



# Constitutional Reform Act 2005

## 2005 CHAPTER 4

An Act to make provision for modifying the office of Lord Chancellor, and to make provision relating to the functions of that office; to establish a Supreme Court of the United Kingdom, and to abolish the appellate jurisdiction of the House of Lords; to make provision about the jurisdiction of the Judicial Committee of the Privy Council and the judicial functions of the President of the Council; to make other provision about the judiciary, their appointment and discipline; and for connected purposes. [24th March 2005]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### THE RULE OF LAW

#### 1 The rule of law

This Act does not adversely affect—

- (a) the existing constitutional principle of the rule of law, or
- (b) the Lord Chancellor's existing constitutional role in relation to that principle.

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## PART 2

### ARRANGEMENTS TO MODIFY THE OFFICE OF LORD CHANCELLOR

#### *Qualifications for office of Lord Chancellor*

#### **2 Lord Chancellor to be qualified by experience**

- (1) A person may not be recommended for appointment as Lord Chancellor unless he appears to the Prime Minister to be qualified by experience.
- (2) The Prime Minister may take into account any of these—
  - (a) experience as a Minister of the Crown;
  - (b) experience as a member of either House of Parliament;
  - (c) experience as a qualifying practitioner;
  - (d) experience as a teacher of law in a university;
  - (e) other experience that the Prime Minister considers relevant.
- (3) In this section “qualifying practitioner” means any of these—
  - (a) a person who has a Senior Courts qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41);
  - (b) an advocate in Scotland or a solicitor entitled to appear in the Court of Session and the High Court of Justiciary;
  - (c) a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland.

#### *Continued judicial independence*

#### **3 Guarantee of continued judicial independence**

- (1) The Lord Chancellor, other Ministers of the Crown and all with responsibility for matters relating to the judiciary or otherwise to the administration of justice must uphold the continued independence of the judiciary.
- (2) Subsection (1) does not impose any duty which it would be within the legislative competence of the Scottish Parliament to impose.
- (3) A person is not subject to the duty imposed by subsection (1) if he is subject to the duty imposed by section 1(1) of the Justice (Northern Ireland) Act 2002 (c. 26).
- (4) The following particular duties are imposed for the purpose of upholding that independence.
- (5) The Lord Chancellor and other Ministers of the Crown must not seek to influence particular judicial decisions through any special access to the judiciary.
- (6) The Lord Chancellor must have regard to—
  - (a) the need to defend that independence;
  - (b) the need for the judiciary to have the support necessary to enable them to exercise their functions;

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- (c) the need for the public interest in regard to matters relating to the judiciary or otherwise to the administration of justice to be properly represented in decisions affecting those matters.
- (7) In this section “the judiciary” includes the judiciary of any of the following—
- (a) the Supreme Court;
  - (b) any other court established under the law of any part of the United Kingdom;
  - (c) any international court.
- [<sup>F1</sup>(7A) In this section “the judiciary” also includes every person who—
- (a) holds an office listed in Schedule 14 or holds an office listed in subsection (7B), and
  - (b) but for this subsection would not be a member of the judiciary for the purposes of this section.
- (7B) The offices are those of—
- (a) Senior President of Tribunals;
  - (b) President of Employment Tribunals (Scotland);
  - (c) Vice President of Employment Tribunals (Scotland);
  - (d) member of a panel of chairmen of Employment Tribunals (Scotland);
  - (e) member of a panel of members of employment tribunals that is not a panel of chairmen;
  - (f) adjudicator appointed under section 5 of the Criminal Injuries Compensation Act 1995.]
- (8) In subsection (7) “international court” means the International Court of Justice or any other court or tribunal which exercises jurisdiction, or performs functions of a judicial nature, in pursuance of—
- (a) an agreement to which the United Kingdom or Her Majesty's Government in the United Kingdom is a party, or
  - (b) a resolution of the Security Council or General Assembly of the United Nations.

#### Textual Amendments

- F1** S. 3(7A)(7B) inserted (19.9.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), **ss. 1**, 148; [S.I. 2007/2709](#), **art. 2(a)**

## 4 Guarantee of continued judicial independence: Northern Ireland

- (1) For section 1 of the Justice (Northern Ireland) Act 2002 (c. 26) (guarantee of continued judicial independence) substitute—

### “1 Guarantee of continued judicial independence

- (1) The following persons must uphold the continued independence of the judiciary—
- (a) the First Minister,
  - (b) the deputy First Minister,
  - (c) Northern Ireland Ministers, and

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- (d) all with responsibility for matters relating to the judiciary or otherwise to the administration of justice, where that responsibility is to be discharged only in or as regards Northern Ireland.
- (2) The following particular duty is imposed for the purpose of upholding that independence.
- (3) The First Minister, the deputy First Minister and Northern Ireland Ministers must not seek to influence particular judicial decisions through any special access to the judiciary.
- (4) In this section “the judiciary” includes the judiciary of any of the following—
  - (a) the Supreme Court;
  - (b) any other court established under the law of any part of the United Kingdom;
  - (c) any international court.
- (5) In subsection (4) “international court” means the International Court of Justice or any other court or tribunal which exercises jurisdiction, or performs functions of a judicial nature, in pursuance of—
  - (a) an agreement to which the United Kingdom or Her Majesty's Government in the United Kingdom is a party, or
  - (b) a resolution of the Security Council or General Assembly of the United Nations.”
- (2) In section 91(2) of that Act (extent: provisions not restricted to Northern Ireland), before paragraph (a) insert—
  - “(za) section 1,”.

*Representations by senior judges*

## 5 Representations to Parliament

- (1) The chief justice of any part of the United Kingdom may lay before Parliament written representations on matters that appear to him to be matters of importance relating to the judiciary, or otherwise to the administration of justice, in that part of the United Kingdom.
- (2) In relation to Scotland those matters do not include matters within the legislative competence of the Scottish Parliament, unless they are matters to which a Bill for an Act of Parliament relates.
- (3) In relation to Northern Ireland those matters do not include transferred matters within the legislative competence of the Northern Ireland Assembly, unless they are matters to which a Bill for an Act of Parliament relates.
- (4) In subsection (3) the reference to transferred matters has the meaning given by section 4(1) of the Northern Ireland Act 1998 (c. 47).
- (5) In this section “chief justice” means—
  - (a) in relation to England and Wales or Northern Ireland, the Lord Chief Justice of that part of the United Kingdom;
  - (b) in relation to Scotland, the Lord President of the Court of Session.

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### Commencement Information

- II** S. 5 partly in force; s. 5 not in force at Royal Assent, see s. 148; s. 5(1)(2)(5) in force at 3.4.2006 by S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 4; s. 5(3)(4) in force at 8.5.2007 by S.I. 2007/1252, **art. 2**

## 6 Representations to the Northern Ireland Assembly

- (1) The Lord Chief Justice of Northern Ireland may lay before the Northern Ireland Assembly written representations on matters within subsection (2) that appear to him to be matters of importance relating to the judiciary, or otherwise to the administration of justice, in Northern Ireland.
- (2) The matters are—
  - (a) excepted or reserved matters to which a Bill for an Act of the Northern Ireland Assembly relates;
  - (b) transferred matters within the legislative competence of the Northern Ireland Assembly, unless they are matters to which a Bill for an Act of Parliament relates.
- (3) In subsection (2) references to excepted, reserved and transferred matters have the meaning given by section 4(1) of the Northern Ireland Act 1998.

### *Judiciary and courts in England and Wales*

## 7 President of the Courts of England and Wales

- (1) The Lord Chief Justice holds the office of President of the Courts of England and Wales and is Head of the Judiciary of England and Wales.
- (2) As President of the Courts of England and Wales he is responsible—
  - (a) for representing the views of the judiciary of England and Wales to Parliament, to the Lord Chancellor and to Ministers of the Crown generally;
  - (b) for the maintenance of appropriate arrangements for the welfare, training and guidance of the judiciary of England and Wales within the resources made available by the Lord Chancellor;
  - (c) for the maintenance of appropriate arrangements for the deployment of the judiciary of England and Wales and the allocation of work within courts.
- (3) The President of the Courts of England and Wales is president of the courts listed in subsection (4) and is entitled to sit in any of those courts.
- (4) The courts are—
  - the Court of Appeal
  - the High Court
  - the Crown Court
  - the county courts
  - the magistrates' courts.
- (5) In section 1 of the Supreme Court Act 1981 (c. 54), subsection (2)(Lord Chancellor to be president of the Supreme Court of England and Wales) ceases to have effect.

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VALID FROM 02/10/2008

## 8 Head and Deputy Head of Criminal Justice

- (1) There is to be a Head of Criminal Justice.
- (2) The Head of Criminal Justice is—
  - (a) the Lord Chief Justice, or
  - (b) if the Lord Chief Justice appoints another person, that person.
- (3) The Lord Chief Justice may appoint a person to be Deputy Head of Criminal Justice.
- (4) The Lord Chief Justice must not appoint a person under subsection (2)(b) or (3) unless these conditions are met—
  - (a) the Lord Chief Justice has consulted the Lord Chancellor;
  - (b) the person to be appointed is [<sup>F2</sup>a judge] of the Court of Appeal.
- (5) A person appointed under subsection (2)(b) or (3) holds the office to which he is appointed in accordance with the terms of his appointment.

### Textual Amendments

- F2** Words in s. 8(4)(b) substituted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 52, 53, [Sch. 14 para. 61](#); [S.I. 2006/3364, art. 2\(k\)](#)

## 9 Head and Deputy Head of Family Justice

- (1) The President of the Family Division is Head of Family Justice.
- (2) The Lord Chief Justice may appoint a person to be Deputy Head of Family Justice.
- (3) The Lord Chief Justice must not appoint a person under subsection (2) unless these conditions are met—
  - (a) the Lord Chief Justice has consulted the Lord Chancellor;
  - (b) the person to be appointed is an ordinary judge of the Court of Appeal.
- (4) A person appointed as Deputy Head of Family Justice holds that office in accordance with the terms of his appointment.

*Judiciary and courts in Northern Ireland*

## 10 The Lord Chancellor and Northern Ireland courts

In the Judicature (Northern Ireland) Act 1978 (c. 23) after section 68 insert—

### “68A Lord Chancellor's duty

- (1) The Lord Chancellor is under a duty to ensure that there is an efficient and effective system to support the carrying on of the business of—
  - (a) the Supreme Court,

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- (b) county courts,
- (c) magistrates' courts, and
- (d) coroners' courts,

and that appropriate services are provided for those courts.

- (2) The Lord Chancellor must, within 18 months of the coming into force of this section, and afterwards annually, prepare and lay before both Houses of Parliament a report as to the way in which he has discharged his duty under subsection (1).”

#### Commencement Information

- I2** S. 10 partly in force; s. 10 not in force at Royal Assent see s. 148; s. 10 in force for specified purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 6

## 11 Lord Chief Justice of Northern Ireland

For subsection (1) of section 12 of the Justice (Northern Ireland) Act 2002 (c. 26) (role of the Lord Chief Justice) substitute—

“(1A) The Lord Chief Justice holds the office of President of the Courts of Northern Ireland and is Head of the Judiciary of Northern Ireland.

(1B) As President of the Courts of Northern Ireland he is responsible—

- (a) for representing the views of the judiciary of Northern Ireland to Parliament, the Lord Chancellor and Ministers of the Crown generally;
- (b) for representing the views of the judiciary of Northern Ireland to the Northern Ireland Assembly, the First Minister and deputy First Minister and Northern Ireland Ministers;
- (c) for the maintenance of appropriate arrangements for the welfare, training and guidance of the judiciary of Northern Ireland within the resources made available by the Lord Chancellor;
- (d) for the maintenance of appropriate arrangements for the deployment of the judiciary of Northern Ireland and the allocation of work within courts.

(1C) The President of the Courts of Northern Ireland is president of the courts listed in subsection (1D) and is entitled to sit in any of those courts.

(1D) The courts are—

- the Court of Appeal
- the High Court
- the Crown Court
- the county courts
- the magistrates' courts.”

