executive ”.
- 53 In Schedule 8A (procedure for making, varying or revoking restriction orders), in—
- (a) paragraph 1(1) (notice of application to licensing justices), and
  - (b) paragraph 4(2) (notice of application to magistrates’ court),
- for “clerk” substitute “ chief executive ”.
- 54 In paragraph 7 of Schedule 11 (clerk to licensing planning committee)—
- (a) for “clerk”, in the first place, substitute “ chief executive ”, and
  - (b) for “districts, the clerk to the licensing justices”, substitute “ districts for which there are different chief executives, the chief executive ”.
- 55 In Schedule 12 (canteen licences), in paragraphs 1(1)(a) and 3, for “clerk” substitute “ chief executive ”.
- 56 In Schedule 12A (children’s certificates), in—
- (a) paragraphs 1(1) and 2(1) (applications), and
  - (b) paragraphs 7(3)(a) and 8(a) (duration),
- for “clerk” substitute “ chief executive ”.

*The Gaming Act 1968 (c.65)*

- 57 The Gaming Act 1968 has effect subject to the following amendments.
- 58 (1) Schedule 2 (grant etc. of licences) is amended as follows.
- (2) In paragraph 1(1) (licensing authority), at the end insert “ and references to the proper officer of a licensing authority shall be construed accordingly ”.

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- (3) In paragraphs 5(2) and 6(2) (procedure for application), for “clerk to” substitute “proper officer of”.
- (4) In paragraph 7 (public notice of application)—
  - (a) in sub-paragraph (1), for “clerk to” substitute “proper officer of”,
  - (b) in sub-paragraph (2), for “clerk to” substitute “proper officer of” and for “if the clerk” substitute “if the proper officer”, and
  - (c) in sub-paragraphs (3) and (4), for “clerk to” substitute “proper officer of”.
- (5) In paragraph 12(1) (making of application for renewal), for “clerk to” substitute “proper officer of”.
- (6) In paragraph 13 (notification of application for renewal)—
  - (a) in sub-paragraphs (2) and (3), for “clerk to” substitute “proper officer of”,
  - (b) in sub-paragraph (4), for “clerk to” substitute “proper officer of” and for “clerk”, in the other two places, substitute “proper officer”, and
  - (c) in sub-paragraph (5), for “clerk to” substitute “proper officer of”.
- (7) In paragraph 14(2)(a) (proceedings on application for grant or renewal), for “clerk to” substitute “proper officer of”.
- (8) In paragraph 15 (objections)—
  - (a) for “clerk to” substitute “proper officer of”, and
  - (b) in paragraph (b), for “clerk” substitute “proper officer”.
- (9) In—
  - (a) paragraph 28 (notification of Board’s advice),
  - (b) paragraph 29(1) (in both places) and (2) (appeal by applicant),
  - (c) paragraph 31(1) and (2) (appeal by Board),
  - (d) paragraph 33(1) (appeal in Scotland),
  - (e) paragraph 35(5) (revocation of certificate of consent), and
  - (f) paragraphs 36(1) and (3) and 37 (cancellation),
 for “clerk to” substitute “proper officer of”.
- (10) In paragraph 46(1) (notice of appeal), for “clerk” substitute “proper officer”.
- (11) In paragraph 48 (cancellation of licence where holder convicted of offence)—
  - (a) in sub-paragraph (4), for “clerk of” and for “clerk to” (in both places) substitute “proper officer of”, and
  - (b) after that sub-paragraph insert—
    - “(5) In sub-paragraph (4) of this paragraph, “the proper officer of the court” means—
      - (a) in relation to a magistrates’ court, the justices’ chief executive for the court, and
      - (b) in relation to any other court, the clerk of the court.”
- (12) In paragraphs 57(4) and 58(1) (transfer of licence), for “clerk to” substitute “proper officer of”.
- (13) In paragraph 63 (fees)—
  - (a) in sub-paragraph (1), for “clerk to” substitute “proper officer of”, and
  - (b) in sub-paragraph (2), for “clerk to” substitute “proper officer of”.

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- (14) In paragraphs 64(1) and 65(1) and (2) (notification of corporate changes), for “clerk to” substitute “ proper officer of ”.
- 59 (1) Schedule 3 (registration of members’ clubs in England and Wales) is amended as follows.
- (2) In—
- (a) paragraph 12(1) (appeal by applicant),
  - (b) paragraph 13(1) (appeal by Board), and
  - (c) paragraphs 15(1) (in both places) and 16(1) (cancellation),
- for “clerk” substitute “ chief executive ”.
- (3) In paragraph 17 (cancellation pursuant to conviction)—
- (a) in sub-paragraph (3), for “clerk of” substitute “ proper officer of ” and for “clerk to” (in both places) substitute “ chief executive to ”, and
  - (b) after that sub-paragraph insert—
    - “(4) In sub-paragraph (3) of this paragraph the “proper officer of the court” means—
      - (a) in relation to a magistrates’ court, the justices’ chief executive for the court, and
      - (b) in relation to the Crown Court, the appropriate officer of the court.”
- (4) In—
- (a) paragraph 23 (fees), and
  - (b) paragraph 24(1) and (2) (relinquishment of registration),
- for “clerk” substitute “ chief executive ”.
- 60 In Schedule 7 (registration for gaming by means of machines), in—
- (a) paragraph 3(1) (application for registration),
  - (b) paragraph 4(1) (application for renewal of registration),
  - (c) paragraph 11(1) (in both places) and (2) (appeal),
  - (d) paragraphs 13(1), 14 and 20(1) (cancellation of registration),
  - (e) paragraph 24 (fees), and
  - (f) paragraph 25(1) and (2) (relinquishment of registration),
- for “clerk” substitute “ chief executive ”.
- 61 (1) Schedule 9 (permits under section 34) is amended as follows.
- (2) In paragraph 11(2) and (3) (appeals), for “clerk to” substitute “ proper officer of ”.
  - (3) In paragraph 21 (fees), for “clerk” substitute “ proper officer ”.
  - (4) After paragraph 23 insert—
    - “24 For the purposes of this Schedule the proper officer of an appropriate authority is—

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- (a) where the appropriate authority is the licensing justices for a licensing district in England and Wales, the chief executive to the justices, and
- (b) in any other case, the clerk to the authority.”

*The Late Night Refreshment Houses Act 1969 (c.53)*

- 62 In section 6(2) of the Late Night Refreshment Houses Act 1969 (licensing authority to give to clerk to justices a copy of register of late night refreshment houses in the area), for the words from “to the clerk” to the end substitute “ a copy of or extract from the list or register to the justices’ chief executive for any petty sessions area falling wholly or partly within their area. ”

*The Children and Young Persons Act 1969 (c.54)*

<sup>F83</sup>63 .....

**Textual Amendments**

**F83** Sch. 13 para. 63 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Attachment of Earnings Act 1971 (c.32)*

- 64 The Attachment of Earnings Act 1971 has effect subject to the following amendments.

- 65 In section 3(1)(c) (persons who may apply for an attachment of earnings order), for “the clerk of a magistrates’ court, the clerk of that court” substitute “ a justices’ chief executive, that justices’ chief executive ”.

- 66 In section 6(7)(c) (clerk to be collecting officer in case of order made by a magistrates’ court), for “clerk either of that court or of” substitute “ justices’ chief executive for that court or for ”.

- 67 In section 17(3)(d) (power to require court officer to deal with payments under consolidated attachment order as directed by court or rules), for “clerk or registrar” substitute “ officer ”.

- 68 (1) Section 18 (certain action not to be taken by collecting officer except on request) is amended as follows.

- (2) In subsection (1) (clerk of magistrates’ court not to make certain applications unless requested by person entitled to receive payments), for “The clerk of a magistrates’ court” substitute “ A justices’ chief executive ”.

- (3) In subsections (2) and (3) (effect of request), for “the clerk” substitute “ a justices’ chief executive ”.

*Status: Point in time view as at 01/01/2005.*

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- 69 In section 21(2)(a)(ii) (costs due to clerk of magistrates’ court), for “clerk of” substitute “justices’ chief executive for”.

*The Immigration Act 1971 (c.77)*

- 70 (1) Schedule 2 to the Immigration Act 1971 (administrative provisions) is amended as follows.

- (2) In sub-paragraph (1) of paragraph 23, in paragraph (b) (particulars of recognizance to be given to clerk), for “clerk” substitute “proper officer”.

- (3) After that sub-paragraph insert—

“(1A) In sub-paragraph (1) “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court of summary jurisdiction in Northern Ireland, the clerk of the court.”

- (4) In sub-paragraph (3) of paragraph 31 (particulars of forfeited recognizance to be given to clerk), for “clerk” substitute “proper officer”.

- (5) After that sub-paragraph insert—

“(3A) In sub-paragraph (3) “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a court of summary jurisdiction in Northern Ireland, the clerk of the court.”

*The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c.18)*

- 71 The Maintenance Orders (Reciprocal Enforcement) Act 1972 has effect subject to the following amendments.

- 72 In section 7(5B) (powers of magistrates’ court on confirming provisional order made in reciprocating country), for—

- (a) “the clerk of the court or the clerk of any other magistrates’ court in England and Wales”, and
- (b) “the clerk of the court, or to the clerk of any other magistrates’ court in England and Wales,”,

substitute “a justices’ chief executive”.

- 73 (1) Section 8 (enforcement of maintenance order registered in United Kingdom court) is amended as follows.

- (2) In subsection (3) (requirement of person liable under order to notify change of address to clerk of the court), for “clerk” substitute “appropriate officer”.

- (3) After that subsection insert—

“(3A) In subsection (3) above “appropriate officer” means—

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- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to a court elsewhere, the clerk of the court.”
- (4) In subsection (4A) (application of section 76 of the <sup>M50</sup>Magistrates’ Courts Act 1980), in the subsection to be regarded as substituted as subsection (5) of that section, for—
- (a) “the clerk of the court or the clerk of any other magistrates’ court”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates’ court”,
- substitute “ a justices’ chief executive ”.

