



# Courts Act 2003

## 2003 CHAPTER 39

### PART 9

#### FINAL PROVISIONS

#### 107 Interpretation

(1) In this Act—

- “the 1933 Act” means the Children and Young Persons Act 1933 (c. 12);
- “the 1968 Act” means the Criminal Appeal Act 1968 (c. 19);
- “the 1978 Act” means the Judicature (Northern Ireland) Act 1978 (c. 23);
- “the 1980 Act” means the Magistrates' Courts Act 1980 (c. 43);
- “the 1981 Act” means the [<sup>F1</sup>Senior Courts Act 1981](c. 54);
- “the 1990 Act” means the Courts and Legal Services Act 1990 (c. 41);
- “the 1997 Act” means the Civil Procedure Act 1997 (c. 12).

(2) In this Act the following have the meaning given by section 71 of the 1990 Act—

- “5 year magistrates' court qualification”;
- “7 year general qualification”;
- “[<sup>F2</sup>Senior Courts] qualification”.

(3) In this Act “criminal court” has the meaning given by section 68.

(4) In this Act “judge”, except where the context otherwise requires, means a person holding an office listed in subsection (2) of section 64 (power to alter judicial titles).

(5) In this Act “lay justice” has the meaning given by section 9.

<sup>F3</sup>(6) .....

(7) In this Act “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26).

(8) In this Act “enactment” includes subordinate legislation and, except where otherwise provided, any reference to an enactment is to an enactment whenever passed or made;

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and “subordinate legislation” here has the same meaning as in the Interpretation Act 1978 (c. 30).

- (9) In sections 102(6) and 109(5)(b) “enactment” also includes Northern Ireland legislation (whenever passed or made); and “Northern Ireland legislation” here has the same meaning as in the Interpretation Act 1978.

#### Textual Amendments

- F1** Words in s. 107(1) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148\(1\), Sch. 11 para. 1\(2\); S.I. 2009/1604, art. 2\(d\)](#)
- F2** Words in s. 107(2) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 4; S.I. 2009/1604, art. 2](#)
- F3** [S. 107\(6\)](#) repealed (18.9.2012) by [The Public Bodies \(Abolition of Crown Court Rule Committee and Magistrates Courts Rule Committee\) Order 2012 \(S.I. 2012/2398\), art. 1\(2\), Sch. 2 para. 7](#)

## 108 Rules, regulations and orders

- (1) Any power of the Lord Chancellor [<sup>F4</sup>or Lord Chief Justice] to make rules, regulations or orders under this Act is exercisable by statutory instrument.
- (2) None of the orders and regulations mentioned in subsection (3) may be made unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (3) The orders and regulations are—
- (a) the first order to be made under section 4 (areas of courts boards);
  - (b) regulations under section 34(5) (costs in legal proceedings);
  - (c) an order under—
    - (i) section 73 or 80 (powers to amend enactments in connection with Criminal Procedure Rules and Family Procedure Rules), or
    - (ii) section 109 (power to make consequential provision etc.),
 which contains any provision (whether alone or with other provisions) amending or repealing any Act or provision of an Act;
  - (d) an order under section 97(7) to (9) (power to make permanent provision about collection of fines and discharge of fines by unpaid work);
  - (e) regulations under Schedule 1;
  - (f) regulations under Schedule 6 relating to the prescribed hourly sum.
- (4) A statutory instrument containing—
- (a) the first order to be made under section 8 (local justice areas), or
  - (b) regulations under section 40 (payments, accounting and banking by designated officers),
- is to be laid before Parliament after being made.
- (5) Any other statutory instrument, apart from one containing an order under section 110 (commencement), is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Any power of the Lord Chancellor [<sup>F4</sup>or Lord Chief Justice] to make rules, regulations or orders under this Act includes power to make—

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- (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,
- which he considers necessary or expedient.

(7) Nothing in this section applies to—

- (a) rules made under Part 7 (Criminal Procedure and Family Procedure Rules), or
- <sup>F5</sup>(b) .....

#### Textual Amendments

- F4** Words in s. 108(1)(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 15, [Sch. 4 para. 348](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 11\(bb\)](#)
- F5** [S. 108\(7\)\(b\)](#) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), [art. 1\(2\)](#), [Sch. 18 para. 69\(3\)](#) (with arts. 28-31)

### 109 Minor and consequential amendments, repeals, etc.

- (1) Schedule 8 contains minor and consequential amendments.
- (2) Schedule 9 contains transitional provisions and savings.
- (3) Schedule 10 contains repeals.
- (4) The Lord Chancellor may by order make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,which he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act.

[<sup>F6</sup>(4A) The following paragraphs apply to the making of provision that relates to England and Wales in an order under subsection (4)—

- (a) before deciding what provision it is necessary or expedient to make, the Lord Chancellor must consult the Lord Chief Justice of England and Wales;
- (b) before making the order, the Lord Chancellor must consult the Lord Chief Justice of England and Wales.

(4B) The following paragraphs apply to the making of provision that relates to Northern Ireland in an order under subsection (4)—

- (a) before deciding what provision it is necessary or expedient to make, the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland;
- (b) before making the order, the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland.]

(5) An order under subsection (4) may, in particular—

- (a) provide for any provision of this Act which comes into force before another such provision has come into force to have effect, until that other provision has come into force, with such modifications as are specified in the order, and
- <sup>F7</sup>(b) amend, repeal or revoke any enactment other than one contained in an Act passed in a Session after that in which this Act is passed.