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#### Commencement Information

- I3** S. 11 partly in force; s. 11 not in force at Royal Assent s. 148; s. 11 in force for specified purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 6; s. 11 in force for further specified purposes at 8.5.2007 by S.I. 2007/1252, art. 2

### *Other provisions about the judiciary and courts*

#### **12 Powers to make rules**

- (1) Part 1 of Schedule 1 sets out a process for the exercise of rule-making powers.
- (2) Part 2 of the Schedule contains amendments of Acts that contain rule-making powers.
- (3) Those amendments—
  - (a) provide for those powers to be exercised in accordance with the process set out in Part 1 of the Schedule, and
  - (b) make consequential provision.

#### **13 Powers to give directions**

- (1) Part 1 of Schedule 2 sets out a process for the exercise of powers to give directions.
- (2) Part 2 of the Schedule contains amendments of Acts that contain powers to give directions.
- (3) Those amendments—
  - (a) provide for those powers to be exercised in accordance with the process set out in Part 1 of the Schedule, and
  - (b) make consequential provision.

#### **14 Transfer of appointment functions to Her Majesty**

Schedule 3 provides for—

- (a) Her Majesty instead of the Lord Chancellor to make appointments to certain offices, and
- (b) the modification of enactments relating to those offices.

#### Commencement Information

- I4** S. 14 partly in force; s. 14 not in force at Royal Assent see s. 148; s. 14 in force for specified purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 8

#### **15 Other functions of the Lord Chancellor and organisation of the courts**

- (1) Schedule 4 provides for—
  - (a) the transfer of functions to or from the Lord Chancellor,
  - (b) the modification of other functions of the Lord Chancellor,
  - (c) the modification of enactments relating to those functions, and



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- (d) the modification of enactments relating to the organisation of the courts.
- (2) Schedule 5 makes similar provision about functions under legislation relating to Northern Ireland.

#### Commencement Information

- I5** S. 15 partly in force; s. 15 not in force at Royal Assent see s. 148; s. 15(2) in force for specified purposes at 31.8.2005 by S.I. 2005/2284, art. 2; s. 15 in force for specified purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 10

## 16 Functions of the Lord Chief Justice during vacancy or incapacity

- (1) This section applies during any period when—
- (a) the office of Lord Chief Justice is vacant, or
  - (b) the Lord Chief Justice is incapacitated.
- (2) During such a period—
- (a) any function of the Lord Chief Justice may be exercised by the senior Head of Division;
  - (b) anything which falls to be done in relation to the Lord Chief Justice may be done in relation to the senior Head of Division.
- (3) The senior Head of Division is—
- (a) the Master of the Rolls, or
  - (b) the President of the Queen's Bench Division, if the office in paragraph (a) is vacant, or
  - (c) the President of the Family Division, if the offices in paragraphs (a) and (b) are vacant, or
  - (d) the Chancellor of the High Court, if the offices in paragraphs (a), (b) and (c) are vacant.
- (4) For the purposes of this section—
- (a) the Lord Chief Justice is to be regarded as incapacitated only if at least three of the Heads of Division declare in writing that they are satisfied that he is incapacitated;
  - (b) in such a case, the Lord Chief Justice is to be regarded as incapacitated until at least three of the Heads of Division declare in writing that they are satisfied that he is no longer incapacitated.
- (5) In this section—
- (a) “Lord Chief Justice” means the Lord Chief Justice of England and Wales;
  - (b) “incapacitated”, in relation to the Lord Chief Justice, means unable to exercise the functions of that office;
  - (c) “Head of Division” means each of the office holders referred to in subsection (3).

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### *Lord Chancellor's oath*

#### **17 Lord Chancellor's oath**

(1) In the Promissory Oaths Act 1868 (c. 72) after section 6 insert—

##### **“6A Lord Chancellor's Oath**

(1) The oath set out in subsection (2) shall be tendered to and taken by the Lord Chancellor, after and in the same manner as the official oath, as soon as may be after his acceptance of office.

(2) The oath is—

“I, \_\_\_\_\_, do swear that in the office of Lord High Chancellor of Great Britain I will respect the rule of law, defend the independence of the judiciary and discharge my duty to ensure the provision of resources for the efficient and effective support of the courts for which I am responsible. So help me God.””

(2) The section inserted by subsection (1) does not apply in the case of acceptance of office before the coming into force of this section.

### *Speakership of the House of Lords*

#### **18 Speakership of the House of Lords**

Schedule 6 contains amendments relating to the Speakership of the House of Lords.

##### *Functions subject to transfer, modification or abolition*

#### **19 Transfer, modification or abolition of functions by order**

(1) The Lord Chancellor may by order make provision for any of these purposes—

- (a) to transfer an existing function of the Lord Chancellor to another person;
- (b) to direct that an existing function of the Lord Chancellor is to be exercisable concurrently with another person;
- (c) to direct that an existing function of the Lord Chancellor exercisable concurrently with another person is to cease to be exercisable by the Lord Chancellor;
- (d) to modify an existing function of the Lord Chancellor;
- (e) to abolish an existing function of the Lord Chancellor.

(2) An order under subsection (1) may in particular—

- (a) amend or repeal any of the following—
  - (i) an enactment other than one contained in an Act passed, or Northern Ireland legislation passed or made, after the Session in which this Act is passed;
  - (ii) subordinate legislation other than subordinate legislation made under an Act passed, or Northern Ireland legislation passed or made, after the Session in which this Act is passed;

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- (iii) any other instrument or document, including a prerogative instrument;
- (b) include—
  - (i) any supplementary, incidental or consequential provision, and
  - (ii) any transitory, transitional or saving provision,which the Lord Chancellor considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, provision made under subsection (1).
- (3) The amendments that may be made by virtue of subsection (2)(a) are in addition to those made by or under any other provision of this Act.
- (4) An order under subsection (1) may not include provision that may be made under section 1(1) of the Ministers of the Crown Act 1975 (c. 26) (power to transfer functions to other Ministers etc).
- (5) An order under subsection (1) may not be made in relation to any function of the Lord Chancellor that is within Schedule 7.
- (6) An order under subsection (1) may amend Schedule 7 so as to include any function which, by virtue of provision in the order—
  - (a) becomes exercisable by the Lord Chancellor concurrently with another person, or
  - (b) is modified.
- (7) An order under subsection (1) may not, to the extent that it amends Schedule 7, be revoked by another order under subsection (1).
- (8) In this section—
  - “existing function” means any function other than one that is conferred by—
    - (a) an Act passed, or Northern Ireland legislation passed or made, after the Session in which this Act is passed, or
    - (b) subordinate legislation made under an Act passed, or Northern Ireland legislation passed or made, after the Session in which this Act is passed;
  - “prerogative instrument” means an Order in Council, warrant, charter or other instrument made under the prerogative.

## **20 Protected functions not transferable under Ministers of the Crown Act 1975**

- (1) The Ministers of the Crown Act 1975 (c. 26) is amended as follows.
- (2) In section 1 (power by Order in Council to transfer functions of Ministers), after subsection (5) insert—
  - “(6) This section does not apply to the functions of the Lord Chancellor that are within Schedule 7 to the Constitutional Reform Act 2005.
  - (7) An Order in Council under this section may amend Schedule 7 to the Constitutional Reform Act 2005 so as to include any function which, by virtue of provision in the Order in Council—
    - (a) is transferred to the Lord Chancellor,

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- (b) becomes exercisable by the Lord Chancellor concurrently with another person, or
  - (c) remains exercisable by the Lord Chancellor but ceases to be exercisable concurrently with another person.
- (8) An Order in Council under this section may not, to the extent that it amends Schedule 7 to the Constitutional Reform Act 2005, be revoked by another Order in Council under this section.”
- (3) After section 5(3) (Orders under Act to be revocable) insert—
- “(3A) Subsection (3) is subject to section 1(8).”

## 21 Amendment of Schedule 7

- (1) The Lord Chancellor may by order amend Schedule 7 so as to include within that Schedule any function of the Lord Chancellor under an enactment, other than an enactment contained in an Act passed, or Northern Ireland legislation passed or made, after the Session in which this Act is passed.
- (2) For the purposes of subsection (1) it does not matter whether a function of the Lord Chancellor is exercisable by him alone or concurrently with another person.
- (3) An order made under this section may not be revoked by an order made under this section.

### *Supplementary*

## 22 Transfers: supplementary

- (1) This section applies where a function of the Lord Chancellor is transferred to another person (“the transferee”) by any provision of this Act or of an order under section 19 (“the amending provision”).
- (2) Where the transferee is Her Majesty, references to the transferee in the following provisions of this section are to be read as references to the Lord Chancellor.
- (3) The transfer does not affect the validity of anything done (or having effect as if done) by or in relation to the Lord Chancellor before the commencement of the amending provision.
- (4) So far as is necessary in consequence of the transfer, an enactment or instrument passed or made before the commencement of the provision has effect, subject to any amendment made by the amending provision or any other provision of this Act, as if—
  - (a) a reference to the Lord Chancellor were a reference to the transferee;
  - (b) a reference to the Lord Chancellor's Department were a reference to the department of the transferee;
  - (c) a reference to an officer of the Lord Chancellor were a reference to an officer of the transferee.
- (5) Anything done by or in relation to the Lord Chancellor in connection with the function has effect, so far as is necessary for continuing its effect after the commencement of the amending provision, as if done by or in relation to the transferee.

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- (6) Anything which relates to the function and which is in the process of being done by or in relation to the Lord Chancellor at the commencement of the amending provision may be continued by or in relation to the transferee.
- (7) Legal proceedings to which the Lord Chancellor is party in relation to the function at the commencement of the amending provision may be continued by or against the transferee.
- (8) Documents or forms printed for use in connection with the function may be used in connection with it even though they contain (or are to be read as containing) references to the Lord Chancellor, his Department or an officer of his.
- (9) For the purposes of the use of any such documents after the commencement of the amending provision, those references are to be read as references to the transferee, his department or an officer of his.

### PART 3

#### THE SUPREME COURT

VALID FROM 01/10/2009

#### *The Supreme Court*

#### **23 The Supreme Court**

- (1) There is to be a Supreme Court of the United Kingdom.
- (2) The Court consists of 12 judges appointed by Her Majesty by letters patent.
- (3) Her Majesty may from time to time by Order in Council amend subsection (2) so as to increase or further increase the number of judges of the Court.
- (4) No recommendation may be made to Her Majesty in Council to make an Order under subsection (3) unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.
- (5) Her Majesty may by letters patent appoint one of the judges to be President and one to be Deputy President of the Court.
- (6) The judges other than the President and Deputy President are to be styled “Justices of the Supreme Court”.
- (7) The Court is to be taken to be duly constituted despite any vacancy among the judges of the Court or in the office of President or Deputy President.

#### **24 First members of the Court**

On the commencement of section 23—

- (a) the persons who immediately before that commencement are Lords of Appeal in Ordinary become judges of the Supreme Court,

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- (b) the person who immediately before that commencement is the senior Lord of Appeal in Ordinary becomes the President of the Court, and
- (c) the person who immediately before that commencement is the second senior Lord of Appeal in Ordinary becomes the Deputy President of the Court.

VALID FROM 01/10/2009

### *Appointment of judges*

#### **25 Qualification for appointment**

- (1) A person is not qualified to be appointed a judge of the Supreme Court unless he has (at any time)—
  - (a) held high judicial office for a period of at least 2 years, or
  - (b) been a qualifying practitioner for a period of at least 15 years.
- (2) A person is a qualifying practitioner for the purposes of this section at any time when—
  - (a) he has a Senior Courts qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41),
  - (b) he is an advocate in Scotland or a solicitor entitled to appear in the Court of Session and the High Court of Justiciary, or
  - (c) he is a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland.

#### **26 Selection of members of the Court**

- (1) This section applies to a recommendation for an appointment to one of the following offices—
  - (a) judge of the Supreme Court;
  - (b) President of the Court;
  - (c) Deputy President of the Court.
- (2) A recommendation may be made only by the Prime Minister.
- (3) The Prime Minister—
  - (a) must recommend any person whose name is notified to him under section 29;
  - (b) may not recommend any other person.
- (4) A person who is not a judge of the Court must be recommended for appointment as a judge if his name is notified to the Prime Minister for an appointment as President or Deputy President.
- (5) If there is a vacancy in one of the offices mentioned in subsection (1), or it appears to him that there will soon be such a vacancy, the Lord Chancellor must convene a selection commission for the selection of a person to be recommended.
- (6) Schedule 8 is about selection commissions.
- (7) Subsection (5) is subject to Part 3 of that Schedule.