**Marginal Citations**

**M50** 1980 c.43.

- 74 (1) Section 9(1ZA) (application of section 60 of the <sup>M51</sup>Magistrates’ Courts Act 1980) is amended as follows.
- (2) In paragraph (a), in the subsection (3A) to be regarded as inserted in that section, for—
- (a) “the clerk of the court or the clerk of any other magistrates’ court”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates’ court”,
- substitute “ a justices’ chief executive ”.
- (3) In paragraph (b), in the paragraph to be regarded as substituted for subsection (4)(b) of that section, for “the clerk of the court, or to the clerk of any other magistrates’ court,” substitute “ a justices’ chief executive ”.
- (4) In paragraph (c) (words to be regarded as replaced in subsection (5) of that section), for “clerk” substitute “ justices’ chief executive for the court ”.

**Marginal Citations**

**M51** 1980 c.43.

- 75 (1) Section 23 (maintenance orders registered in High Court under Maintenance Orders (Facilities for <sup>M52</sup>Enforcement) Act 1920) is amended as follows.
- (2) In subsections (2), (3) and (4) (procedure), for “clerk” substitute “ appropriate officer ”.
- (3) After subsection (5) insert—
- “(6) In this section “appropriate officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to a magistrates’ court in Northern Ireland, the clerk of the court.”

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### Marginal Citations

M52 1920 c.33.

- 76 In section 26 (application for recovery of maintenance in convention country), for subsections (6) and (7) substitute—
- “(6) The appropriate officer for the purposes of this section is—
- (a) where the applicant is residing in England and Wales, the justices’ chief executive for the petty sessions area;
  - (b) where the applicant is residing in Northern Ireland, the clerk of the court for the petty sessions district; and
  - (c) where the applicant is residing in Scotland, the sheriff clerk or sheriff clerk depute of the sheriff court within the jurisdiction of which the applicant is residing.”
- 77 In section 27B (sending application to the appropriate magistrates’ court), for “clerk of” (in each place) substitute “ justices’ chief executive for ”.
- 78 (1) Section 27C (application for recovery of maintenance in England and Wales) is amended as follows.
- (2) In subsection (4) (powers of court), for—
- (a) “the clerk of the court or the clerk of any other magistrates’ court in England and Wales,”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates’ court in England and Wales,”,
- substitute “ a justices’ chief executive ”.
- (3) In subsection (7) (registration of order), for “clerk of” substitute “ justices’ chief executive for ”.
- 79 (1) Section 32 (transfer of orders) is amended as follows.
- (2) In subsection (2) (transmission of copy of order)—
- (a) for “the clerk” (in both places) substitute “ the appropriate officer ”, and
  - (b) for “that clerk” substitute “ the appropriate officer ”.
- (3) After that subsection insert—
- “(2A) In subsection (2) above the “appropriate officer” means—
- (a) in relation to a court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to a court in Northern Ireland, the clerk of the court.”
- 80 In section 34(3) (application from abroad to vary a registered order), for “the clerk of that court” substitute “—
- (a) the justices’ chief executive for the court, if the court is in England and Wales; or
  - (b) the clerk of the court, if the court is in Northern Ireland.”

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- 81 (1) Section 34A (variation of orders by magistrates’ courts) is amended as follows.
- (2) In subsection (3) (powers of magistrates’ courts), for—
  - (a) “the clerk of the court or the clerk of any other magistrates’ court in England and Wales”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates’ court in England and Wales,”
 substitute “ a justices’ chief executive ”.
- (3) In subsection (4)(b) (application for variation), for “the clerk of the court, or to the clerk of any other magistrates’ court in England and Wales,” substitute “ a justices’ chief executive ”.

*The Matrimonial Causes Act 1973 (c.18)*

- 82 (1) Section 38 of the Matrimonial Causes Act 1973 (orders for repayment of sums paid after cessation of order by reason of marriage) is amended as follows.
- (2) In subsection (6) (protection for clerk)—
  - (a) for “The clerk of a magistrates’ court” substitute “ A justices’ chief executive ”, and
  - (b) for “the clerk” substitute “ the justices’ chief executive ”.
- (3) In subsection (7) (definition of “collecting officer”), for “the clerk of a magistrates’ court” substitute “ a justices’ chief executive ”.

*The Powers of Criminal Courts Act 1973 (c.62)*

F84 83 .....

**Textual Amendments**  
**F84** Sch. 13 para. 83 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

F85 84 .....

**Textual Amendments**  
**F85** Sch. 13 para. 84 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

F86 85 .....

**Textual Amendments**  
**F86** Sch. 13 para. 85 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

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*The Salmon and Freshwater Fisheries Act 1975 (c.51)*

- 86 (1) Schedule 4 to the Salmon and Freshwater Fisheries Act 1975 (procedure relating to offences) is amended as follows.
- (2) In paragraphs 10 and 12 (delivery of licence and certificate of conviction), for “clerk” substitute “proper officer”.
- (3) After paragraph 13 insert—
- “14 In paragraphs 10 and 12 above “proper officer” means—
- (a) in relation to a magistrates’ court, the justices’ chief executive for the court; and
  - (b) in relation to the Crown Court, the appropriate officer.”

*The Lotteries and Amusements Act 1976 (c.32)*

- 87 (1) Schedule 3 to the Lotteries and Amusements Act 1976 (permits for commercial provision of amusements with prizes) is amended as follows.
- (2) In paragraph 1(2) (interpretation), at the end insert “and
- “the proper officer of the appropriate authority” means—
- (a) where the appropriate authority is the licensing justices for a licensing district in England and Wales, the chief executive to the justices; and
  - (b) in any other case, the clerk to the authority.”
- (3) In paragraph 8(2) and (3) (appeals), for “clerk to” substitute “proper officer of”.
- (4) In paragraph 18 (fees), for “clerk” substitute “proper officer”.

*The Adoption Act 1976 (c.36)*

- 88 In section 58A(3) of the Adoption Act 1976 (duty of clerk of a magistrates’ court to send to Secretary of State particulars about proceedings relating to children), for “clerk of” substitute “justices’ chief executive for”.

*The Bail Act 1976 (c.63)*

- 89 In section 6(9)(c)(i) of the Bail Act 1976 (certification of copy of court record by justices’ clerk), for the words from “clerk” to the end substitute “chief executive”.

*The Domestic Proceedings and Magistrates’ Courts Act 1978 (c.22)*

- 90 The Domestic Proceedings and Magistrates’ Courts Act 1978 has effect subject to the following amendments.

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- 91 In section 20ZA(3) (variation of orders for periodical payments to provide that payments shall be made to the court clerk), for “to the clerk” substitute “ to the justices’ chief executive for the court ”.
- 92 In section 32(2) (enforcement of orders for payment of money), for “the clerk of a magistrates’ court” substitute “ a justices’ chief executive ”.
- 93 (1) Section 35 (orders for repayment of sums paid after cessation of order by reason of marriage) is amended as follows.
- (2) In subsection (7) (protection for clerk)—
- (a) for “The clerk of a magistrates’ court” substitute “ A justices’ chief executive ”, and
- (b) for “the clerk” substitute “ the justices’ chief executive ”.
- (3) In subsection (8) (definition of “collecting officer”), for “clerk of a magistrates’ court” substitute “ justices’ chief executive ”.

*The Licensed Premises (Exclusion of Certain Persons) Act 1980 (c.32)*

- 94 (1) Section 4 of the Licensed Premises (Exclusion of Certain Persons) Act 1980 (supplemental) is amended as follows.
- (2) In subsection (3) (copy of exclusion order to be sent to licensee of relevant premises), for the words from “clerk” to “may be,” substitute “ proper officer of the court ”.
- (3) After that subsection insert—
- “(4) For the purposes of subsection (3) above—
- (a) the proper officer of a magistrates’ court in England and Wales is the justices’ chief executive for the court;
- (b) the proper officer of the Crown Court is the appropriate officer; and
- (c) the proper officer of a court in Scotland is the clerk of the court.”

*The Magistrates’ Courts Act 1980 (c.43)*

- 95 The Magistrates’ Courts Act 1980 has effect subject to the following amendments.
- 96 In section 6(5) (clerk to display details of cases committed for trial), for “clerk of” substitute “ justices’ chief executive for ”.
- 97 In section 12 (non-appearance of accused: plea of guilty), in subsections (1)(b), (4) (in both places) and (6) (in both places), for “clerk of” substitute “ justices’ chief executive for ”.
- 98 (1) Section 14 (avoidance of certain proceedings) is amended as follows.

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- (2) In subsection (1)(b) (service of declaration), for “clerk to the justices” substitute “justices’ chief executive for the court”.
  - (3) In subsection (2) (deemed service), for “clerk to the justices” substitute “justices’ chief executive”.
- 99 (1) Section 59 (orders for periodical payment: means of payment) is amended as follows.
- (2) In subsection (3)(b) (power of the court to order payment to clerk), for “the clerk of the court or to the clerk of any other magistrates’ court” substitute “a justices’ chief executive”.
  - (3) In subsection (8) (power to specify method of payment to a clerk), for “the clerk of a magistrates’ court” substitute “a justices’ chief executive”.
- 100 (1) Section 59A (orders for periodical payments: proceedings by clerk) is amended as follows.
- (2) In subsection (1) (proceedings by clerk where payment not made)—
    - (a) for “the clerk of a magistrates’ court” substitute “a justices’ chief executive”;
    - (b) for “the clerk of the relevant court” substitute “the relevant justices’ chief executive”, and
    - (c) for “to the clerk” substitute “to that justices’ chief executive”.
  - (3) In subsection (2) (authority to clerk to act under subsection (3))—
    - (a) for “the clerk of a magistrates’ court” substitute “a justices’ chief executive”, and
    - (b) for “the clerk of the relevant court for the clerk” substitute “the relevant justices’ chief executive for him”.
  - (4) In subsection (3) (proceedings by clerk), for “the clerk of the relevant court, the clerk” substitute “the relevant justices’ chief executive, he”.
  - (5) In subsection (4) (cessation of authority)—
    - (a) for “the clerk of a relevant court” substitute “a justices’ chief executive”,
    - (b) for “clerk cancelling” substitute “justices’ chief executive cancelling”, and
    - (c) for “clerk shall” substitute “justices’ chief executive shall”.
  - (6) In subsection (7) (interpretation), for the definition of “the relevant court” substitute—
    - ““the relevant justices’ chief executive”, in relation to an order, means—
      - (a) in a case where payments under the order are required to be made to or through a justices’ chief executive, that justices’ chief executive;
      - (b) in a case where such payments are required to be made by any method of payment falling within section 59(6) above and the order was made by a magistrates’ court, the justices’ chief executive for that magistrates’ court; and