(6) The amendments that may be made under subsection (5)(b) are in addition to those made by or under any other provision of this Act.

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- [<sup>F8</sup>(7) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.
- (8) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

[<sup>F9</sup>(9) Any order made by the Department of Justice in Northern Ireland under subsection (4) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(10) No order containing any provision (whether alone or with other provisions) amending or repealing any Act or provision of an Act may be made by the Department of Justice in Northern Ireland under subsection (4) unless a draft has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(11) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (10) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(12) Any other order made by the Department of Justice under subsection (4) is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).]

#### Textual Amendments

- F6** Words in s. 109(4A)(4B) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, **Sch. 4 para. 349(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(bb)
- F7** S. 109(5)(b) power extended (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 12, **Sch. 1 para. 25**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 7
- F8** Words in s. 109(7)(8) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, **Sch. 4 para. 349(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(bb)
- F9** S. 109(9)-(12) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 69(4)** (with arts. 28-31)

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

- C1** S. 109 transfer of functions (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 17 para. 19(b)** (with arts. 28-31)

#### Commencement Information

- I1** S. 109 partly in force; s. 109(4)-(6) in force at Royal Assent see s. 110(1)(2); s. 109(3) in force for certain purposes at 26.1.2004 by S.I. 2003/3345, **art. 2(c)(iv)**; s. 109(1) in force for certain further purposes at 1.2.2004 by S.I. 2004/174, **art. 2(b)**; s. 109(2) in force for certain further purposes at 23.2.2004 by S.I. 2004/174, **art. 4(a)**; s. 109(2) in force for certain further purposes at 29.3.2004 by S.I. 2004/174, **art. 4(b)**; s. 109(2) in force for certain purposes at 5.4.2004 by S.I. 2004/174, **art. 4(c)**; s. 109(1)(3) in force for certain further purposes at 15.3.2004 by S.I. 2004/401, **art. 2(d)**; s. 109(3) in force for certain further purposes at 1.5.2004 by S.I. 2004/1104, **art. 3(i)**; s. 109(1)(3) in force for certain further purposes at 1.9.2004 by S.I. 2004/2066, **art. 2(e)**; s. 109(1)(3) in force for certain further purposes at 4.1.2005 by S.I. 2004/3123, **art. 2(d)**; s. 109(1)-(3) in force for certain further purposes at 1.4.2005 by S.I. 2005/910, **art. 3(bb)**; s. 109(1)(3) in force for certain further purposes at

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- 10.1.2006 by [S.I. 2005/3518](#), [art. 2\(c\)](#) (with [art. 4](#)); s. 109(2)(3) in force for certain further purposes at 6.4.2006 by [S.I. 2005/3518](#), [art. 3\(d\)](#) (with [art. 4](#))
- 12** [S. 109\(1\)\(3\)](#) in force at 6.4.2011 for specified purposes by [S.I. 2010/2921](#), [art. 3\(a\)](#)

## 110 Commencement

- (1) Subject to subsection (2), this Act comes into force in accordance with provision made by order by the Lord Chancellor.
- (2) Subsection (1) does not apply to section 42, 94, 107, 108, 109(4) to (6), this section or section 111 or 112.
- (3) An order under this section may appoint different days for different provisions and different purposes.

### Subordinate Legislation Made

- P1** [S. 110\(1\)\(2\)](#) power partly exercised: 26.1.2004 appointed for specified provisions by [{S.I. 2003/3345}](#), art. 2; 1.2.2004, 23.2.2004, 29.3.2004, and 5.4.2004 appointed for specified provisions by [{S.I. 2004/174}](#), arts. 2-4; 15.3.2004 appointed for specified provisions by [{S.I. 2004/401}](#), art. 2 (with transitional provisions in art. 3); 1.5.2004 appointed for specified provisions by [{S.I. 2004/1104}](#), art. 3; 1.6.2004 appointed for specified provisions by [{S.I. 2004/798}](#), art. 2; 1.9.2004 appointed for specified provisions by [{S.I. 2004/2066}](#), art. 2 (with savings in art. 3); 21.9.2004 appointed for specified provisions by [{S.I. 2004/2195}](#), art. 2; 4.1.2005 appointed for specified provisions by [{S.I. 2004/3123}](#), art. 2 (with savings in art. 3); 1.4.2005 appointed for specified provisions by [{S.I. 2005/547}](#), art. 2 (with transitional provisions and savings in arts. 3-16) (which S.I. was revoked by [S.I. 2005/910](#), [art. 2](#)); 1.4.2005 appointed for specified provisions by [{S.I. 2005/910}](#), art. 3 (with transitional provisions in [S.I. 2005/911](#), [arts. 2-14](#)); 7.10.2005 appointed for specified provisions by [{S.I. 2005/2744}](#), art. 2 (with transitional provisions in art. 3); 10.1.2006 and 6.4.2006 appointed for specified provisions by [{S.I. 2005/3518}](#), arts. 2, 3 (with transitional provisions in art. 4); 5.9.2007 appointed for s. 50(2)(3) by [{S.I. 2007/2706}](#), art. 1

## 111 Extent

- (1) Subject to subsections (2) and (3), this Act extends only to England and Wales.
- (2) Subsection (1) does not apply to section 59(3), 90, 91, 100, 101, 102, 103, 104, 105, 106 or 109.
- (3) Subject to any provision made in Schedule 8, the amendments and repeals made by Schedules 4, 8 and 10 have the same extent as the enactments to which they relate.

## 112 Short title

This Act may be cited as the Courts Act 2003.

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