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(8) Sections 27 to 31 apply where a selection commission is convened under this section.

## 27 Selection process

- (1) The commission must—
  - (a) determine the selection process to be applied,
  - (b) apply the selection process, and
  - (c) make a selection accordingly.
- (2) As part of the selection process the commission must consult each of the following—
  - (a) such of the senior judges as are not members of the commission and are not willing to be considered for selection;
  - (b) the Lord Chancellor;
  - (c) the First Minister in Scotland;
  - (d) [<sup>F3</sup>the First Minister for Wales];
  - (e) the Secretary of State for Northern Ireland.
- (3) If for any part of the United Kingdom no judge of the courts of that part is to be consulted under subsection (2)(a), the commission must consult as part of the selection process the most senior judge of the courts of that part who is not a member of the commission and is not willing to be considered for selection.
- (4) Subsections (5) to (10) apply to any selection under this section or section 31.
- (5) Selection must be on merit.
- (6) A person may be selected only if he meets the requirements of section 25.
- (7) A person may not be selected if he is a member of the commission.
- (8) In making selections for the appointment of judges of the Court the commission must ensure that between them the judges will have knowledge of, and experience of practice in, the law of each part of the United Kingdom.
- (9) The commission must have regard to any guidance given by the Lord Chancellor as to matters to be taken into account (subject to any other provision of this Act) in making a selection.
- (10) Any selection must be of one person only.

### Textual Amendments

- F3** Words in s. 27(2)(d) substituted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, [Sch. 1 para. 110\(a\)](#)

## 28 Report

- (1) After complying with section 27 the commission must submit a report to the Lord Chancellor.
- (2) The report must—
  - (a) state who has been selected;

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- (b) state the senior judges consulted under section 27(2)(a) and any judge consulted under section 27(3);
  - (c) contain any other information required by the Lord Chancellor.
- (3) The report must be in a form approved by the Lord Chancellor.
- (4) After submitting the report the commission must provide any further information the Lord Chancellor may require.
- (5) When he receives the report the Lord Chancellor must consult each of the following—
- (a) the senior judges consulted under section 27(2)(a);
  - (b) any judge consulted under section 27(3);
  - (c) the First Minister in Scotland;
  - (d) [<sup>F4</sup>the First Minister for Wales];
  - (e) the Secretary of State for Northern Ireland.

#### Textual Amendments

- F4** Words in s. 28(5)(d) substituted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, [Sch. 1 para. 110\(b\)](#)

## 29 The Lord Chancellor's options

- (1) This section refers to the following stages—

<i>Stage 1:</i>	where a person has been selected under section 27
<i>Stage 2:</i>	where a person has been selected following a rejection or reconsideration at stage 1
<i>Stage 3:</i>	where a person has been selected following a rejection or reconsideration at stage 2.

- (2) At stage 1 the Lord Chancellor must do one of the following—
- (a) notify the selection;
  - (b) reject the selection;
  - (c) require the commission to reconsider the selection.
- (3) At stage 2 the Lord Chancellor must do one of the following—
- (a) notify the selection;
  - (b) reject the selection, but only if it was made following a reconsideration at stage 1;
  - (c) require the commission to reconsider the selection, but only if it was made following a rejection at stage 1.
- (4) At stage 3 the Lord Chancellor must notify the selection, unless subsection (5) applies and he makes a notification under it.



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- (5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may at stage 3 notify that person's name to the Prime Minister.
- (6) In this Part references to the Lord Chancellor notifying a selection are references to his notifying to the Prime Minister the name of the person selected.

### **30 Exercise of powers to reject or require reconsideration**

- (1) The power of the Lord Chancellor under section 29 to reject a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion, the person selected is not suitable for the office concerned.
- (2) The power of the Lord Chancellor under section 29 to require the commission to reconsider a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion—
  - (a) there is not enough evidence that the person is suitable for the office concerned,
  - (b) there is evidence that the person is not the best candidate on merit, or
  - (c) there is not enough evidence that if the person were appointed the judges of the Court would between them have knowledge of, and experience of practice in, the law of each part of the United Kingdom.
- (3) The Lord Chancellor must give the commission reasons in writing for rejecting or requiring reconsideration of a selection.

### **31 Selection following rejection or requirement to reconsider**

- (1) If under section 29 the Lord Chancellor rejects or requires reconsideration of a selection at stage 1 or 2, the commission must select a person in accordance with this section.
- (2) If the Lord Chancellor rejects a selection, the commission—
  - (a) may not select the person rejected, and
  - (b) where the rejection is following reconsideration of a selection, may not select the person (if different) whose selection it reconsidered.
- (3) If the Lord Chancellor requires a selection to be reconsidered, the commission—
  - (a) may select the same person or a different person, but
  - (b) where the requirement is following a rejection, may not select the person rejected.
- (4) The commission must inform the Lord Chancellor of the person selected following a rejection or requirement to reconsider.

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VALID FROM 01/10/2009

### *Terms of appointment*

#### **32 Oath of allegiance and judicial oath**

- (1) A person who is appointed as President of the Court must, as soon as may be after accepting office, take the required oaths in the presence of—
  - (a) the Deputy President, or
  - (b) if there is no Deputy President, the senior ordinary judge.
- (2) A person who is appointed as Deputy President of the Supreme Court must, as soon as may be after accepting office, take the required oaths in the presence of—
  - (a) the President, or
  - (b) if there is no President, the senior ordinary judge.
- (3) A person who is appointed as a judge of the Supreme Court must, as soon as may be after accepting office, take the required oaths in the presence of—
  - (a) the President, or
  - (b) if there is no President, the Deputy President, or
  - (c) if there is no President and no Deputy President, the senior ordinary judge.
- (4) Subsections (1) and (2) apply whether or not the person appointed as President or Deputy President has previously taken the required oaths in accordance with this section after accepting another office.
- (5) Subsection (3) does not apply where a person is first appointed as a judge of the Court upon appointment to the office of President or Deputy President.
- (6) In this section “required oaths” means—
  - (a) the oath of allegiance, and
  - (b) the judicial oath,
 as set out in the Promissory Oaths Act 1868 (c. 72).

#### **33 Tenure**

A judge of the Supreme Court holds that office during good behaviour, but may be removed from it on the address of both Houses of Parliament.

#### **34 Salaries and allowances**

- (1) A judge of the Supreme Court is entitled to a salary.
- (2) The amount of the salary is to be determined by the Lord Chancellor with the agreement of the Treasury.
- (3) Until otherwise determined under subsection (2), the amount is that of the salary of a Lord of Appeal in Ordinary immediately before the commencement of section 23.
- (4) A determination under subsection (2) may increase but not reduce the amount.

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- (5) Salaries payable under this section are to be charged on and paid out of the Consolidated Fund of the United Kingdom.
- (6) Any allowance determined by the Lord Chancellor with the agreement of the Treasury may be paid to a judge of the Court out of money provided by Parliament.

### **35 Resignation and retirement**

- (1) A judge of the Supreme Court may at any time resign that office by giving the Lord Chancellor notice in writing to that effect.
- (2) The President or Deputy President of the Court may at any time resign that office (whether or not he resigns his office as a judge) by giving the Lord Chancellor notice in writing to that effect.
- (3) In section 26(4)(a) of and Schedule 5 to the Judicial Pensions and Retirement Act 1993 (c. 8) (retirement), for “Lord of Appeal in Ordinary” substitute “Judge of the Supreme Court”.

### **36 Medical retirement**

- (1) This section applies if the Lord Chancellor is satisfied by means of a medical certificate that a person holding office as a judge of the Supreme Court—
  - (a) is disabled by permanent infirmity from the performance of the duties of his office, and
  - (b) is for the time being incapacitated from resigning his office.
- (2) The Lord Chancellor may by instrument under his hand declare the person's office to have been vacated.
- (3) A declaration by instrument under subsection (2) has the same effect for all purposes as if the person had, on the date of the instrument, resigned his office.
- (4) But such a declaration has no effect unless it is made—
  - (a) in the case of an ordinary judge, with the agreement of the President and Deputy President of the Court;
  - (b) in the case of the President, with the agreement of the Deputy President and the senior ordinary judge;
  - (c) in the case of the Deputy President, with the agreement of the President and the senior ordinary judge.

### **37 Pensions**

- (1) In the tables in sections 1 and 16 of the Judicial Pensions Act 1981 (c. 20) (application and interpretation), for “Lord of Appeal in Ordinary”—
  - (a) in the first column, substitute “ Judge of the Supreme Court ”, and
  - (b) in the second column, in each place substitute “ judge of the Supreme Court ”.
- (2) In Part 1 of Schedule 1 to the Judicial Pensions and Retirement Act 1993 (qualifying judicial offices: judges), for “Lord of Appeal in Ordinary” substitute “Judge of the Supreme Court”.

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- (3) The amendments made by this section to the 1981 and 1993 Acts do not affect the operation of any provision of or made under those Acts, or anything done under such provision, in relation to the office of, or service as, Lord of Appeal in Ordinary.

VALID FROM 01/10/2009

### *Acting judges*

#### **38 Acting judges**

- (1) At the request of the President of the Supreme Court any of the following may act as a judge of the Court—
- (a) a person who holds office as a senior territorial judge;
  - (b) a member of the supplementary panel under section 39.
- (2) A request under subsection (1) may be made by the Deputy President of the Court if there is no President or the President is unable to make that request.
- (3) In section 26(7) of the Judicial Pensions and Retirement Act 1993 (c. 8) (requirement not to act in certain capacities after the age of 75) for paragraph (b) substitute—
- “(b) act as a judge of the Supreme Court under section 38 of the Constitutional Reform Act 2005;”.
- (4) Every person while acting under this section is, subject to subsections (5) and (6), to be treated for all purposes as a judge of the Supreme Court (and so may perform any of the functions of a judge of the Court).
- (5) A person is not to be treated under subsection (4) as a judge of the Court for the purposes of any statutory provision relating to—
- (a) the appointment, retirement, removal or disqualification of judges of the Court,
  - (b) the tenure of office and oaths to be taken by judges of the Court, or
  - (c) the remuneration, allowances or pensions of judges of the Court.
- (6) Subject to section 27 of the Judicial Pensions and Retirement Act 1993, a person is not to be treated under subsection (4) as having been a judge of the Court if he has acted in the Court only under this section.
- (7) Such remuneration and allowances as the Lord Chancellor may with the agreement of the Treasury determine may be paid out of money provided by Parliament to any person who acts as a judge of the Court under this section.
- (8) In this section “office as a senior territorial judge” means office as any of the following—
- (a) a judge of the Court of Appeal in England and Wales;
  - (b) a judge of the Court of Session, but only if the holder of the office is a member of the First or Second Division of the Inner House of that Court;
  - (c) a judge of the Court of Appeal in Northern Ireland, unless the holder holds the office only by virtue of being a puisne judge of the High Court.