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- (c) in a case where such payments are required to be made by any method of payment falling within section 59(6) above and the order was not made by a magistrates’ court, the justices’ chief executive for the magistrates’ court in which the order is registered;”.
- (7) In the sidenote, for “clerk” substitute “ justices’ chief executive ”.
- 101 In section 60(5) (variation of order to provide that payments be made to magistrates’ clerk), for “to the clerk” substitute “ to the justices’ chief executive for the court ”.
- 102 In section 61(1)(b) (rules about apportionment of sums paid to clerk between two or more orders)—
- (a) for “clerk to a magistrates’ court” substitute “ justices’ chief executive ”, and
- (b) for “that clerk” substitute “ that justices’ chief executive ”.
- 103 In section 62(1)(ii) (proceedings by clerk for sums payable to child), for “clerk of” substitute “ justices’ chief executive for ”.
- 104 In section 82(5A) (clerk to serve notice of hearing to consider issue of warrant of commitment for default in paying fine), for “clerk of” substitute “ justices’ chief executive for ”.
- 105 (1) Section 87 (enforcement of payment of fines by High Court and county court) is amended as follows.
- (2) In subsection (1) (enforcement as if sum due to magistrates’ clerk in pursuance of High Court or county court order), for “clerk of” substitute “ justices’ chief executive for ”.
- (3) In subsection (3) (clerk not to take proceedings unless authorised by court after inquiry), for “clerk of the magistrates’ court” substitute “ justices’ chief executive ”.
- (4) In subsection (4) (expenses of clerk in recovering sum to be treated as expenses of magistrates’ courts committee), for “the clerk of a magistrates’ court” substitute “ a justices’ chief executive ”.
- 106 (1) Section 87A (fines imposed on companies) is amended as follows.
- (2) In subsection (1) (power of court to apply for administration order or winding up), for “clerk of” substitute “ justices’ chief executive for ”.
- (3) In subsection (2) (expenses of clerk to be treated as expenses of magistrates’ courts committee), for “the clerk of a magistrates’ court” substitute “ a justices’ chief executive ”.

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- 107 In section 89(2) (transfer of fine order: functions of clerk exercisable by clerk of court specified in order), for “clerk of” (in both places) substitute “ justices’ chief executive for ”.
- 108 In section 90(3) (functions of clerk in relation to payment of fine to cease to be exercisable on making of order for payment to be enforceable in Scotland or Northern Ireland), for “clerk of” substitute “ justices’ chief executive for ”.
- 109 In section 91(1) (functions of clerk in relation to payment of fine imposed in Scotland or Northern Ireland on making of order for payment to be enforceable in England and Wales), for “clerk of” substitute “ justices’ chief executive for ”.
- 110 In section 95(3) (instalments: powers of the court in relation to non-English maintenance orders), for—  
(a) “the clerk of the court or the clerk of any other magistrates’ court”, and  
(b) “the clerk of the court, or to the clerk of any other magistrates’ court,”,  
substitute “ a justices’ chief executive ”.
- 111 In section 97A(9), (10) and (11) (summons or warrant as to committal proceedings), for “clerk of” substitute “ chief executive to ”.
- 112 In section 99 (proof of non-payment of sum adjudged)—  
(a) for “clerk of a magistrates’ court” substitute “ justices’ chief executive ”,  
and  
(b) for “the clerk” (in both places) substitute “ the justices’ chief executive ”.
- 113 In section 114 (payment to clerk of fees and recognizances on case stated), for “him the fees payable for the case and for the recognizances” substitute “ the fees payable for the case and for the recognizances to the justices’ chief executive for the court ”.
- 114 (1) Section 137 (fees) is amended as follows.  
(2) In subsection (1) (fees chargeable by clerks limited by Part I of Schedule 6), for “clerks of magistrates’ courts” substitute “ justices’ chief executives ”.  
(3) In subsection (2) (no fee chargeable by clerk in respect of matters specified in Part II of Schedule 6), for “clerk of a magistrates’ court” substitute “ justices’ chief executive ”.
- 115 In section 139 (application by clerk of money received on account of sum adjudged to be paid by summary conviction), for “clerk of a magistrates’ court” substitute “ justices’ chief executive ”.
- 116 In section 144(1) (rules about procedure and practice to be followed in magistrates’ courts and by justices’ clerks), insert at the end “ and justices’ chief executives. ”

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- 117 In Schedule 6 (fees), in the heading to Part I (fees to be taken by clerks), for “CLERKS TO JUSTICES” substitute “ JUSTICES’ CHIEF EXECUTIVES ”.

*The Highways Act 1980 (c.66)*

- 118 In section 47(6) of the Highways Act 1980 (notification by clerk as to decision of justices who view allegedly unnecessary highway), for “clerk” substitute “ chief executive ”.

*The Betting and Gaming Duties Act 1981 (c.63)*

- 119 The Betting and Gaming Duties Act 1981 has effect subject to the following amendments.

- 120 (1) Paragraph 15 of Schedule 1 (enforcement of betting duty) is amended as follows.

- (2) In sub-paragraph (4) (notification of forfeiture and cancellation of betting office licence)—

- (a) for “clerk of” substitute “ proper officer of ”, and
- (b) for the words from “clerk to”, in the first place, to “clerk to”, in the second place, substitute “ proper officer of the appropriate authority who last either granted or renewed the licence, send a copy of the order to the proper officer of ”.

- (3) After that sub-paragraph insert—

“(4A) In sub-paragraph (4) above—

“proper officer of the court” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, and “appropriate authority” and “proper officer of the appropriate authority” have the same meaning as in Schedule 1 to the <sup>M53</sup>Betting, Gaming and Lotteries Act 1963.”

**Marginal Citations**

**M53** 1963 c.2.

- 121 (1) Paragraph 15 of Schedule 4 (register of permits) is amended as follows.

- (2) In sub-paragraph (1) (registers of permits etc.), for “clerk to” substitute “ proper officer of ”.

- (3) After sub-paragraph (2) insert—

“(3) In sub-paragraph (1) above “proper officer of the appropriate authority” means—

- (a) where the appropriate authority is a committee of the justices acting for a petty sessions area, the chief executive to the justices; and

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(b) in any other case, the clerk to the authority.”

*The Civil Jurisdiction and Judgments Act 1982 (c.27)*

- 122 (1) Section 5 of the <sup>M54</sup>Civil Jurisdiction and Judgments Act 1982 (recognition and enforcement of maintenance orders) is amended as follows.
- (2) In subsection (5B) (application of section 76 of the Magistrates’ Courts Act 1980), in the subsection to be regarded as substituted as subsection (5) of that section, for—
- (a) “the clerk of the court or the clerk of any other magistrates’ court,”, and
  - (b) “the clerk of the court, or to the clerk of any other magistrates’ court,”,
- substitute “ a justices’ chief executive ”.
- (3) In subsection (7) (requirement of payer to notify change of address to clerk of the court), for “clerk” substitute “ proper officer ”.
- (4) After that subsection insert—
- “(8) In subsection (7) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
  - (b) in relation to a magistrates’ court in Northern Ireland, the clerk of the court.”

**Marginal Citations**

**M54** 1980 c.43.

*The Criminal Justice Act 1982 (c.48)*

<sup>F87</sup>123 .....

**Textual Amendments**

**F87** Sch. 13 para. 123 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*The Licensing (Occasional Permissions) Act 1983 (c.24)*

- 124 In section 2(2), (3), (4) and (5) of the Licensing (Occasional Permissions) Act 1983 (applications for occasional permissions), for “clerk” substitute “ chief executive ”.

*The Police and Criminal Evidence Act 1984 (c.60)*

- 125 The Police and Criminal Evidence Act 1984 has effect subject to the following amendments.

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- 126 In section 16(10) and (11) (warrants to be returned to and retained by clerk), for “clerk” substitute “ chief executive ”.
- 127 In section 47(3A)(b) (date for appearance on granting of bail), for “clerk to the justices” substitute “ justices’ chief executive. ”
- 128 (1) Section 73 (proof of conviction) is amended as follows.
- (2) In subsection (2) (certificate of conviction to be signed by clerk), for “clerk” (in each place) substitute “ proper officer ”.
- (3) For subsection (3) substitute—
- “(3) In subsection (2) above “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having custody of the court record.”

*The Prosecution of Offences Act 1985 (c.23)*

- 129 The Prosecution of Offences Act 1985 has effect subject to the following amendments.
- 130 In section 7(4) (justices’ clerk to send to Director of Public Prosecutions details of certain cases which do not proceed)—
- (a) for “justices’ clerk” substitute “ justices’ chief executive ”, and
- (b) for “the magistrates’ court to which he is clerk” substitute “ a magistrates’ court for which he is the justices’ chief executive ”.
- 131 In section 23(3), (7) and (8) (discontinuance of proceedings by Director of Public Prosecutions), for “clerk of” substitute “ justices’ chief executive for ”.

*The Sporting Events (Control of Alcohol etc.) Act 1985 (c.57)*

- 132 In section 4(6) of the Sporting Events (Control of Alcohol etc.) Act 1985 (power of justices’ clerks to charge fees), for “clerks” substitute “ chief executives ”.

*The Insolvency Act 1986 (c.45)*

- 133 In sections 9(1) and 124(1) of the Insolvency Act 1986 (applications for administration order and winding up), for “the clerk of a magistrates’ court” substitute “ a justices’ chief executive ”.

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*The Public Order Act 1986 (c.64)*

- 134 In section 34(1) and (2) of the Public Order Act 1986 (notification by clerk of making or termination of exclusion order), for “clerk of” substitute “justices’ chief executive for”.