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### 39 Supplementary panel

- (1) There is to be a panel of persons known as the supplementary panel.
- (2) On the commencement of this section any member of the House of Lords who—
  - (a) meets one of the conditions in subsection (3),
  - (b) does not hold high judicial office,
  - (c) has not attained the age of 75, and
  - (d) is not a person who was appointed to the office of Lord Chancellor on or after 12 June 2003,becomes a member of the panel.
- (3) The conditions are—
  - (a) that he ceased to hold high judicial office less than 5 years before the commencement of this section;
  - (b) that he was a member of the Judicial Committee of the Privy Council immediately before that commencement;
  - (c) that he ceased to be a member of that Committee less than 5 years before that commencement.
- (4) A person becomes a member of the supplementary panel on ceasing to hold office as a judge of the Supreme Court or as a senior territorial judge, but only if, while he holds such office—
  - (a) his membership of the panel is approved in writing by the President of the Supreme Court, and
  - (b) the President of the Court gives the Lord Chancellor notice in writing of the approval.
- (5) Subsection (4) does not apply to a person who ceases to hold office as a judge of the Supreme Court when he ceases to be President of the Court.
- (6) Such a person becomes a member of the supplementary panel on ceasing to be President of the Court, unless—
  - (a) while President, he gives the Lord Chancellor notice that he is not to become a member of the panel,
  - (b) he ceases to be President on being removed from office as a judge of the Court on the address of both Houses of Parliament, or
  - (c) his office is declared vacant under section 36.
- (7) A person does not become a member of the supplementary panel under subsection (4) or (6) if—
  - (a) on ceasing to hold office as a judge of the Supreme Court he takes office as a senior territorial judge, or
  - (b) on ceasing to hold office as a senior territorial judge he takes office as a judge of the Supreme Court.
- (8) A member of the supplementary panel may resign by notice in writing to the President of the Court.
- (9) Unless he resigns (and subject to sections 26(7)(b) and 27 of the Judicial Pensions and Retirement Act 1993 (c. 8)), a person ceases to be a member of the supplementary panel—

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(a) at the end of 5 years after the last day on which he holds his qualifying office, or

(b) if earlier, at the end of the day on which he attains the age of 75.

(10) In this section—

(a) “office as a senior territorial judge” has the same meaning as in section 38;

(b) a person's “qualifying office” is the office (that is, high judicial office, membership of the Judicial Committee of the Privy Council, office as a judge of the Supreme Court or office as a senior territorial judge) that he held before becoming a member of the supplementary panel.

VALID FROM 01/10/2009

*Jurisdiction, relation to other courts etc*

**40 Jurisdiction**

(1) The Supreme Court is a superior court of record.

(2) An appeal lies to the Court from any order or judgment of the Court of Appeal in England and Wales in civil proceedings.

(3) An appeal lies to the Court from any order or judgment of a court in Scotland if an appeal lay from that court to the House of Lords at or immediately before the commencement of this section.

(4) Schedule 9—

(a) transfers other jurisdiction from the House of Lords to the Court,

(b) transfers devolution jurisdiction from the Judicial Committee of the Privy Council to the Court, and

(c) makes other amendments relating to jurisdiction.

(5) The Court has power to determine any question necessary to be determined for the purposes of doing justice in an appeal to it under any enactment.

(6) An appeal under subsection (2) lies only with the permission of the Court of Appeal or the Supreme Court; but this is subject to provision under any other enactment restricting such an appeal.

**41 Relation to other courts etc**

(1) Nothing in this Part is to affect the distinctions between the separate legal systems of the parts of the United Kingdom.

(2) A decision of the Supreme Court on appeal from a court of any part of the United Kingdom, other than a decision on a devolution matter, is to be regarded as the decision of a court of that part of the United Kingdom.

(3) A decision of the Supreme Court on a devolution matter—

(a) is not binding on that Court when making such a decision;

(b) otherwise, is binding in all legal proceedings.

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(4) In this section “devolution matter” means—

- (a) a question referred to the Supreme Court under section 33 of the Scotland Act 1998 (c. 46) or section 11 of the Northern Ireland Act 1998 (c. 47);
- (b) a devolution issue as defined in [<sup>F5</sup>Schedule 9 to the Government of Wales Act 2006](c. 38), Schedule 6 to the Scotland Act 1998 or Schedule 10 to the Northern Ireland Act 1998.

#### Textual Amendments

- F5** Words in s. 41(4)(b) substituted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, [Sch. 1 para. 111](#)

VALID FROM 01/10/2009

### *Composition for proceedings*

#### **42 Composition**

- (1) The Supreme Court is duly constituted in any proceedings only if all of the following conditions are met—
  - (a) the Court consists of an uneven number of judges;
  - (b) the Court consists of at least three judges;
  - (c) more than half of those judges are permanent judges.
- (2) Paragraphs (a) and (b) of subsection (1) are subject to any directions that in specified proceedings the Court is to consist of a specified number of judges that is both uneven and greater than three.
- (3) Paragraph (b) of subsection (1) is subject to any directions that in specified descriptions of proceedings the Court is to consist of a specified minimum number of judges that is greater than three.
- (4) This section is subject to section 43.
- (5) In this section—
  - (a) “directions” means directions given by the President of the Court;
  - (b) “specified”, in relation to directions, means specified in those directions;
  - (c) references to permanent judges are references to those judges of the Court who are not acting judges under section 38.
- (6) This section and section 43 apply to the constitution of the Court in any proceedings from the time judges are designated to hear the proceedings.

#### **43 Changes in composition**

- (1) This section applies if in any proceedings the Court ceases to be duly constituted in accordance with section 42, or in accordance with a direction under this section, because one or more members of the Court are unable to continue.



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- (2) The presiding judge may direct that the Court is still duly constituted in the proceedings.
- (3) The presiding judge may give a direction under this section only if—
  - (a) the parties agree;
  - (b) the Court still consists of at least three judges (whether the number of judges is even or uneven);
  - (c) at least half of those judges are permanent judges.
- (4) Subsections (2) and (3) are subject to directions given by the President of the Court.
- (5) If in any proceedings the Court is duly constituted under this section with an even number of judges, and those judges are evenly divided, the case is to be re-argued in a Court which is constituted in accordance with section 42.
- (6) In this section—
  - (a) “presiding judge” means the judge who is to preside, or is presiding, over proceedings;
  - (b) references to permanent judges have the same meaning as in section 42.

### *Practice and procedure*

VALID FROM 01/10/2009

#### **44 Specially qualified advisers**

- (1) If the Supreme Court thinks it expedient in any proceedings, it may hear and dispose of the proceedings wholly or partly with the assistance of one or more specially qualified advisers appointed by it.
- (2) Any remuneration payable to such an adviser is to be determined by the Court unless agreed between the adviser and the parties to the proceedings.
- (3) Any remuneration forms part of the costs of the proceedings.

#### **45 Making of rules**

- (1) The President of the Supreme Court may make rules (to be known as “Supreme Court Rules”) governing the practice and procedure to be followed in the Court.
- (2) The power to make Supreme Court Rules includes power to make different provision for different cases, including different provision—
  - (a) for different descriptions of proceedings, or
  - (b) for different jurisdiction of the Supreme Court.
- (3) The President must exercise the power to make Supreme Court Rules with a view to securing that—
  - (a) the Court is accessible, fair and efficient, and
  - (b) the rules are both simple and simply expressed.
- (4) Before making Supreme Court Rules the President must consult all of the following—



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- (a) the Lord Chancellor;
  - (b) the bodies listed in subsection (5);
  - (c) such other bodies that represent persons likely to be affected by the Rules as the President considers it appropriate to consult.
- (5) The bodies referred to in subsection (4)(b) are—
- The General Council of the Bar of England and Wales;
  - The Law Society of England and Wales;
  - The Faculty of Advocates of Scotland;
  - The Law Society of Scotland;
  - The General Council of the Bar of Northern Ireland;
  - The Law Society of Northern Ireland.

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

- C1** S. 45 modified (temp. from 27.2.2006) by [The Constitutional Reform Act 2005 \(Temporary Modifications\) Order 2006 \(S.I. 2006/227\)](#), **art. 2**

**46 Procedure after rules made**

- (1) Supreme Court Rules made by the President of the Supreme Court must be submitted by him to the Lord Chancellor.
- (2) Supreme Court Rules submitted to the Lord Chancellor—
  - (a) come into force on such day as the Lord Chancellor directs, and
  - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 (c. 36) applies as if the instrument contained rules made by a Minister of the Crown.
- (3) A statutory instrument containing Supreme Court Rules is subject to annulment in pursuance of a resolution of either House of Parliament.

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

- C2** S. 46 modified (temp. from 27.2.2006) by [The Constitutional Reform Act 2005 \(Temporary Modifications\) Order 2006 \(S.I. 2006/227\)](#), **art. 2**

VALID FROM 01/10/2009

**47 Photography etc**

- (1) In section 41 of the Criminal Justice Act 1925 (c. 86) (prohibition on taking photographs etc in court), for subsection (2)(a) substitute—
  - “(a) the expression “court” means any court of justice (including the court of a coroner), apart from the Supreme Court;”.
- (2) In section 29 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 N.I.) (prohibition on taking photographs etc in court), for subsection (2)(a) substitute—

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“(a) the expression “court” means any court of justice (including the court of a coroner), apart from the Supreme Court;”.

VALID FROM 01/10/2009

### *Staff and resources*

#### **48 Chief executive**

- (1) The Supreme Court is to have a chief executive.
- (2) The Lord Chancellor must appoint the chief executive, after consulting the President of the Court.
- (3) The President of the Court may delegate to the chief executive any of these functions—
  - (a) functions of the President under section 49(1);
  - (b) non-judicial functions of the Court.
- (4) The chief executive must carry out his functions (under subsection (3) or otherwise) in accordance with any directions given by the President of the Court.

#### **49 Officers and staff**

- (1) The President of the Supreme Court may appoint officers and staff of the Court.
- (2) It is for the chief executive of the Supreme Court to determine these matters with the agreement of the Lord Chancellor—
  - (a) the number of officers and staff of the Court;
  - (b) subject to subsection (3), the terms on which officers and staff are to be appointed.
- (3) The civil service pension arrangements for the time being in force apply (with any necessary adaptations) to the chief executive of the Court, and to persons appointed under subsection (1), as they apply to other persons employed in the civil service of the State.
- (4) In subsection (3) “the civil service pension arrangements” means—
  - (a) the principal civil service pension scheme (within the meaning of section 2 of the Superannuation Act 1972 (c. 11), and
  - (b) any other superannuation benefits for which provision is made under or by virtue of section 1 of that Act for or in respect of persons in employment in the civil service of the State.

#### **50 Accommodation and other resources**

- (1) The Lord Chancellor must ensure that the Supreme Court is provided with the following—
  - (a) such court-houses, offices and other accommodation as the Lord Chancellor thinks are appropriate for the Court to carry on its business;

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- (b) such other resources as the Lord Chancellor thinks are appropriate for the Court to carry on its business.
- (2) The Lord Chancellor may discharge the duty under subsection (1) by—
  - (a) providing accommodation or other resources, or
  - (b) entering into arrangements with any other person for the provision of accommodation or other resources.
- (3) The powers to acquire land for the public service conferred by—
  - (a) section 2 of the Commissioners of Works Act 1852 (c. 28) (acquisition by agreement), and
  - (b) section 228(1) of the Town and Country Planning Act 1990 (c. 8) (compulsory acquisition),are to be treated as including power to acquire land for the purpose of its provision under arrangements under subsection (2)(b).
- (4) The Scottish Ministers may make payments by way of contribution to the costs incurred by the Lord Chancellor in providing the Court with resources in accordance with subsection (1)(b).
- (5) In this section “court-house” means any place where the Court sits, including the precincts of any building in which it sits.

## **51 System to support Court in carrying on business**

- (1) The chief executive of the Supreme Court must ensure that the Court's resources are used to provide an efficient and effective system to support the Court in carrying on its business.
- (2) In particular—
  - (a) appropriate services must be provided for the Court;
  - (b) the accommodation provided under section 50 must be appropriately equipped, maintained and managed.

VALID FROM 01/10/2009

### *Fees*

## **52 Fees**

- (1) The Lord Chancellor may, with the agreement of the Treasury, by order prescribe fees payable in respect of anything dealt with by the Supreme Court.
- (2) An order under this section may, in particular, contain provision about—
  - (a) scales or rates of fees;
  - (b) exemptions from fees;
  - (c) reductions in fees;
  - (d) whole or partial remission of fees.
- (3) When including any provision in an order under this section, the Lord Chancellor must have regard to the principle that access to the courts must not be denied.

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- (4) Before making an order under this section, the Lord Chancellor must consult all of the following—
- (a) the persons listed in subsection (5);
  - (b) the bodies listed in subsection (6).
- (5) The persons referred to in subsection (4)(a) are—
- (a) the President of the Supreme Court;
  - (b) the Lord Chief Justice of England and Wales;
  - (c) the Master of the Rolls;
  - (d) the Lord President of the Court of Session;
  - (e) the Lord Chief Justice of Northern Ireland;
  - (f) the Lord Justice Clerk;
  - (g) the President of the Queen's Bench Division;
  - (h) the President of the Family Division;
  - (i) the Chancellor of the High Court.
- (6) The bodies referred to in subsection (4)(b) are—
- (a) the General Council of the Bar of England and Wales;
  - (b) the Law Society of England and Wales;
  - (c) the Faculty of Advocates of Scotland;
  - (d) the Law Society of Scotland;
  - (e) the General Council of the Bar of Northern Ireland;
  - (f) the Law Society of Northern Ireland.

### **53 Fees: supplementary**

- (1) Supreme Court fees are recoverable summarily as a civil debt.
- (2) The Lord Chancellor must take such steps as are reasonably practicable to bring information about Supreme Court fees to the attention of persons likely to have to pay them.
- (3) In this section “Supreme Court fees” means fees prescribed in an order under section 52.

VALID FROM 01/10/2009

### *Annual report*

### **54 Annual report**

- (1) As soon as practicable after each financial year, the chief executive of the Supreme Court must prepare a report about the business of the Supreme Court during that year and give a copy of that report to the following persons—
  - (a) the Lord Chancellor;
  - (b) the First Minister in Scotland;
  - (c) the First Minister and the deputy First Minister in Northern Ireland;

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(d) [<sup>F6</sup>the First Minister for Wales].

(2) The Lord Chancellor must lay a copy of any report of which a copy is given under subsection (1)(a) before each House of Parliament.

(3) Each of the following is a “financial year” for the purposes of this section—

- (a) the period which begins with the date on which this section comes into force and ends with the following 31 March;
- (b) each successive period of 12 months.

#### Textual Amendments

**F6** Words in s. 54(1)(d) substituted (2.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, [Sch. 1 para. 110\(c\)](#)

VALID FROM 01/10/2009

### *Supplementary*

#### **55 Seal**

- (1) The Supreme Court is to have an official seal.
- (2) Every document purporting to be sealed with the official seal of the Supreme Court is to be received in evidence in all parts of the United Kingdom without further proof.

#### **56 Records of the Supreme Court**

- (1) The Public Records Act 1958 (c. 51) is amended as follows.
- (2) In section 8 (court records)—
  - (a) in subsection (1) after “such records” insert “ other than records of the Supreme Court, ”;
  - (b) after subsection (1) insert—

“(1A) Records of the Supreme Court for which the Lord Chancellor is responsible under subsection (1) shall be in the custody of the chief executive of that court.”
- (3) In Schedule 1 (definition of public records), in paragraph 4 (records of courts and tribunals), before sub-paragraph (1)(a) insert—

“(za) records of the Supreme Court;”.

#### **57 Proceedings under jurisdiction transferred to the Supreme Court**

Schedule 10 contains transitional provision relating to proceedings under jurisdiction which is transferred to the Supreme Court by this Act from the House of Lords or the Judicial Committee of the Privy Council.

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## **58 Northern Ireland Act 1998: excepted and reserved matters relating to the Supreme Court**

(1) The Northern Ireland Act 1998 (c. 47) is amended as follows.

(2) In Schedule 2 (excepted matters), after paragraph 11 insert—

“11A The Supreme Court.”

(3) In Schedule 3 (reserved matters), after paragraph 14 insert—

“14A The following matters—

- (a) rights of appeal to the Supreme Court;
- (b) legal aid for appeals to the Supreme Court.”

## **59 Renaming of Supreme Courts of England and Wales and Northern Ireland**

(1) The Supreme Court of England and Wales is renamed the Senior Courts of England and Wales.

(2) The Supreme Court of Judicature of Northern Ireland is renamed the Court of Judicature of Northern Ireland.

(3) The Northern Ireland Supreme Court Rules Committee is renamed the Northern Ireland Court of Judicature Rules Committee.

(4) Any reference in an enactment, instrument or other document to a court or committee renamed by this section is to be read, so far as necessary for continuing its effect, as a reference to the Senior Courts, the Court of Judicature or the Northern Ireland Court of Judicature Rules Committee (as the case may be).

(5) Schedule 11 (which makes amendments in connection with the renaming) has effect.

(6) Unless otherwise provided, amendments made by an enactment (A) (whether or not in force) to another enactment (B)—

- (a) are not included in references in that Schedule to enactment A;
- (b) are included in references in that Schedule to enactment B.

## **60 Interpretation of Part 3**

(1) In this Part—

“part of the United Kingdom” means England and Wales, Scotland or Northern Ireland;

“the senior judges” means—

- (a) the judges of the Supreme Court;
- (b) the Lord Chief Justice of England and Wales;
- (c) the Master of the Rolls;
- (d) the Lord President of the Court of Session;
- (e) the Lord Chief Justice of Northern Ireland;
- (f) the Lord Justice Clerk;
- (g) the President of the Queen's Bench Division;

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- (h) the President of the Family Division;
  - (i) the Chancellor of the High Court;
- “the Supreme Court” means the Supreme Court of the United Kingdom.
- (2) In this Part—
- (a) “high judicial office” means office as a judge of any of the following courts—
    - (i) the Supreme Court;
    - (ii) the Court of Appeal in England and Wales;
    - (iii) the High Court in England and Wales;
    - (iv) the Court of Session;
    - (v) the Court of Appeal in Northern Ireland;
    - (vi) the High Court in Northern Ireland;or as a Lord of Appeal in Ordinary;
  - (b) a person appointed to the office of Lord Chancellor on or after 12 June 2003 who holds, or held, office of a kind referred to in paragraph (a) (“the qualifying office”) is to be regarded as holding, or having held, high judicial office only if—
    - (i) he has ceased to be Lord Chancellor by virtue of that appointment, and
    - (ii) he holds, or held, the qualifying office otherwise than by virtue of that appointment as Lord Chancellor.
- (3) In this Part—
- (a) “ordinary judge” means a judge of the Supreme Court who is not the President or the Deputy President of the Court;
  - (b) the senior ordinary judge at any time is, of the ordinary judges at that time, the one who has served longest as a judge of the Court (whether over one or more periods and whether or not including one or more previous periods as President or Deputy President).
- (4) Service as a Lord of Appeal in Ordinary counts as service as a judge of the Court for the purposes of subsection (3)(b).
- (5) In this Part references to the Lord Chancellor notifying a selection are to be read in accordance with section 29(6).

## PART 4

### JUDICIAL APPOINTMENTS AND DISCIPLINE

#### CHAPTER 1

##### COMMISSION AND OMBUDSMAN

## 61 The Judicial Appointments Commission

- (1) There is to be a body corporate called the Judicial Appointments Commission.

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(2) Schedule 12 is about the Commission.

## **62 Judicial Appointments and Conduct Ombudsman**

(1) There is to be a Judicial Appointments and Conduct Ombudsman.

(2) Schedule 13 is about the Ombudsman.

## **CHAPTER 2**

### APPOINTMENTS

#### *General provisions*

## **63 Merit and good character**

(1) Subsections (2) and (3) apply to any selection under this Part by the Commission or a selection panel (“the selecting body”).

(2) Selection must be solely on merit.

(3) A person must not be selected unless the selecting body is satisfied that he is of good character.

## **64 Encouragement of diversity**

(1) The Commission, in performing its functions under this Part, must have regard to the need to encourage diversity in the range of persons available for selection for appointments.

(2) This section is subject to section 63.

## **65 Guidance about procedures**

(1) The Lord Chancellor may issue guidance about procedures for the performance by the Commission or a selection panel of its functions of—

- (a) identifying persons willing to be considered for selection under this Part, and
- (b) assessing such persons for the purposes of selection.

(2) The guidance may, among other things, relate to consultation or other steps in determining such procedures.

(3) The purposes for which guidance may be issued under this section include the encouragement of diversity in the range of persons available for selection.

(4) The Commission and any selection panel must have regard to the guidance in matters to which it relates.



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### Commencement Information

- 16** S. 65 wholly in force at 3.4.2006; s. 65 not in force at Royal Assent see. s. 148; s. 65(1)-(3) in force at 1.10.2005 by S.I. 2005/2505, art. 2; s. 65(4) in force at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 18

## 66 Guidance: supplementary

- (1) Before issuing any guidance the Lord Chancellor must—
  - (a) consult the Lord Chief Justice;
  - (b) after doing so, lay a draft of the proposed guidance before each House of Parliament.
- (2) If the draft is approved by a resolution of each House of Parliament within the 40-day period the Lord Chancellor must issue the guidance in the form of the draft.
- (3) In any other case the Lord Chancellor must take no further steps in relation to the proposed guidance.
- (4) Subsection (3) does not prevent a new draft of the proposed guidance from being laid before each House of Parliament after consultation with the Lord Chief Justice.
- (5) Guidance comes into force on such date as the Lord Chancellor may appoint by order.
- (6) The Lord Chancellor may—
  - (a) from time to time revise the whole or part of any guidance and re-issue it;
  - (b) after consulting the Lord Chief Justice, by order revoke any guidance.
- (7) In this section—

“40-day period” in relation to the draft of any proposed guidance means—

  - (a) if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later day, and
  - (b) in any other case, the period of 40 days beginning with the day on which the draft is laid before each House,

no account being taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days;

“guidance” means guidance issued by the Lord Chancellor under section 65 and includes guidance which has been revised and re-issued.

### *Lord Chief Justice and Heads of Division*

## 67 Selection of Lord Chief Justice and Heads of Division

- (1) Sections 68 to 75 apply to a recommendation for an appointment to one of the following offices—
  - (a) Lord Chief Justice;
  - (b) Master of the Rolls;
  - (c) President of the Queen's Bench Division;
  - (d) President of the Family Division;

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(e) Chancellor of the High Court.

(2) Any such recommendation must be made in accordance with those sections and section 96.

## **68 Duty to fill vacancies**

(1) The Lord Chancellor must make a recommendation to fill any vacancy in the office of Lord Chief Justice.

(2) The Lord Chancellor must make a recommendation to fill any vacancy in any other office listed in section 67(1).

(3) Subsection (2) does not apply to a vacancy while the Lord Chief Justice agrees that it may remain unfilled.

## **69 Request for selection**

(1) The Lord Chancellor may make a request to the Commission for a person to be selected for a recommendation to which this section applies.

(2) Before making a request the Lord Chancellor must consult the Lord Chief Justice.

(3) Subsection (2) does not apply where the office of Lord Chief Justice is vacant or where the Lord Chief Justice is incapacitated for the purposes of section 16 (functions during vacancy or incapacity).

(4) Sections 70 to 75 apply where the Lord Chancellor makes a request under this section.

(5) Those sections are subject to section 95 (withdrawal and modification of requests).

## **70 Selection process**

(1) On receiving a request the Commission must appoint a selection panel.

(2) The panel must—

- (a) determine the selection process to be applied,
- (b) apply the selection process, and
- (c) make a selection accordingly.

(3) One person only must be selected for each recommendation to which a request relates.

(4) Subsection (3) applies to selection under this section and to selection under section 75.

(5) If practicable the panel must consult, about the exercise of its functions under this section, the current holder of the office for which a selection is to be made.

(6) A selection panel is a committee of the Commission.

## **71 Selection panel**

(1) The selection panel must consist of four members.

(2) The first member is the most senior England and Wales Supreme Court judge who is not disqualified, or his nominee.

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- (3) Unless subsection (7) applies, the second member is the Lord Chief Justice or his nominee.
- (4) Unless subsection (9) applies, the third member is the chairman of the Commission or his nominee.
- (5) The fourth member is a lay member of the Commission designated by the third member.
- (6) Subsection (7) applies if—
  - (a) the Lord Chief Justice is disqualified, or
  - (b) there is no Lord Chief Justice.
- (7) In those cases the most senior England and Wales Supreme Court judge who is not disqualified must designate a person (but not a person who is disqualified) as the second member.
- (8) Subsection (9) applies if—
  - (a) there is no chairman of the Commission, or
  - (b) the chairman of the Commission is unavailable and has not nominated a person under subsection (4).
- (9) In those cases the third member is a lay member of the Commission selected by the lay members of the Commission other than the chairman.
- (10) Only the following may be a nominee under subsection (2) or (3) or designated under subsection (7)—
  - (a) an England and Wales Supreme Court judge,
  - (b) a Head of Division, or
  - (c) a Lord Justice of Appeal.
- (11) The following also apply to nominees under this section—
  - (a) a person may not be a nominee if he is disqualified;
  - (b) a person may not be appointed to the panel as the nominee of more than one person;
  - (c) a person appointed to the panel otherwise than as a nominee may not be a nominee.
- (12) The first member is the chairman of the panel.
- (13) On any vote by the panel the chairman of the panel has an additional, casting vote in the event of a tie.
- (14) A person is disqualified for the purposes of this section if—
  - (a) he is the current holder of the office for which a selection is to be made, or
  - (b) he is willing to be considered for selection.
- (15) In this section “England and Wales Supreme Court judge” means a judge of the Supreme Court who has held high judicial office in England and Wales before appointment to the Court.