*The Coroners Act 1988 (c.13)*

- 135 In sections 16(1)(a) and 17(1) of the Coroners Act 1988 (coroner to adjourn inquest on being notified by clerk of proceedings relating to the death in question), for “clerk of” substitute “justices’ chief executive for”.

*The Criminal Justice Act 1988 (c.33)*

- 136 The Criminal Justice Act 1988 has effect subject to the following amendments.
- 137 In section 41(10) and (11)(a) (clerk of magistrates’ court to be notified about outcome of certain proceedings in Crown Court and Court of Appeal), for “clerk of” substitute “justices’ chief executive for”.
- 138 In section 67(1) (clerk to be notified of fine imposed by coroner), for “clerk of” substitute “justices’ chief executive for”.
- 139 **F88** .....

**Textual Amendments**

**F88** Sch. 13 para. 139 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 457, 458, Sch. 12; S.I. 2003/333, art. 2, Sch. (subject to arts. 3-14 (as amended by S.I. 2003/531, arts. 3, 4))

*The Road Traffic Offenders Act 1988 (c.53)*

- 140 The Road Traffic Offenders Act 1988 has effect subject to the following amendments.
- 141 (1) Section 7 (duty of accused to provide licence to clerk of court) is amended as follows.
- (2) Number the existing provision as subsection (1) and, in paragraph (a) of that provision, for “clerk” substitute “proper officer”.
- (3) After that provision insert—
- “(2) In subsection (1) above “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”

*Status: Point in time view as at 01/01/2005.*

*Changes to legislation: Access to Justice Act 1999 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 142 In sections 8(a) and 25(2)(a) (notification to clerk of date of birth and sex), for “to the clerk of a court in pursuance of section 12(2)” substitute “ to a justices’ chief executive in pursuance of section 12(4) ”.
- 143 (1) Section 26 (interim disqualification) is amended as follows.
- (2) In subsection (7), in paragraph (b) (licence of person subject to interim disqualification to be sent to clerk), for “clerk” substitute “ proper officer ”.
- (3) After that subsection insert—
- “(2) In subsection (7) above “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”
- 144 (1) Section 27 (production of licence) is amended as follows.
- (2) In subsection (4) (exceptions), for “clerk” (in both places) substitute “ proper officer ”.
- (3) After that subsection insert—
- “(5) In subsection (4) above “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”
- 145 (1) Section 34B (certificate of completion of course) is amended as follows.
- (2) In subsections (1), (2) (in both places), (6) and (7), for “clerk” substitute “ proper officer ”.
- (3) In subsection (9)—
- (a) for “clerk of a court” substitute “ proper officer of a court ”, and
- (b) for “clerk or” substitute “ officer or ”.
- 146 In section 34C(2) (interpretation), after the definition of “petty sessions area” insert—
- ““proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to a sheriff court in Scotland, the clerk of the court;”.
- 147 In section 52(3)(c) (fixed penalty notice to specify justices’ clerk to whom payment to be made), for “justices’ clerk” substitute “ justices’ chief executive ”.
- 148 (1) Section 69 (payment of fixed penalty) is amended as follows.
- (2) In subsection (1) (payment to be made to justices’ clerk specified in notice), for “justices’ clerk” substitute “ justices’ chief executive ”.
- (3) In subsection (4) (definition of “fixed penalty clerk”), after “references to the” insert “ justices’ chief executive or ”.

*Status: Point in time view as at 01/01/2005.*

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- 149 In section 70(4)(a) (registration certificate to be sent to clerk to justices where offender resides), for “clerk to the justices” substitute “ justices’ chief executive ”.
- 150 (1) Section 71 (registration of sums payable in default) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) Where, in England and Wales, a justices’ chief executive receives a registration certificate issued under section 70 of this Act in respect of any sum payable in default—
- (a) if it appears to him that the defaulter resides in a petty sessions area for which he is the justices’ chief executive, he must register that sum for enforcement as a fine in that area by entering it in the register of a magistrates’ court acting for that area,
  - (b) if it appears to him that the defaulter resides in any other petty sessions area in England and Wales, he must send the certificate to the justices’ chief executive for that area, or
  - (c) if it appears to him that the defaulter resides in Scotland, he must send the certificate to the clerk of the court of summary jurisdiction for the area in which the defaulter appears to him to reside.
- (2) Where, in Scotland, the clerk of a court receives a registration certificate issued under section 70 of this Act in respect of any sum payable in default—
- (a) if it appears to him that the defaulter resides in the area of the court, he must register that sum for enforcement as a fine by that court,
  - (b) if it appears to him that the defaulter resides in the area of any other court of summary jurisdiction in Scotland, he must send the certificate to the clerk of that court, or
  - (c) if it appears to him that the defaulter resides in England and Wales, he must send the certificate to the justices’ chief executive for the petty sessions area in which the defaulter appears to him to reside.
- (2A) Subsections (1) and (2) apply to executives and clerks who receive certificates pursuant to the provision they contain as they apply to the original recipients.”
- (3) In subsection (6) (notice to defaulter), for “clerk to the justices” substitute “ justices’ chief executive ”.
- 151 In sections 72(1) and (6) and 73(1)(b) and (7) (invalidity of registration notice), for “clerk” substitute “ proper officer ”.
- 152 (1) Section 74 (supplementary) is amended as follows.
- (2) In subsection (4) (service of statutory declaration), for “clerk” substitute “ proper officer ”.
- (3) In subsection (5) (interpretation), for paragraph (b) substitute—
- “(b) references to the proper officer of the relevant court are—
- (i) in the case of a magistrates’ court, references to the justices’ chief executive for that court, and
  - (ii) in the case of a court of summary jurisdiction in Scotland, references to the clerk of the court, and”.

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- 153 In section 75(6) (definition of “fixed penalty clerk” for purposes of conditional offers)—
- (a) for “justices’ clerk” substitute “ justices’ chief executive ”, and
  - (b) for “that clerk” substitute “ he ”.
- 154 In section 82(2) (accounting where one clerk acts for another), for “justices’ clerk” substitute “ justices’ chief executive ”.
- 155 In section 83(1)(b) (powers where clerk of court deceived), after “Act the” insert “ justices’ chief executive or ”.
- 156 In section 84(c) (power to make regulations prescribing duties of justices’ clerks), for “justices’ clerks” substitute “ justices’ chief executives ”.

*The Prevention of Terrorism (Temporary Provisions) Act 1989 (c.4)*

- 157 (1) Schedule 4 to the Prevention of Terrorism (Temporary Provisions) Act 1989 (forfeiture orders) is amended as follows.
- (2) In paragraph 1(5) (meaning of “proper officer”), for “clerk of”, in the first three places, substitute “ justices’ chief executive for ”.
  - (3) In paragraph 9(4) (functions of clerk to be exercised by appropriate officer of High Court in case of order made elsewhere in British Islands), for “the clerk of a magistrates’ court” substitute “ a justices’ chief executive ”.

*The Football Spectators Act 1989 (c.37)*

- 158 In sections 7(7)(b) and 18(1) of the Football Spectators Act 1989 (duties of clerk in relation to notices of conviction and restriction orders), for “clerk of” substitute “ justices’ chief executive for ”.

*The Children Act 1989 (c.41)*

- 159 The Children Act 1989 has effect subject to the following amendments.
- 160 In section 83(5) (clerk to provide particulars of proceedings), for “clerk of” substitute “ justices’ chief executive for ”.
- 161 In paragraph 6A(3) of Schedule 1 (variation of order to provide that payments be made to clerk), for “to the clerk” substitute “ to the justices’ chief executive for the court ”.

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162 In paragraph 24(6) of Schedule 2 (signature of clerk as evidence of contribution order), for “clerk of” substitute “justices’ chief executive for”.

*The Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c.25)*

163 (1) Schedule 2 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (supervision and treatment orders) is amended as follows.

- (2) In paragraph 3(4) (clerk to receive copy of supervision and treatment order), for “clerk to the justices” substitute “justices’ chief executive”.
- (3) In paragraph 10(1) (clerk to send copy of revocation of supervision and treatment order to supervising officer), for “clerk to” substitute “justices’ chief executive for”.
- (4) In paragraph 11 (amendment of orders), in sub-paragraph (1), for “clerk to the justices” (in both places) substitute “justices’ chief executive” and after that sub-paragraph insert—

“(1A) Where the justices’ chief executive for the court making the order is also the justices’ chief executive for the new petty sessions area—  
(a) sub-paragraph (1)(b) above does not apply; but  
(b) the justices’ chief executive shall give copies of the amending order to the supervising officer.”

(5) In that paragraph, in sub-paragraph (2), after “(1)” insert “or (1A)”.

*The Criminal Justice Act 1991 (c.53)*

164 The Criminal Justice Act 1991 has effect subject to the following amendments.

165 In section 20A(2) (official request is one made by clerk), for “clerk of” substitute “justices’ chief executive for”.

<sup>F89</sup>166 .....

**Textual Amendments**

**F89** Sch. 13 para. 166 repealed (25.8.2000) by 2000 c. 6, ss. 165(4), 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*The Social Security Administration Act 1992 (c.5)*

167 The Social Security Administration Act 1992 has effect subject to the following amendments.

168 In section 107(5) and (11) (recovery of expenditure on income support), for “to the clerk” substitute “to the justices’ chief executive for the court”.

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- 169 In section 121(1)(b) (receipt of statement by clerk), for “clerk of” substitute “justices’ chief executive for”.

*The Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9)*

- 170 In section 14(5)(b) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (Secretary of State to send supervised release order to clerk to the justices), for “clerk” substitute “chief executive”.

*The Pension Schemes Act 1993 (c.48)*

- 171 In section 68(1)(b) of the Pension Schemes Act 1993 (receipt by clerk of statement of failure to pay premiums), for “clerk of” substitute “justices’ chief executive for”.

*The Drug Trafficking Act 1994 (c.37)*

- 172 <sup>F90</sup> .....

**Textual Amendments**

**F90** Sch. 13 para. 172 repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 457, 458, [Sch. 12](#); [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (subject to [arts. 3-14](#) (as amended by [S.I. 2003/531](#), [arts. 3, 4](#)))

*The Road Traffic (New Drivers) Act 1995 (c.13)*

- 173 (1) Paragraph 3 of Schedule 1 to the Road Traffic (New Drivers) Act 1995 (duty to provide test certificate) is amended as follows.
- (2) In sub-paragraph (3), in paragraph (b) (certificate not previously supplied to clerk), for “clerk” substitute “proper officer”.
- (3) After that sub-paragraph insert—
- “(3A) In sub-paragraph (3) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
- (b) in relation to any other court, the clerk of the court.”

*The Merchant Shipping Act 1995 (c.21)*

- 174 (1) Section 68 of the Merchant Shipping Act 1995 (power to summon witness) is amended as follows.
- (2) In subsection (4) (particulars of fine to be given to clerk), for “clerk” substitute “proper officer”.
- (3) After that subsection insert—
- “(4A) In subsection (1) above “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and

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- (b) in relation to a magistrates’ court in Northern Ireland, the clerk of the court.”

*The Criminal Procedure (Scotland) Act 1995 (c.46)*

- 175 In section 234(9) of the Criminal Procedure (Scotland) Act 1995 (copies of probation order relating to person resident in England and Wales to be sent to clerk of relevant area), for “clerk to the justices” substitute “ justices’ chief executive ”.

*The Reserve Forces Act 1996 (c.14)*

- 176 The Reserve Forces Act 1996 has effect subject to the following amendments.
- 177 (1) Paragraph 7 of Schedule 2 (delivery into military, air-force or naval custody of person dealt with by court of summary jurisdiction as illegally absent) is amended as follows.
- (2) In sub-paragraph (3) (fee payable to clerk of the court), for “clerk” substitute “ proper officer ”.
- (3) After that sub-paragraph insert—
- “(3A) In sub-paragraph (3) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court.”

- 178 (1) Paragraph 9 of Schedule 3 (proof of outcome of civil trial) is amended as follows.
- (2) In sub-paragraphs (1), (2) and (3) (certificate signed by clerk is proof of outcome), for “clerk” substitute “ proper officer ”.
- (3) For sub-paragraph (4) substitute—
- “(4) In this paragraph “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.”

*The Crime and Disorder Act 1998 (c.37)*

- 179 (1) Schedule 3 to the Crime and Disorder Act 1998 (procedure where no committal proceedings for indictable-only offence) is amended as follows.
- (2) In paragraph 4(9), (10) and (11) (power of justice to take depositions etc), for “clerk of” substitute “ chief executive to ”.
- (3) In paragraph 6(7) (Crown Court to inform clerk of magistrates’ court of outcome of trial), for “clerk of” substitute “ justices’ chief executive for ”.

*Status: Point in time view as at 01/01/2005.*

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## SCHEDULE 14

Section 105.

### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART I

##### GENERAL

- 1 (1) The Lord Chancellor [<sup>F91</sup>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 <sup>M55</sup>Interpretation Act 1978 (effect of repeals).

#### Textual Amendments

**F91** 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)

**C2** 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

**M55** 1978 c.30.

#### PART II

##### LEGAL SERVICES COMMISSION

##### *Replacement of Legal Aid Board by Legal Services Commission*

- 2 (1) When section 1 of this Act comes into force—
- (a) the functions of the Legal Aid Board, and
  - (b) the property, rights and liabilities of the Board,
- shall by virtue of this paragraph be transferred to the Legal Services Commission.
- (2) Sub-paragraph (1)(b) has effect in relation to any property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would otherwise prevent or restrict their transfer.
- 3 (1) Anything which, immediately before section 1 of this Act comes into force, is in the process of being done by or in relation to the Legal Aid Board may, if it relates to anything transferred by paragraph 2(1), be continued by or in relation to the Legal Services Commission.

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- (2) Anything done (or having effect as if done) by or in relation to the Legal Aid Board before the time when section 1 of this Act comes into force for the purpose of, or in connection with, anything transferred by paragraph 2(1) shall, so far as is required for continuing its effect after that time, have effect as if done by or in relation to the Legal Services Commission.
- (3) Any reference to the Legal Aid Board in any document, including any enactment, constituting or relating to anything transferred by paragraph 2(1) shall, so far as is required for giving effect to that paragraph, be construed as a reference to the Legal Services Commission.
- 4 Where rights and liabilities under a contract of employment are transferred under paragraph 2(1)(b)—
- (a) for the purposes of Part XI of the <sup>M56</sup>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 Legal Aid Board shall count as a period of employment with the Legal Services Commission and the change of employment shall not break the continuity of the period of employment.

**Marginal Citations**

**M56** 1996 c.18.

- 5 (1) Any arrangements made by the Legal Aid Board under paragraph 10(2) of Schedule 1 to the <sup>M57</sup>Legal Aid Act 1988 (power to provide for pensions) before the time when section 1 of this Act comes into force shall be treated after that time (so far as may be necessary to preserve their effect) as having been made by the Legal Services Commission under paragraph 10(1) of Schedule 1 to this Act.
- (2) For the purposes of any such arrangement as it has effect after section 1 of this Act comes into force, a person's period of employment with the Legal Aid Board shall count as a period of employment with the Legal Services Commission.

**Marginal Citations**

**M57** 1988 c.34.

*Winding-down of Legal Aid Board*

- 6 (1) The Legal Aid Board shall give to the Legal Services Commission all the information, prepare all the documents and do all other things which appear to the Commission appropriate for the purpose of facilitating—
- (a) the carrying into effect of the transfers effected by paragraph 2(1), and
  - (b) the exercise of any functions transferred by paragraph 2(1)(a) or conferred or imposed on the Commission by this Schedule;
- and the Legal Aid Board may do anything else which appears to it appropriate for that purpose.

*Status: Point in time view as at 01/01/2005.*

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- (2) The Legal Aid Board shall, as soon as possible after the time when section 1 of this Act comes into force, prepare a report in accordance with section 5(3) of the <sup>M58</sup>Legal Aid Act 1988—
  - (a) in relation to the last financial year ending before that time (if it has not done so before then), and
  - (b) in relation to the period between the end of that financial year and that time (as if that period were a financial year).
- (3) The Legal Aid Board shall, as soon as possible after the time when section 1 of this Act comes into force, prepare a statement of accounts in accordance with section 7(1) of the Legal Aid Act 1988—
  - (a) in relation to the last financial year ending before that time (if it has not done so before then), and
  - (b) in relation to the period between the end of that financial year and that time (as if that period were a financial year).
- (4) Subsections (2) to (7) of section 7 to the Legal Aid Act 1988 shall, after section 1 of this Act comes into force, apply in relation to—
  - (a) the preparation of a statement under sub-paragraph (3)(a) or (b), and
  - (b) the auditing of accounts kept under that section for the periods mentioned in sub-paragraph (3)(a) and (b).
- (5) From the time when section 1 of this Act comes into force, the Legal Services Commission shall make available to the Legal Aid Board such facilities as it may reasonably require for exercising its functions under this paragraph.
- (6) The Lord Chancellor may pay to members of the Legal Aid Board—
  - (a) any remuneration which he considers appropriate in respect of the performance of their duties as members of the Board after the time when section 1 of this Act comes into force, and
  - (b) any allowances which he determines should be paid to them in respect of expenses properly incurred by them in the performance of those duties after that time.
- (7) The Lord Chancellor may determine that, as from the coming into force of section 1 of this Act, the number of members of the Legal Aid Board shall be reduced to a number which he considers appropriate (and may, accordingly, remove any such members from office).
- (8) The Lord Chancellor shall meet the costs of remunerating auditors and any other costs incurred by the Legal Aid Board in connection with the exercise of any of its functions under this paragraph.

**Marginal Citations**

**M58** [1988 c.34.](#)

*Abolition of Legal Aid Board*

- 7 (1) The Legal Aid Board shall cease to exist when the Lord Chancellor, being satisfied that its duties under paragraph 6 have been discharged, by order made by statutory instrument so specifies.

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- (2) Nothing in this Schedule, and no amendment or repeal made by this Act, affects—
- (a) the continuance of the Legal Aid Board for the purpose of exercising its functions under paragraph 6, or
  - (b) the continued operation for that purpose of any enactment relating to the Board.

*Further provision for Legal Aid Board and Legal Services Commission*

- 8 (1) The Lord Chancellor may by order made by statutory instrument make any consequential, incidental, supplementary or transitional provisions, and any savings, which appear to him to be appropriate in consequence of or otherwise in connection with—
- (a) the transfers effected by paragraph 2(1), or
  - (b) the abolition of the Legal Aid Board.
- (2) An order under sub-paragraph (1) may include provisions in the form of amendments or repeals of this Part of this Schedule or any other enactment.

*Funding of representation by Lord Chancellor*

- 9 (1) Until such date as the Lord Chancellor may by order made by statutory instrument appoint, the duty of the Commission under section 14(1) of this Act shall have effect as a duty of the Commission or the Lord Chancellor, as the Lord Chancellor may specify.
- (2) To the extent that that duty has effect as a duty of the Lord Chancellor he shall comply with it by making payments to persons or bodies in respect of the provision of representation by them; and, accordingly, references in this Act and any other enactment to representation (or services) funded by the Commission as part of the Criminal Defence Service include representation funded by the Lord Chancellor under this sub-paragraph.
- (3) The Lord Chancellor shall by order made by statutory instrument make provision about such payments (including provision for reviews of, or appeals against, determinations required for the purposes of the order); and subsections (2) and (3) of section 25 of this Act shall apply to it (as if it were a remuneration order as defined by subsection (4) of that section).

### PART III

#### LEGAL SERVICES

*Conditional fee agreements*

- 10 Any order made under section 58(4) or (5) of the <sup>M59</sup>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.

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**Marginal Citations**

**M59** 1990 c.41.

- 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 <sup>M60</sup>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.