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## 72 Report

- (1) After complying with section 70(2) the selection panel must submit a report to the Lord Chancellor.
- (2) The report must—
  - (a) state who has been selected;
  - (b) contain any other information required by the Lord Chancellor.
- (3) The report must be in a form approved by the Lord Chancellor.
- (4) After submitting the report the panel must provide any further information the Lord Chancellor may require.

## 73 The Lord Chancellor's options

- (1) This section refers to the following stages—

<i>Stage 1:</i>	where a person has been selected under section 70
<i>Stage 2:</i>	where a person has been selected following a rejection or reconsideration at stage 1
<i>Stage 3:</i>	where a person has been selected following a rejection or reconsideration at stage 2.

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- (2) At stage 1 the Lord Chancellor must do one of the following—
  - (a) accept the selection;
  - (b) reject the selection;
  - (c) require the selection panel to reconsider the selection.
- (3) At stage 2 the Lord Chancellor must do one of the following—
  - (a) accept the selection;
  - (b) reject the selection, but only if it was made following a reconsideration at stage 1;
  - (c) require the selection panel to reconsider the selection, but only if it was made following a rejection at stage 1.
- (4) At stage 3 the Lord Chancellor must accept the selection, unless subsection (5) applies and he accepts a selection under it.
- (5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may, at stage 3, accept the selection made at that earlier stage.

## 74 Exercise of powers to reject or require reconsideration

- (1) The power of the Lord Chancellor under section 73 to reject a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion, the person selected is not suitable for the office concerned.

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- (2) The power of the Lord Chancellor under section 73 to require the selection panel to reconsider a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion—
  - (a) there is not enough evidence that the person is suitable for the office concerned, or
  - (b) there is evidence that the person is not the best candidate on merit.
- (3) The Lord Chancellor must give the selection panel reasons in writing for rejecting or requiring reconsideration of a selection.

## **75 Selection following rejection or requirement to reconsider**

- (1) If under section 73 the Lord Chancellor rejects or requires reconsideration of a selection at stage 1 or 2, the selection panel must select a person in accordance with this section.
- (2) If the Lord Chancellor rejects a selection, the selection panel—
  - (a) may not select the person rejected, and
  - (b) where the rejection is following reconsideration of a selection, may not select the person (if different) whose selection it reconsidered.
- (3) If the Lord Chancellor requires a selection to be reconsidered, the selection panel—
  - (a) may select the same person or a different person, but
  - (b) where the requirement is following a rejection, may not select the person rejected.
- (4) The selection panel must inform the Lord Chancellor of the person selected following a rejection or a requirement to reconsider.
- (5) Subsections (2) and (3) do not prevent a person being selected on a subsequent request under section 69.

*[<sup>F7</sup>Senior President of Tribunals*

### **Textual Amendments**

- F7** Ss. 75A-75G and preceding cross-heading inserted (19.9.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 2, 148, [Sch. 1 para. 4](#); S.I. 2007/2709, [art. 2\(g\)](#)

## **75A Sections 75B to 75G apply where request made for selection**

- (1) Sections 75B to 75G apply where the Lord Chancellor makes a request to the Commission under paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007 (request for person to be selected for recommendation for appointment to the office of Senior President of Tribunals).
- (2) Those sections are subject to section 95 (withdrawal and modification of requests).

## **75B Selection process**

- (1) On receiving a request the Commission must appoint a selection panel.

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- (2) The panel must —
  - (a) determine the selection process to be applied,
  - (b) apply the selection process, and
  - (c) make a selection accordingly.
- (3) As part of the selection process the panel must consult—
  - (a) the Lord Chief Justice, if not a member of the panel,
  - (b) the Lord President of the Court of Session, if not a member of the panel, and
  - (c) the Lord Chief Justice of Northern Ireland, if not a member of the panel.
- (4) One person only must be selected for the recommendation to which a request relates.
- (5) Subsection (4) applies to selection under this section and to selection under section 75G.
- (6) A selection panel is a committee of the Commission.

### **75C Selection panel**

- (1) The selection panel must consist of four members.
- (2) The first member is the Lord Chief Justice, or his nominee.
- (3) The second member is a person designated by the Lord Chief Justice.
- (4) Unless subsection (7) applies, the third member is the chairman of the Commission or his nominee.
- (5) The fourth member is a lay member of the Commission designated by the third member.
- (6) Subsection (7) applies if—
  - (a) there is no chairman of the Commission, or
  - (b) the chairman of the Commission is unavailable and has not nominated a person under subsection (4).
- (7) In those cases the third member is a lay member of the Commission selected by the lay members of the Commission other than the chairman.
- (8) A nominee of the Lord Chief Justice must be a Head of Division or a Lord Justice of Appeal.
- (9) The person designated under subsection (3) must be—
  - (a) a person who holds, or has held, the office of Senior President of Tribunals,
  - (b) a person who holds, or has held, office as a Chamber President of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal, or
  - (c) a person who holds, or has held, an office that, in the opinion of the Lord Chief Justice, is such that a holder of it would acquire knowledge or experience of tribunals broadly similar to that which would be acquired by—
    - (i) a person who holds the office of Senior President of Tribunals, or
    - (ii) a person who holds office as a Chamber President of a chamber of the First-tier Tribunal, or
    - (iii) a person who holds office as a Chamber President of a chamber of the Upper Tribunal.

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- (10) Before designating a person under subsection (3), the Lord Chief Justice must consult—
  - (a) the Lord President of the Court of Session, and
  - (b) the Lord Chief Justice of Northern Ireland.
- (11) A person may not be appointed to the panel if he is willing to be considered for selection.
- (12) A person may not be appointed to the panel as the nominee of more than one person.
- (13) A person appointed to the panel otherwise than as a nominee may not be a nominee.
- (14) The first member is the chairman of the panel.
- (15) On any vote by the panel the chairman of the panel has an additional, casting vote in the event of a tie.

#### **75D Report**

- (1) After complying with section 75B(2) the selection panel must submit a report to the Lord Chancellor.
- (2) The report must—
  - (a) state who has been selected;
  - (b) contain any other information required by the Lord Chancellor.
- (3) The report must be in a form approved by the Lord Chancellor.
- (4) After submitting the report the panel must provide any further information the Lord Chancellor may require.

#### **75E The Lord Chancellor's options**

- (1) This section refers to the following stages—

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<i>Stage 1:</i>	where a person has been selected under section 75B
<i>Stage 2:</i>	where a person has been selected following a rejection or reconsideration at stage 1
<i>Stage 3:</i>	where a person has been selected following a rejection or reconsideration at stage 2

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- (2) At stage 1 the Lord Chancellor must do one of the following—
  - (a) accept the selection;
  - (b) reject the selection;
  - (c) require the selection panel to reconsider the selection.
- (3) At stage 2 the Lord Chancellor must do one of the following—
  - (a) accept the selection;

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- (b) reject the selection, but only if it was made following a reconsideration at stage 1;
  - (c) require the selection panel to reconsider the selection, but only if it was made following a rejection at stage 1.
- (4) At stage 3 the Lord Chancellor must accept the selection, unless subsection (5) applies and he accepts a selection under it.
- (5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may, at stage 3, accept the selection made at that earlier stage.

#### **75F Exercise of powers to reject or require reconsideration**

- (1) The power of the Lord Chancellor under section 75E to reject a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion, the person selected is not suitable for the office of Senior President of Tribunals.
- (2) The power of the Lord Chancellor under section 75E to require the selection panel to reconsider a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion—
- (a) there is not enough evidence that the person is suitable for the office of Senior President of Tribunals, or
  - (b) there is evidence that the person is not the best candidate on merit.
- (3) The Lord Chancellor must give the selection panel reasons in writing for rejecting or requiring reconsideration of a selection.

#### **75G Selection following rejection or requirement to reconsider**

- (1) If under section 75F the Lord Chancellor rejects or requires reconsideration of a selection at stage 1 or 2, the selection panel must select a person in accordance with this section.
- (2) If the Lord Chancellor rejects a selection, the selection panel—
- (a) may not select the person rejected, and
  - (b) where the rejection is following reconsideration of a selection, may not select the person (if different) whose selection it reconsidered.
- (3) If the Lord Chancellor requires a selection to be reconsidered, the selection panel—
- (a) may select the same person or a different person, but
  - (b) where the requirement is following a rejection, may not select the person rejected.
- (4) The selection panel must inform the Lord Chancellor of the person selected following a rejection or a requirement to reconsider.
- (5) Subsections (2) and (3) do not prevent a person being selected on a subsequent request under paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007.]



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### *Lords Justices of Appeal*

#### **76 Selection of Lords Justices of Appeal**

- (1) Sections 77 to 84 apply to a recommendation for appointment as a Lord Justice of Appeal.
- (2) Any such recommendation must be made in accordance with those sections and section 96.

#### **77 Duty to fill vacancies**

- (1) The Lord Chancellor must make a recommendation to fill any vacancy in the office of Lord Justice of Appeal.
- (2) Subsection (1) does not apply to a vacancy while the Lord Chief Justice agrees that it may remain unfilled.

#### **78 Request for selection**

- (1) The Lord Chancellor may make a request to the Commission for a person to be selected for a recommendation for appointment as a Lord Justice of Appeal.
- (2) Before making a request the Lord Chancellor must consult the Lord Chief Justice.
- (3) A request may relate to more than one recommendation.
- (4) Sections 79 to 84 apply where the Lord Chancellor makes a request under this section.
- (5) Those sections are subject to section 95 (withdrawal and modification of requests).

#### **79 Selection process**

- (1) On receiving a request the Commission must appoint a selection panel.
- (2) The panel must—
  - (a) determine the selection process to be applied,
  - (b) apply the selection process, and
  - (c) make a selection accordingly.
- (3) One person only must be selected for each recommendation to which a request relates.
- (4) Subsection (3) applies to selection under this section and to selection under section 84.
- (5) A selection panel is a committee of the Commission.

#### **80 Selection panel**

- (1) The selection panel must consist of four members.
- (2) The first member is the Lord Chief Justice, or his nominee.
- (3) The second member is a Head of Division or Lord Justice of Appeal designated by the Lord Chief Justice.

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- (4) Unless subsection (7) applies, the third member is the chairman of the Commission or his nominee.
- (5) The fourth member is a lay member of the Commission designated by the third member.
- (6) Subsection (7) applies if—
  - (a) there is no chairman of the Commission, or
  - (b) the chairman of the Commission is unavailable and has not nominated a person under subsection (4).
- (7) In those cases the third member is a lay member of the Commission selected by the lay members of the Commission other than the chairman.
- (8) A nominee of the Lord Chief Justice must be a Head of Division or a Lord Justice of Appeal.
- (9) A person may not be appointed to the panel if he is willing to be considered for selection.
- (10) A person may not be appointed to the panel as the nominee of more than one person.
- (11) A person appointed to the panel otherwise than as a nominee may not be a nominee.
- (12) The first member is the chairman of the panel.
- (13) On any vote by the panel the chairman of the panel has an additional, casting vote in the event of a tie.

## 81 Report

- (1) After complying with section 79(2) the selection panel must submit a report to the Lord Chancellor.
- (2) The report must—
  - (a) state who has been selected;
  - (b) contain any other information required by the Lord Chancellor.
- (3) The report must be in a form approved by the Lord Chancellor.
- (4) After submitting the report the panel must provide any further information the Lord Chancellor may require.