**Marginal Citations**

**M60** 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 (1) For the purposes of section 27 of the <sup>M61</sup>Courts and Legal Services Act 1990—
- (a) the qualification regulations and rules of conduct of the General Council of the Bar at the time when section 36 of this Act comes into force shall (so far as relating to rights of audience) be deemed to have been approved in relation to the right specified in section 31(1) of that Act (as substituted by that section), and
  - (b) the qualification regulations and rules of conduct of the Law Society at that time shall (so far as relating to rights of audience) be deemed to have been approved in relation to the right specified in section 31(2)(a) of that Act (as so substituted).
- (2) For the purposes of section 28 of that Act, the qualification regulations and rules of conduct of the Law Society at that time shall (so far as relating to rights to conduct litigation) be deemed to have been approved in relation to the right specified in section 31(2)(b) of that Act (as substituted by section 36 of this Act).

**Marginal Citations**

**M61** 1999 c.41.

*Status: Point in time view as at 01/01/2005.*

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- 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 <sup>M62</sup>Supreme Court 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 ”.

**Marginal Citations**

M62 1981 c.54.

*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 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 <sup>M63</sup>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**

M63 1989 c.41.

*Status: Point in time view as at 01/01/2005.*

**Changes to legislation:** *Access to Justice Act 1999 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART V

### MAGISTRATES AND MAGISTRATES' COURTS

#### *Commission areas*

- 19 The first order under section 1 of the <sup>M64</sup>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**

**M64** 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 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—

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- (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 <sup>M65</sup>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**

**M65** 1981 c.20.

*District Judges (Magistrates' Courts): retirement*

- 25 For the purposes of section 26 of and Schedule 7 to the <sup>M66</sup>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.

**Marginal Citations**

**M66** 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 <sup>M67</sup>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**

**M67** 1988 c.34.

*Status: Point in time view as at 01/01/2005.*

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### *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 <sup>M68</sup>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).

[<sup>F92</sup>(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**

**F92** 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**

**M68** 1933 c.12.

### *Magistrates' courts committee areas*

- 29 The first order under section 27A(2) of the <sup>M69</sup>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 magistrates' courts committee areas from that time until the coming into force of that first order.

#### **Marginal Citations**

**M69** 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).

*Status: Point in time view as at 01/01/2005.*

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- (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) ”.
- (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”.

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*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 <sup>M70</sup>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**

**M70** [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.
- (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,

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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 <sup>M71</sup>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**

**M71** 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—
- (a) it has, in accordance with section 12 of the <sup>M72</sup>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 <sup>M73</sup>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**

**M72** 1891 c.39.

**M73** 1895 c.16.

*Status: Point in time view as at 01/01/2005.*

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*[<sup>F93</sup>Transfer schemes: stamp duty land tax*

**Textual Amendments**

**F93** 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 <sup>M74</sup>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—  
     (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**

**M74** 1997 c.25.

*Status: Point in time view as at 01/01/2005.*

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*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 <sup>M75</sup>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 <sup>M76</sup>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.
- (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—

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- (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**

**M75** 1972 c.11.  
**M76** 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 <sup>M77</sup>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).
- (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**

**M77** 1988 c.34.

*Status: Point in time view as at 01/01/2005.*

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## SCHEDULE 15

Section 106.

### REPEALS AND REVOCATIONS

#### PART I

##### LEGAL SERVICES COMMISSION

###### Commencement Information

**I2** Sch. 15 Pt. I wholly in force; Sch. 15 Pt. I not in force at Royal Assent see s. 108; Sch. 15 Pt. I in force for specified purposes (1.4.2000) by S.I. 2000/774, art. 2(c)(i), Sch.; Sch. 15 Pt. I in force insofar as not already in force at 2.4.2001 by S.I. 2001/916, art. 3(b)

Reference	Short title or title	Extent of repeal or revocation
1967 c. 13.	The Parliamentary Commissioner Act 1967.	In Schedule 2, the entry relating to the Legal Aid Board.
1971 c. 32.	The Attachment of Earnings Act 1971.	In section 25(1), the definition of “legal aid contribution order”.
1973 c. 62.	The Powers of Criminal Courts Act 1973.	In section 21(2), the words from “, and in subsection” to the end.
1974 c. 47.	The Solicitors Act 1974.	In section 47, in subsection (2C), the words “excluding any person from legal aid work”, in subsection (2D), the words “from such work” and subsection (6).
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part III, the entries relating to the chairman of the Legal Aid Board and a member of the Legal Aid Board.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part III, the entries relating to the chairman of the Legal Aid Board and a member of the Legal Aid Board.
1982 c. 48.	The Criminal Justice Act 1982.	In section 3(2), the words from “, and in subsection” to the end.
1985 c. 61.	The Administration of Justice Act 1985.	Section 41(3).

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		In section 42, in subsection (3), the words “from such work” and subsection (4)(b) and the preceding “and”. Section 43(4). Section 44(4).
1988 c. 34.	The Legal Aid Act 1988.	Sections 1 to 32. Sections 34 to 43. Section 45. Section 46. Schedules 1 to 3. In Schedule 5, paragraphs 2, 3, 4, 5, 6(a), 7(a), 8, 9, 10, 12, 16, 18, 19(b) and the preceding “and”, 20, 21 and 22. Schedules 6 to 8.
1989 c. 41.	The Children Act 1989.	Section 99. In Schedule 12, paragraph 45. In Schedule 14, paragraph 40.
S.I. 1989/549.	The Civil Legal Aid (Matrimonial Proceedings) Regulations 1989.	The whole instrument.
1990 c. 41.	The Courts and Legal Services Act 1990.	Section 59. In Schedule 17, paragraph 19. In Schedule 18, paragraphs 59 to 63.
1991 c. 53.	The Criminal Justice Act 1991.	In Schedule 6, paragraph 9. In Schedule 11, paragraph 40(2)(q).
S.I. 1991/1924.	The Legal Aid Act 1988 (Children Act 1989) Order 1991.	The whole instrument.
S.I. 1991/1997.	The Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991.	In the Schedule, paragraph 69.
S.I. 1991/2036.	The Civil Legal Aid (General) (Amendment) (No.2) Regulations 1991.	Regulation 3.
1992 c. 6.	The Social Security (Consequential Provisions) Act 1992.	In Schedule 2, paragraph 97.
1992 c. 53.	The Tribunals and Inquiries Act 1992.	In Schedule 3, paragraph 21.

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1993 c. 19.	The Trade Union Reform and Employment Rights Act 1993.	In Schedule 8, paragraph 39.
S.I. 1993/1354.	The Civil Legal Aid (Scope) Regulations 1993.	The whole instrument.
S.I. 1994/2768.	The Legal Aid (Scope) Regulations 1994.	Regulation 2.
1995 c. 35.	The Criminal Appeal Act 1995.	In Schedule 2, paragraph 17.
1996 c. 18.	The Employment Rights Act 1996.	In Schedule 1, paragraph 36.
1996 c. 25.	The Criminal Procedure and Investigations Act 1996.	Section 46(2).
1996 c. 27.	The Family Law Act 1996.	Section 23(9). Part III. In Schedule 8, in Part I, paragraph 39 and Part II.
1997 c. 25.	The Justices of the Peace Act 1997.	In Schedule 5, paragraph 24.
1998 c. 37.	The Crime and Disorder Act 1998.	Section 49(1)(j). Section 50(5). In Schedule 8, paragraph 67.
1999 c. 23.	The Youth Justice and Criminal Evidence Act 1999.	Section 40(2).

## PART II

### PROVISION OF LEGAL SERVICES

#### Commencement Information

**I3** Sch. 15 Pt. II wholly in force at 31.7.2000; Sch. 15 Pt. II not in force at Royal Assent see s. 108(1); Sch. 15 Pt. II in force for certain purposes at 27.9.1999 and for certain further purposes at 1.11.1999 by S.I. 1999/2657, arts. 2(d)(ii)(a), 3(b), Sch. 2 Pt. II; Sch. 15 Pt. II in force for certain further purposes at 1.1.2000 by S.I. 1999/3344, art. 2(d), Sch. 1 (with art. 4); Sch. 15 Pt. II in force at 31.7.2000 insofar as not already in force by S.I. 2000/1920, art. 2(c)

Chapter	Short title	Extent of repeal
41 Geo. 3 c. 79.	The Public Notaries Act 1801.	Section 13.
6 & 7 Vict. c. 90.	The Public Notaries Act 1843.	Section 6.
1974 c. 47.	The Solicitors Act 1974.	In section 32(4), the words “to the Director of Public

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		Prosecutions” and the words “, if the Director thinks fit,”.
		In section 87(1), in the definition of “building society”, the words “; and a reference to an account with a building society is a reference to a deposit account”.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entry relating to the Lord Chancellor’s Advisory Committee on Legal Education and Conduct.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part II, the entry relating to the Lord Chancellor’s Advisory Committee on Legal Education and Conduct.
1 1981 c. 54.	The Supreme Court Act 1981.	Section 83.
1985 c. 23.	The Prosecution of Offences Act 1985.	Section 4(1) to (3E).
1985 c. 61.	The Administration of Justice Act 1985.	Section 9(2)(g). Section 65. In Schedule 2, in paragraph 3, the words “to the Director of Public Prosecutions” and the words “, if the Director thinks fit,” and, in paragraph 11(2), the words from the beginning to “those provisions,”.
1987 c. 38.	The Criminal Justice Act 1987.	Section 1(9) to (11).
1990 c. 41.	The Courts and Legal Services Act 1990.	Sections 19 and 20 (and the heading preceding section 19). Section 24(3). Section 27, in subsection (2) (a)(ii), the words “the granting of” and subsections (3) and (6). In section 28, in subsection (2)(a)(ii), the words “the granting of”, subsection (3) and, in subsection (5), in the definition of “authorised body”, the word “and” at the end of paragraph (a).

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		Section 57(11). Section 67. Section 71(7) and (8). In section 113, in subsection (1), in the definition of “general notary”, paragraph (b) and the preceding “or” and, in subsection (10), paragraph (d) and the preceding “and”. Section 123(1)(f) and (2)(e). Schedules 1 and 2. In Schedule 3— in paragraph 3, in subparagraph (1) the words “with the approval of the Treasury” and, in subparagraph (2), the words “, with the consent of the Treasury,”, in paragraph 4(2), the words “given with the consent of the Treasury”, and in paragraph 9(3), the words “with the approval of the Treasury”. In Schedule 18, paragraph 51. In Schedule 19, paragraphs 2 and 3.
1996 c. 27.	The Family Law Act 1996.	In Schedule 8, paragraph 61.

### PART III

#### APPEALS, COURTS, JUDGES AND COURT PROCEEDINGS

Chapter	Short title	Extent of repeal
23 Geo.5 c. 12.	The Children and Young Persons Act 1933.	In section 36, the proviso.
8 & 9 Eliz.2 c. 65.	The Administration of Justice Act 1960.	In section 13(2)(a), the words “a Divisional Court of”. Section 14(1). Section 15(2). In the Second Schedule, in Part I, paragraph 2.
1981 c. 54.	The Supreme Court Act 1981.	Section 18(1A) and (1B). Section 54(6), (7) and (10). In Schedule 2, in Part II of the list, the entry 10 relating

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		to the Registrar of Civil Appeals.
1984 c. 28.	The County Courts Act 1984.	In section 77, subsections (2) to (4) and, in subsection (8), the definition of “the relevant county court limit” and the preceding “and”.
1985 c. 61.	The Administration of Justice Act 1985.	In section 53, subsection (3) and, in subsection (6), the words “(except subsection (3))”.
1986 c. 45.	The Insolvency Act 1986.	In section 375(2), the words “, with the leave of the judge or of the Court of Appeal,”.
1990 c. 41.	The Courts and Legal Services Act 1990.	Section 7(3) and (4). Section 42(3).
1993 c. 50.	The Statute Law (Repeals) Act 1993.	In Schedule 2, paragraph 9.
1996 c. 25.	The Criminal Procedure and Investigations Act 1996.	Section 13(1)(cc).
1997 c. 12.	The Civil Procedure Act 1997.	In Schedule 2, paragraph 1(2).
1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 3, in paragraph 1(1), the words “on or before the relevant date”. In Schedule 8, paragraph 127(a).

## PART IV

### ENFORCEMENT OF COMMUNITY ORDERS

Chapter	Short title	Extent of repeal
1991 c. 53.	The Criminal Justice Act 1991.	In Schedule 2, paragraph 7(6) and, in paragraph 8A— in sub-paragraph (3), the words “and the probation order was made by a magistrates’ court”, sub-paragraphs (4) and (5), and in sub-paragraph (6), in the words treated as substituted in section 1A(1) of the Powers of Criminal Courts Act 1973, the words “or (5)”.

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1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 4, paragraphs 3 and 7(1).
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## PART V

### MAGISTRATES AND MAGISTRATES' COURTS

#### Commencement Information

- I4** Sch. 15 Pt. V partly in force; Sch. 15 Pt. V not in force at Royal Assent see s. 108(1); Sch. 15 Pt. V(1)(5) in force for certain purposes at 27.9.1999 see s. 108(3)(f)(4); Sch. 15 Pt. V(7) in force for certain purposes at 27.9.1999 by S.I. 1999/2657, art. 2(d)(ii)(c); Sch. 15 Pt. V(4) in force for certain purposes at 12.11.1999 by S.I. 1999/2657, art. 4; Sch. 15 Pt. V(6) in force for certain purposes at 1.3.2000 by S.I. 1999/3344, art. 3(b) (with art. 4); Sch. 15 Pt. V(3) in force at 31.8.2000 by S.I. 2000/1920, art. 3(c); Sch. 15 Pt. V(8) in force for certain purposes at 8.1.2001 by S.I. 2000/3280, art. 2(c); Sch. 15 Pt. V(8) in force insofar as not already in force at 19.2.2001 by S.I. 2001/168, art. 2(b); Sch. 15 Pt. V(6)(7) in force insofar as not already in force at 1.4.2001 by S.I. 2001/916, art. 2(c)(i)(ii)

(1)

#### Areas

Reference	Short title or title	Extent of repeal or revocation
6 & 7 Vict. c. 86.	The London Hackney Carriages Act 1843.	In section 24, the words from “, or, if he shall dwell” to “the said city,” the words “or justice” and the words “, or to some justice as aforesaid,”.
16 & 17 Vict. c. 33.	The London Hackney Carriage Act 1853.	In section 18, the words from “or if the offence,” in the second place, to the end.
31 & 32 Vict. c. 72.	The Promissory Oaths Act 1868.	In the Second Part of the Schedule, the words “for counties and boroughs”.
50 & 51 Vict. c. 55.	The Sheriffs Act 1887.	In section 38, the words from “(within” to “1997)”.
60 & 61 Vict. c. 26.	The Metropolitan Police Courts Act 1897.	Section 7(1).
10 & 11 Geo.5 c. 33.	The Maintenance Orders (Facilities for Enforcement) Act 1920.	In section 3(4), the words from “(within” to “1997)”.
23 Geo.5 c. 12.	The Children and Young Persons Act 1933.	Section 48(5). In the Second Schedule, in Part I, paragraph 8A.
2 & 3 Geo.6 c. xcvi.	The London Building Acts (Amendment) Act 1939.	In section 151(1)(bb), the word “the” immediately

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		preceding “magistrates’ courts”, the words from “in the inner” to “London)” and the words “in that area”.
11 & 12 Geo.6 c. 29.	The National Assistance Act 1948.	In section 43(4), the words from “(within” to “1997)”.
12, 13 & 14 Geo.6 c. 76.	The Marriage Act 1949.	In section 3(5), the words from “(within” to “1997)”.
14 & 15 Geo.6 c. 65.	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In Part II of Schedule 2, paragraph 5(b) and, in paragraph 6(b), in the third column, the words from “and where” to the end.
7 & 8 Eliz.2 c. 7.	The Manœuvres Act 1958.	In section 9, the definition of “petty sessions area”.
1964 c. 26.	The Licensing Act 1964.	In section 2, in subsection (1), the words from “, within” to the end and subsection (2A).
1964 c. 42.	The Administration of Justice Act 1964.	In section 12(1), the words from the beginning to “reference to the inner London area,”. In section 38(1), the definition beginning “London commission areas”. In Schedule 3, paragraph 29.
1969 c. 54.	The Children and Young Persons Act 1969.	In section 70(1), in the definition of “petty sessions area”, the words “has the same meaning as in the Magistrates’ Courts Act 1980, except that” and the word “it”.
1973 c. 18.	The Matrimonial Causes Act 1973.	In section 35(3), the words from “(within” to “1997)”.
1974 c. 47.	The Solicitors Act 1974.	Section 38(4).
1978 c. 22.	The Domestic Proceedings and Magistrates’ Courts Act 1978.	In section 88(1), the definitions of “commission area” and “petty sessions area”.
1980 c. 43.	The Magistrates’ Court Act 1980.	In section 52, the second sentence. In section 67, in subsection (4), the second sentence and subsection (8).

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		In section 150(1), the definitions of “commission area”, “London commission area” and “petty sessions area”.
		In Schedule 7, paragraphs 27 and 85.
1980 c. 66.	The Highways Act 1980.	In section 329(1), the definition of “petty sessions area”.
1984 c. 37.	The Child Abduction Act 1984.	In the Schedule, in paragraph 5(b), the words from “(within” to “1997)”.
S.I. 1985/1383.	The Local Government (Magistrates’ Courts etc.) Order 1985.	In the Schedule, paragraphs 1 and 2.
1988 c. 52.	The Road Traffic Act 1988.	In section 192(1), the definition of “petty sessions area”.
1988 c. 53.	The Road Traffic Offenders Act 1988.	In section 34C(2), the definition of “petty sessions area”.
		In section 89(1), the definition of “petty sessions area”, apart from the word “and” at the end.
1989 c. 41.	The Children Act 1989.	In Schedule 1, in paragraph 10(6), the words from “(within” to “1997)”.
		In Schedule 11, in paragraph 8(d), the words “and (8)”.
1990 c. 18.	The Computer Misuse Act 1990.	Section 11(6).
1992 c. 19.	The Local Government Act 1992.	In section 19(2)(d)(i), the words from “(within” to “1997)”.
1993 c. 47.	The Probation Service Act 1993.	In Schedule 1, paragraph 6(4).
1994 c. 19.	The Local Government (Wales) Act 1994.	In section 55(2)(a), the words from “(within” to “1997)”.
1994 c. 29.	The Police and Magistrates’ Courts Act 1994.	In Schedule 8, paragraph 35.
S.I. 1996/674.	The Local Government Changes for England (Magistrates’ Courts) Regulations 1996.	In the Schedule, paragraphs 2(1), (3) and (7) and 5.

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S.I. 1996/675.	The Magistrates' Courts (Wales) (Consequences of Local Government Changes) Order 1996.	In Part II of the Schedule, paragraph 7.
1997 c. 25.	The Justices of the Peace Act 1997.	<p>Section 5(2)(b) and the preceding "and".</p> <p>In section 7(3), the words from "(whether" to "acting Chief Magistrate)".</p> <p>Section 21 (and the preceding heading).</p> <p>Section 23.</p> <p>In section 25, in subsection (1), the words " , other than the City of London," and subsection (3).</p> <p>In section 34(1)(a)(ii) and (3) (c), the words "any existing petty sessional division in".</p> <p>Sections 35 and 36.</p> <p>Section 68(2).</p> <p>In section 70, in subsection (1), the words from the beginning to "above," , the words "or to county justices" and the words "or justices for the City" and, in subsection (2), the words "or to justices or magistrates for a county or non-metropolitan county" and the words "or to justices or magistrates for the City".</p> <p>Section 71.</p> <p>In section 72, in subsection (1), the definition of "commission area", the definition of "London commission areas", "inner London area" and "outer London areas" and the definitions of "petty sessions areas", "preserved county" and "retained county", and subsection (2).</p> <p>Schedules 1 and 2.</p> <p>In Schedule 4, paragraph 6.</p> <p>In Schedule 5, paragraphs 1 to 8, 14, 16(b) and the preceding "and", 18, 19(3)(a) and (b) and (5), 20, 27, 28, 30, 31, 34 and 35.</p>

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(2)

Constitution of youth courts

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
23 Geo.5 c. 12.	The Children and Young Persons Act 1933.	In the Second Schedule, in Part I, the headings “Outside Metropolitan Area” and “Youth court panels”, paragraph 1 and, in paragraph 10(a), the words “(except where the committee’s area is a borough)” and Part II.
1964 c. 42.	The Administration of Justice Act 1964.	Section 12.
1969 c. 54.	The Children and Young Persons Act 1969.	In section 70(1), the definition of “petty sessions area”.
1980 c. 43.	The Magistrates’ Courts Act 1980.	In section 146, in subsection (4), the words from “with respect to the making” to the end and subsection (5).
1985 c. 61.	The Administration of Justice Act 1985.	Section 61.
1991 c. 53.	The Criminal Justice Act 1991.	In Schedule 11, paragraph 40(2)(f) and (p).
1998 c. 37.	The Crime and Disorder Act 1998.	Section 48.
1999 c. 22.	The Access to Justice Act 1999.	In Schedule 10, paragraphs 16(2) and (4) and 35.