## 82 The Lord Chancellor's options

- (1) This section refers to the following stages—

<i>Stage 1:</i>	where a person has been selected under section 79
<i>Stage 2:</i>	where a person has been selected following a rejection or reconsideration at stage 1

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*Stage 3:* where a person has been selected following a rejection or reconsideration at stage 2.

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- (2) At stage 1 the Lord Chancellor must do one of the following—
  - (a) accept the selection;
  - (b) reject the selection;
  - (c) require the selection panel to reconsider the selection.
- (3) At stage 2 the Lord Chancellor must do one of the following—
  - (a) accept the selection;
  - (b) reject the selection, but only if it was made following a reconsideration at stage 1;
  - (c) require the selection panel to reconsider the selection, but only if it was made following a rejection at stage 1.
- (4) At stage 3 the Lord Chancellor must accept the selection, unless subsection (5) applies and he accepts a selection under it.
- (5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may, at stage 3, accept the selection made at that earlier stage.

### **83 Exercise of powers to reject or require reconsideration**

- (1) The power of the Lord Chancellor under section 82 to reject a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion, the person selected is not suitable for the office concerned.
- (2) The power of the Lord Chancellor under section 82 to require the selection panel to reconsider a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion—
  - (a) there is not enough evidence that the person is suitable for the office concerned, or
  - (b) there is evidence that the person is not the best candidate on merit.
- (3) The Lord Chancellor must give the selection panel reasons in writing for rejecting or requiring reconsideration of a selection.

### **84 Selection following rejection or requirement to reconsider**

- (1) If under section 82 the Lord Chancellor rejects or requires reconsideration of a selection at stage 1 or 2, the selection panel must select a person in accordance with this section.
- (2) If the Lord Chancellor rejects a selection, the selection panel—
  - (a) may not select the person rejected, and
  - (b) where the rejection is following reconsideration of a selection, may not select the person (if different) whose selection it reconsidered.
- (3) If the Lord Chancellor requires a selection to be reconsidered, the selection panel—
  - (a) may select the same person or a different person, but

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- (b) where the requirement is following a rejection, may not select the person rejected.
- (4) The selection panel must inform the Lord Chancellor of the person selected following a rejection or a requirement to reconsider.
- (5) Subsections (2) and (3) do not prevent a person being selected on a subsequent request under section 78.

### *Puisne judges and other office holders*

## **85 Selection of puisne judges and other office holders**

- (1) Sections 86 to 93 apply to—
  - (a) a recommendation for an appointment to the office of puisne judge of the High Court;
  - (b) a recommendation for an appointment to an office listed in Part 1 of Schedule 14 in exercise of Her Majesty's function under the enactment listed opposite that office;
  - (c) an appointment to an office listed in Part 2 or 3 of that Schedule in exercise of the Lord Chancellor's function under the enactment listed opposite that office.
- (2) Any such recommendation or appointment must be made in accordance with those sections and section 96.

[<sup>F8</sup>(2A) This section is subject to—

- (a) section 30(4) of the Courts-Martial (Appeals) Act 1951,
- (b) sections 91(1ZB) and 102(1C) of the Supreme Court Act 1981,
- (c) section 8(1ZC) of the County Courts Act 1984, and
- (d) sections 94A and 94B below.]

- (3) The Lord Chancellor may by order make any of the following amendments to Schedule 14—
  - (a) an amendment which adds a reference to an enactment under which appointments are made to an office;
  - (b) an amendment which adds a reference to an office to which appointments are made under an enactment;
  - (c) an amendment consequential on the abolition or change of name of an office;
  - (d) an amendment consequential on the substitution of one or more enactments for an enactment under which appointments are made to an office.

[<sup>F9</sup>(4) The Lord Chancellor may by order amend section 94A or 94B if he thinks that the amendment is consequential on an amendment made to Schedule 14 by an order under subsection (3).]

#### **Textual Amendments**

- F8** S. 85(2A) inserted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 53(3)
- F9** S. 85(4) inserted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 53(4)

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

- C3** S. 85 excluded (19.7.2009) by Supreme Court Act 1981 (c. 54), s. 91(1ZB) (as inserted by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 57(3))
- C4** S. 85 excluded (19.9.2009) by Courts-Martial (Appeals) Act 1951 (c. 46), s. 30(4) (as inserted by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 58(3); S.I. 2007/2709, art. 2(a))

#### **Commencement Information**

- I7** S. 85 wholly in force at 2.4.2007; s. 85 not in force at Royal Assent see s. 148; s. 85(3) in force 1.10.2005 by S.I. 2005/2505; s. 85(1)(b)(c)(2) in force at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 19; s. 85(1)(a) in force at 2.4.2007 by S.I. 2006/1014, art. 2(b), Sch. 2 para. 2

### **86 Duty to fill vacancies**

- (1) The Lord Chancellor must make a recommendation to fill any vacancy in the office of puisne judge of the High Court or in an office listed in Part 1 of Schedule 14.
- (2) The Lord Chancellor must make an appointment to fill any vacancy in an office listed in Part 2 or 3 of that Schedule.
- (3) Subsections (1) and (2) do not apply to a vacancy while the Lord Chief Justice agrees that it may remain unfilled.

### **87 Request for selection**

- (1) The Lord Chancellor may request the Commission to select a person for a recommendation or appointment to which this section applies.
- (2) Before making a request the Lord Chancellor must consult the Lord Chief Justice.
- (3) A request may relate to more than one recommendation or appointment.
- (4) Sections 88 to 93 apply where the Lord Chancellor makes a request under this section.
- (5) Those sections are subject to section 95 (withdrawal and modification of requests).

### **88 Selection process**

- (1) On receiving a request the Commission must—
  - (a) determine the selection process to be applied,
  - (b) apply the selection process, and
  - (c) make a selection accordingly.
- (2) But if or so far as the Commission decides that the selection process has not identified candidates of sufficient merit for it to comply with subsection (1)(c), section 93 applies and subsection (1)(c) does not apply.
- (3) As part of the selection process the Commission must consult—
  - (a) the Lord Chief Justice; and
  - (b) a person (other than the Lord Chief Justice) who has held the office for which a selection is to be made or has other relevant experience.
- (4) One person only may be selected for each recommendation or appointment to which a request relates.

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- (5) Subsection (4) applies to selection under this section and to selection under section 92 or 93.

## 89 Report

- (1) After complying with section 88 the Commission must submit a report to the Lord Chancellor.
- (2) The report must—
- (a) describe the selection process;
  - (b) state any selection made;
  - (c) state any decision under section 88(2);
  - (d) state any recommendation made in consultation under section 88(3) by a person consulted;
  - (e) give reasons in any case where the Commission has not followed such a recommendation;
  - (f) contain any other information required by the Lord Chancellor.
- (3) The report must be in a form approved by the Lord Chancellor.
- (4) After submitting the report the Commission must provide any further information the Lord Chancellor may require.

## 90 The Lord Chancellor's options

- (1) This section refers to the following stages—

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<i>Stage 1:</i>	where a person has been selected under section 88
<i>Stage 2:</i>	where a person has been selected following a rejection or reconsideration at stage 1
<i>Stage 3:</i>	where a person has been selected following a rejection or reconsideration at stage 2.

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- (2) At stage 1 the Lord Chancellor must do one of the following—
- (a) accept the selection;
  - (b) reject the selection;
  - (c) require the Commission to reconsider the selection.
- (3) At stage 2 the Lord Chancellor must do one of the following—
- (a) accept the selection;
  - (b) reject the selection, but only if it was made following a reconsideration at stage 1;
  - (c) require the Commission to reconsider the selection, but only if it was made following a rejection at stage 1.
- (4) At stage 3 the Lord Chancellor must accept the selection, unless subsection (5) applies and he accepts a selection under it.

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- (5) If a person whose selection the Lord Chancellor required to be reconsidered at stage 1 or 2 was not selected again at the next stage, the Lord Chancellor may, at stage 3, accept the selection made at that earlier stage.
- (6) Before exercising his powers under this section at any stage in relation to a selection for an appointment or recommendation, the Lord Chancellor must—
  - (a) consult any person whom he is required by any enactment to consult before making the appointment or recommendation, and
  - (b) consult the Scottish Ministers if it appears to him to be an appointment, or a recommendation for the appointment, of a person to exercise functions wholly or mainly in Scotland.

## **91 Exercise of powers to reject or require reconsideration**

- (1) The power of the Lord Chancellor under section 90 to reject a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion, the person selected is not suitable for the office concerned or particular functions of that office.
- (2) The power of the Lord Chancellor under section 90 to require the Commission to reconsider a selection at stage 1 or 2 is exercisable only on the grounds that, in the Lord Chancellor's opinion—
  - (a) there is not enough evidence that the person is suitable for the office concerned or particular functions of that office, or
  - (b) there is evidence that the person is not the best candidate on merit.
- (3) The Lord Chancellor must give the Commission reasons in writing for rejecting or requiring reconsideration of a selection.

## **92 Selection following rejection or requirement to reconsider**

- (1) If under section 90 the Lord Chancellor rejects or requires reconsideration of a selection at stage 1 or 2, the Commission must select a person in accordance with this section.
- (2) If the Lord Chancellor rejects a selection, the Commission—
  - (a) may not select the person rejected, and
  - (b) where the rejection is following a requirement to reconsider, may not select the person (if different) whose selection it reconsidered.
- (3) If the Lord Chancellor requires a selection to be reconsidered, the Commission—
  - (a) may select the same person or a different person, but
  - (b) where the requirement is following a rejection, may not select the person rejected.
- (4) But if the Commission decides that the selection process has not identified a candidate of sufficient merit for it to make a selection under this section—
  - (a) section 93 applies;
  - (b) subsection (1) does not apply, but subsections (2) and (3) apply to any selection under section 93.
- (5) The Commission must inform the Lord Chancellor of any person selected following a rejection or a requirement to reconsider.

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- (6) Subsections (2) and (3) do not prevent a person being selected on a subsequent request under section 87.

### **93 Reconsideration of decision not to select**

- (1) The Lord Chancellor may require the Commission to reconsider a decision that the selection process has not identified candidates of sufficient merit for it to make a selection.
- (2) The Commission must inform the Lord Chancellor of any person selected on reconsideration under this section.
- (3) Sections 90 to 92 apply to such a person as if the Commission had selected him instead of making the decision reconsidered.

### **94 Duty to identify persons for future requests**

- (1) If the Lord Chancellor gives the Commission notice of a request he expects to make under section 87 the Commission must—
- (a) seek to identify persons it considers would be suitable for selection on the request, and
  - (b) submit a report to the Lord Chancellor containing any information it considers appropriate about—
    - (i) the extent to which it has identified suitable persons, and
    - (ii) other matters likely to assist the Lord Chancellor in exercising his functions relating to appointments and recommendations.
- (2) For the purposes of subsection (1)(a) and (b)(ii), the Commission must in particular have regard to—
- (a) the number of recommendations and appointments the Lord Chancellor expects to request selections for;
  - (b) the powers of the Lord Chancellor to reject or require reconsideration of a selection.
- (3) As part of the process of identifying persons under subsection (1)(a), the Commission must consult—
- (a) the Lord Chief Justice, and
  - (b) a person or persons, other than the Lord Chief Justice, with experience in the office or offices to which requests specified in the notice relate, or with other relevant experience.
- (4) A report under subsection (1)(b) must—
- (a) state any recommendation made in consultation under subsection (3) by a person consulted;
  - (b) give reasons in any case where the Commission has not followed such a recommendation.
- (5) Where the Lord Chancellor makes a request for the purposes of which the Commission has identified persons under subsection (1)(a), the Commission must, in determining the selection process to be applied, consider whether selection should be from among those persons.



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### [<sup>F10</sup>94A Appointments not subject to section 85: courts

- (1) Where this section applies to an appointment—
  - (a) section 85 does not apply, but
  - (b) the Lord Chancellor may not make the appointment without the concurrence of the Lord Chief Justice.
- (2) This section applies to the appointment of a person, on a fee-paid basis, to an office in the table below (the “proposed appointment”) if the person—
  - (a) holds the corresponding qualifying office (or one of them) on a salaried basis, or
  - (b) ceased to hold the corresponding qualifying office (or one of them) within two years ending with the date when the proposed appointment takes effect and, immediately before ceasing to hold that office, held it on a salaried basis.