(3)

Unification and renaming of stipendiary bench

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
3 & 4 Vict. c. 84.	The Metropolitan Courts Act 1840.	Section 6.
16 & 17 Vict. c. 33.	The London Hackney Carriage Act 1853.	In section 18, the words from “or if the offence,”, in the second place, to “for the county;”.
33 & 34 Vict. c. 78.	The Tramways Act 1870.	In section 3, the words from “The term “two justices”” to the end.

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34 & 35 Vict. c. 78.	The Regulation of Railways Act 1871.	In section 2, the words “metropolitan police magistrate,”.
35 & 36 Vict. c. 50.	The Railway Rolling Stock Protection Act 1872.	In section 2, the words “metropolitan police magistrate,”.
46 & 47 Vict. c. 3.	The Explosive Substances Act 1883.	In section 6(1), the words “police court, or”.
57 & 58 Vict. c. 2.	The Behring Sea Award Act 1894.	Section 519 of the Merchant Shipping Act 1854 set out in the Second Schedule.
8 Edw.7 c. 53.	The Law of Distress Amendment Act 1908.	In section 4, in the proviso, the words from “a stipendiary magistrate” to “magistrate for”.
1964 c. 42.	The Administration of Justice Act 1964.	In section 38(1), the definition of “stipendiary magistrates”. In Schedule 3, in Part I, paragraphs 2 to 4.
1980 c. 43.	The Magistrates’ Courts Act 1980.	Section 67(7). Section 137(6).
1985 c. 23.	The Prosecution of Offences Act 1985.	In section 21(6)(a), the words “for any area”.
1989 c. 33.	The Extradition Act 1989.	Section 8(1)(b)(i) and (2). In section 9(1), the words from “consisting” to the end. In section 35(1), the definitions of “designated metropolitan magistrate” and “metropolitan magistrate”. In Schedule 1, in paragraph 5(1)(b), the words “a metropolitan magistrate or” and paragraph 13(2).
1989 c. 41.	The Children Act 1989.	In Schedule 11, in paragraph 8, in sub-paragraph (c), the words “66(1) and (2),” and, in sub-paragraph (d), the words “66(2),” and “and (7)”.
1994 c. 19.	The Local Government (Wales) Act 1994.	In section 55(2)(a), the words “stipendiary magistrate,”.
1997 c. 25.	The Justices of the Peace Act 1997.	Section 22(5). In section 24(1), the words “(other than metropolitan stipendiary magistrates)”.

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1997 c. 50.	The Police Act 1997.	In section 55(8), the words “Subject to section 14(1) above,”. In section 72(1), the definition of “stipendiary magistrate”. In Schedule 4, in Part II, paragraphs 9 and 12. In Schedule 5, paragraphs 13(3) and 17. In section 6(5), the words “appointed for an area”. In section 52(5), the words “appointed for an area”.
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(4)

Justices not to sit on committal for sentence

Chapter	Short title	Extent of repeal
1981 c. 54.	The Supreme Court Act 1981.	In section 74, in subsection (1), paragraph (b) and the preceding “or” and, in subsection (7), paragraph (b) and, in paragraph (c), the words “or on committal to the Crown Court for sentence”.

(5)

Magistrates’ courts committees

Chapter	Short title	Extent of repeal
1972 c. 70.	The Local Government Act 1972.	In Schedule 12A, in Part I, in paragraph 2(a), the words “, within the meaning of the Justices of the Peace Act 1997”.
1997 c. 25.	The Justices of the Peace Act 1997.	Section 32. Section 38(6). Section 49. In section 72(1), the definition of “magistrates’ courts committee areas”. In Schedule 5, paragraph 11.

(6)

Greater London Magistrates’ Courts Authority

Chapter	Short title	Extent of repeal
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60 & 61 Vict. c. 26.	The Metropolitan Police Courts Act 1897.	Sections 3 and 4.
2 & 3 Geo.6 c. xcvi.	The London Building Acts (Amendment) Act 1939.	In section 151(1)(bb), the words “magistrates’ courts”.
1965 c. 63.	The Public Works Loans Act 1965.	In section 2(1)(a), the word “and” at the end of sub-paragraph (iii).
1967 c. 28.	The Superannuation (Miscellaneous Provisions) Act 1967.	Section 15(1)(a)(ii) and (9).
1968 c. 13.	The National Loans Act 1968.	In Schedule 4, in paragraph 1(a), the word “and” at the end of sub-paragraph (iii).
1971 c. 56.	The Pensions (Increase) Act 1971.	In Schedule 6, paragraph (d).
1991 c. 53.	The Criminal Justice Act 1991.	Section 76(5).
1994 c. 29.	The Police and Magistrates’ Courts Act 1994.	In Schedule 8, paragraphs 24, 25 and 33(5).
1997 c. 25.	The Justices of the Peace Act 1997.	In section 10(8), the words “the City of London, a London borough,” and the words from “and for” to the end. In section 54(9), the definition of “local funds”. In section 55, subsection (8) and, in subsection (10), in the definition of “responsible authority”, paragraph (d) and the words from “or the” to the end. Section 56(4). In section 72(1), the definition of “inner London area”. Schedule 3. In Schedule 4, paragraphs 7, 8, 10 and 11.
1999 c. 22.	The Access to Justice Act 1999.	In Schedule 10, paragraphs 39, 40(2)(a), 51, 52(2) and 53. In Schedule 11, paragraph 10. In Schedule 14, paragraph 28(2).

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(7)

Justices' chief executives

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
10 & 11 Geo.5 c. 33.	The Maintenance Orders (Facilities for Enforcement) Act 1920.	In section 4(6A)(b), the words from “and as if” to the end.
14 Geo.6 c. 37.	The Maintenance Orders Act 1950.	In section 22(1E)(a), the words from “and as if” to the end. In section 28(1), in the definition of “collecting officer”, the words from “in”, in the first place, to “and”.
6 & 7 Eliz.2 c. 39.	The Maintenance Orders Act 1958.	In section 4(5B)(a), the words from “and as if” to the end. In section 21(1), the definition of “proper officer”.
1964 c. 26.	The Licensing Act 1964.	In section 22(4), the words from ““as in” to “magistrates’ court”. Section 30(2).
1968 c. 65.	The Gaming Act 1968.	In Schedule 2, in paragraph 2(2), the definition of “the clerk to the licensing authority”.
1971 c. 32.	The Attachment of Earnings Act 1971.	In section 25(1), the words from “and, in relation to” to the end.
1972 c. 18.	The Maintenance Orders (Reciprocal Enforcement) Act 1972.	In section 9(1ZA)(b), the words from “and as if” to the end.
1986 c. 64.	The Public Order Act 1986.	Section 34(3).
1988 c. 33.	The Criminal Justice Act 1988.	Section 41(13). Section 81(10).
1988 c. 53.	The Road Traffic Offenders Act 1988.	In section 34C(2), the words from “and any reference” to the end. Section 71(4) and (5). In section 89(1), the definition of “justices’ clerk”.
1989 c. 4.	The Prevention of Terrorism (Temporary Provisions) Act 1989.	In Schedule 4, in paragraph 1(5), the words from “and in this sub-paragraph” to the end.

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1994 c. 37.	The Drug Trafficking Act 1994.	Section 30(9).
1997 c. 25.	The Justices of the Peace Act 1997.	Section 31(2). Section 40(5). Section 46. In section 60, in subsection (1), paragraph (b) (ii) and the preceding “and” and subsection (4). In Schedule 4, in Part II, paragraphs 15 and 18. In Schedule 5, in paragraph 23, paragraph (b) and the preceding “and” and, in paragraph 36, paragraph (b) and the preceding “and”.
1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 3, paragraph 6(11).

(8)

#### Warrants

Reference	Short title or title	Extent of repeal or revocation
6 & 7 Eliz.2 c. 39.	The Maintenance Orders Act 1958.	In section 2(4), paragraph (b), apart from the word “and” at the end. In section 5(4), paragraph (b), apart from the word “and” at the end.
1980 c. 43.	The Magistrates’ Courts Act 1980.	Section 83(4). In section 125, in subsection (2), the second paragraph and subsections (3) and (4).
1984 c. 60.	The Police and Criminal Evidence Act 1984.	Section 33.
1988 c. 33.	The Criminal Justice Act 1988.	Section 65.
1990 c. 41.	The Courts and Legal Services Act 1990.	In Schedule 17, paragraph 11.
1996 c. 14.	The Reserve Forces Act 1996.	In Schedule 10, paragraph 18.
S.I.1997/1898.	The Family Law Act 1996 (Modification of Enactments) Order 1997.	Article 3.

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1998 c. 37.	The Crime and Disorder Act 1998.	In Schedule 8, paragraph 44.
1999 c. 23.	The Youth Justice and Criminal Evidence Act 1999.	In Schedule 4, paragraph 8.

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## PART VI

### IMMUNITY AND INDEMNITY

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Chapter	Short title	Extent of repeal
1997 c. 25.	The Justices of the Peace Act 1997.	In section 54(1)(a)(i), the words “against him”.

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