<i>Proposed appointment (fee-paid)</i>	<i>Qualifying office (salaried)</i>
An office listed in Part 2 of Schedule 14.	The same office.
Deputy District Judge (Magistrates' Courts).	District Judge (Magistrates' Courts), Senior District Judge (Chief Magistrate), or Deputy Senior District Judge (Chief Magistrate).
Assistant Judge Advocate General, or a person appointed temporarily to assist the Judge Advocate General.	Judge Advocate of Her Majesty's Fleet, Judge Advocate General, Vice Judge Advocate General, or Assistant Judge Advocate General.

- (3) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4)) to exercise his function under subsection (1)(b).
- (4) In this section “salaried” and “fee-paid” have the meaning given by paragraph 1(2) of Schedule 7 to the Judicial Pensions and Retirement Act 1993 (c. 8).]

#### Textual Amendments

**F10** Ss. 94A, 94B inserted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 53(2)

### [<sup>F10</sup>94B Appointments not subject to section 85: tribunals

- (1) Where this section applies to a recommendation or appointment—
  - (a) section 85 does not apply, but
  - (b) the Lord Chancellor may not make the recommendation or appointment without the concurrence of the Senior President of Tribunals.
- (2) In the case of the appointment of a person as a deputy judge of the Upper Tribunal, if the person holds or has held an office listed in section 6(1) of the Tribunals, Courts and Enforcement Act 2007, the Lord Chancellor must also consult the Lord Chief Justice before making the appointment.

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- (3) This section applies to, or to a recommendation to Her Majesty for, the appointment of a person, on a fee-paid basis, to an office in the table below (the “proposed appointment”) if the person—
- (a) holds the corresponding qualifying office (or one of them) on a salaried basis, or
  - (b) subject to subsection (4), ceased to hold the corresponding qualifying office (or one of them) within two years ending with the date when the proposed appointment takes effect and, immediately before ceasing to hold that office, held it on a salaried basis.

<b><i>Proposed appointment (fee-paid)</i></b>	<b><i>Qualifying office (salaried)</i></b>
An office listed in Part 3 of Schedule 14 (other than the office of Chamber President or Deputy Chamber President of a chamber of the Upper Tribunal or the First-tier Tribunal).	The same office, or a more senior office, listed in Part 3 of Schedule 14, in the same tribunal or body (but excluding the Upper Tribunal and the First-tier Tribunal).
Deputy Child Support Commissioner.	Chief Child Support Commissioner, or Child Support Commissioner.
Deputy Social Security Commissioner.	Chief Social Security Commissioner, or Social Security Commissioner.
Deputy judge of the Upper Tribunal.	Ordinary judge of the Court of Appeal in England and Wales, Lord Justice of Appeal in Northern Ireland, Judge of the Court of Session, Puisne judge of the High Court in England and Wales or Northern Ireland, Circuit judge, Sheriff in Scotland, County court judge in Northern Ireland, District judge in England and Wales or Northern Ireland, District Judge (Magistrates' Courts), or Judge of the Upper Tribunal by virtue of any of paragraphs (a) to (f) or (i) of section 5(1) of the Tribunals, Courts and Enforcement Act 2007.
Judge of the First-tier Tribunal by appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007.	Transferred-in judge of the First-tier Tribunal (see section 31(2) of that Act).
Other member of the First-tier Tribunal by appointment under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007.	Transferred-in other member of the First-tier Tribunal (see section 31(2) of that Act).
Judge of the Upper Tribunal by appointment under paragraph 1(1) of	Transferred-in judge of the Upper Tribunal (see section 31(2) of that Act).

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Schedule 3 to the Tribunals, Courts and Enforcement Act 2007.

Other member of the Upper Tribunal by appointment under paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007. Transferred-in other member of the Upper Tribunal (see section 31(2) of that Act).

Deputy judge of the Upper Tribunal by appointment under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007. Deputy judge of the Upper Tribunal under section 31(2) of that Act.

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- (4) In subsection (3)(b) the words “within two years ending with the date when the proposed appointment takes effect” do not apply if—
- (a) the proposed appointment is to the office of deputy judge of the Upper Tribunal, and
  - (b) the corresponding qualifying office is—
    - (i) ordinary judge of the Court of Appeal in England and Wales,
    - (ii) Lord Justice of Appeal in Northern Ireland,
    - (iii) judge of the Court of Session, or
    - (iv) puisne judge of the High Court in England and Wales or Northern Ireland.
- (5) In this section “salaried” and “fee-paid” have the meaning given by paragraph 1(2) of Schedule 7 to the Judicial Pensions and Retirement Act 1993.]

#### Textual Amendments

**F10** Ss. 94A, 94B inserted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), s. 53\(2\)](#)

#### *Supplementary provisions about selection*

### 95 **Withdrawal and modification of requests**

- (1) This section applies to a request under section 69, 78 or 87 <sup>F11</sup> or paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007] .
- (2) The Lord Chancellor may withdraw or modify a request only as follows—
- (a) so far as a request relates to any recommendation or appointment to fill a vacancy, he may withdraw or modify it with the agreement of the Lord Chief Justice;
  - (b) so far as a request relates to any recommendation or appointment otherwise than to fill a vacancy, he may withdraw or modify it after consulting the Lord Chief Justice;
  - (c) he may withdraw a request as respects all recommendations or appointments to which it relates if, after consulting the Lord Chief Justice, he considers the selection process determined by the Commission or selection panel is not satisfactory, or has not been applied satisfactorily.

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- (3) If a request is withdrawn in part or modified, the Commission or selection panel may, if it thinks it appropriate because of the withdrawal or modification, change any selection already made pursuant to the request, except a selection already accepted.
- (4) The Lord Chancellor may not withdraw a request under subsection (2)(c) if he has exercised any of his powers under section 73(2), [F1275E(2),] 82(2) or 90(2) in relation to a selection made pursuant to the request.
- (5) Any withdrawal or modification of a request must be by notice in writing to the Commission.
- (6) The notice must state whether the withdrawal or modification is under subsection (2) (a), (b) or (c).
- (7) In the case of a withdrawal under subsection (2)(c), the notice must state why the Lord Chancellor considers the selection process determined by the Commission or selection panel is not satisfactory, or has not been applied satisfactorily.
- (8) If or to the extent that a request is withdrawn—
  - (a) the preceding provisions of this Part cease to apply in relation to it, and
  - (b) any selection made on it is to be disregarded.
- (9) Withdrawal of a request to any extent does not affect the power of the Lord Chancellor to make another request in the same or different terms.

#### Textual Amendments

- F11** Words in s. 95(1) inserted (19.9.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 2, 148, Sch. 1 para. 5\(2\); S.I. 2007/2709, art. 2\(g\)](#)
- F12** Words in s. 95(4) inserted (19.9.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 2, 148, Sch. 1 para. 5\(3\); S.I. 2007/2709, art. 2\(g\)](#)

## 96 Effect of acceptance of selection

- (1) This section applies where the Lord Chancellor accepts a selection under this Chapter.
- (2) Subject to the following provisions of this section, the Lord Chancellor—
  - (a) must make the appointment, or recommendation, for which the selection has been made, and
  - (b) must appoint, or recommend, the person selected.
- (3) Before making the appointment or recommendation the Lord Chancellor may direct the Commission to make arrangements in accordance with the direction—
  - (a) for any assessment of the health of the person selected that the Lord Chancellor considers appropriate, and
  - (b) for a report of the assessment to be made to the Lord Chancellor.
- (4) Subsection (5) applies in any of the following circumstances—
  - (a) the Lord Chancellor notifies the Commission that he is not satisfied on the basis of a report under subsection (3)(b), having consulted the Lord Chief Justice, that the health of the person selected is satisfactory for the purposes of the appointment or recommendation;

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- (b) the person selected declines to be appointed or recommended, or does not agree within a time specified to him for that purpose;
  - (c) the person selected is otherwise not available within a reasonable time to be appointed or recommended.
- (5) Where this subsection applies—
- (a) the selection accepted and any previous selection for the same appointment or recommendation are to be disregarded;
  - (b) the request pursuant to which the selection was made continues to have effect;
  - (c) any subsequent selection pursuant to that request may be made in accordance with the same or a different selection process.

## 97 Scotland and Northern Ireland

- (1) <sup>F13</sup>Subsections (2) and (3) apply] to consultation that a person is required to undertake under any of these provisions—
- (a) section 87(2);
  - (b) section 88(3);
  - (c) section 94(3);
  - <sup>F14</sup>(ca) section 94B(2);]
  - (d) section 95(2)(a), (b) or (c),
  - (e) section 96(4)(a).
- (2) If the consultation appears to that person to relate to the appointment (or a recommendation for the appointment) of a person to exercise functions wholly or mainly in Scotland, any reference in the provision to the Lord Chief Justice is to be read as a reference to the Lord President of the Court of Session.
- (3) If the consultation appears to that person to relate to the appointment (or a recommendation for the appointment) of a person to exercise functions wholly or mainly in Northern Ireland, any reference in the provision to the Lord Chief Justice is to be read as a reference to the Lord Chief Justice of Northern Ireland.
- <sup>F15</sup>(4) Subsections (2) and (3) apply to the reference in section 94A(1) to the Lord Chancellor obtaining the concurrence of the Lord Chief Justice as they apply to a reference in a provision specified in subsection (1) to the Lord Chancellor consulting the Lord Chief Justice.
- (5) The Lord President of the Court of Session may nominate any of the following to exercise his function under section 94A(1)(b)—
- (a) a judge who is a member of the First or Second Division of the Inner House of the Court of Session;
  - (b) the Senior President of Tribunals.
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his function under section 94A(1)(b)—
- (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);
  - (c) the Senior President of Tribunals.]

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### Textual Amendments

- F13** Words in s. 97(1) substituted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), s. 53\(6\)\(a\)](#)
- F14** [S. 97\(1\)\(ca\)](#) inserted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), s. 53\(6\)\(b\)](#)
- F15** [S. 97\(4\)-\(6\)](#) added (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), s. 53\(7\)](#)

### *Assistance in connection with other appointments*

## 98 Assistance in connection with other appointments

- (1) The Commission must provide any assistance requested by the Lord Chancellor under this section.
- (2) The Lord Chancellor may request assistance for the making by him or by another Minister of the Crown of an appointment or recommendation for appointment, other than one to which section 26 or a provision of this Part applies.
- (3) The Lord Chancellor may only request assistance under this section if it appears to him appropriate because of the Commission's other functions under this Part and the nature of the appointment concerned.
- (4) Without limiting the assistance that may be requested, it may include—
  - (a) determining a selection process;
  - (b) applying a selection process;
  - (c) selecting a person;
  - (d) selecting a short list;
  - (e) advice on any of those matters.
- (5) Before making a request the Lord Chancellor must consult—
  - (a) the Lord Chief Justice, and
  - (b) the Commission.
- (6) In this section “appointment” includes the conferring of any public function.
- (7) In this Part references to selection under this Part include references to selection by the Commission pursuant to a request under this section (and references to a person selected under this Part are to be read accordingly).

### *Complaints and references*

## 99 Complaints: interpretation

- (1) This section applies for the purposes of this Part.
- (2) A Commission complaint is a complaint by a qualifying complainant of maladministration by the Commission or a committee of the Commission.
- (3) A departmental complaint is a complaint by a qualifying complainant of maladministration by the Lord Chancellor or his department in connection with any of the following—
  - (a) selection under this Part;

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- (b) recommendation for or appointment to an office listed in Schedule 14.
- (4) A qualifying complainant is a complainant who claims to have been adversely affected, as an applicant for selection or as a person selected under this Part, by the maladministration complained of.

## **100 Complaints to the Commission or the Lord Chancellor**

- (1) The Commission must make arrangements for investigating any Commission complaint made to it.
- (2) The Lord Chancellor must make arrangements for investigating any departmental complaint made to him.
- (3) Arrangements under this section need not apply to a complaint made more than 28 days after the matter complained of.

## **101 Complaints to the Ombudsman**

- (1) Subsections (2) and (3) apply to a complaint which the complainant—
  - (a) has made to the Commission or the Lord Chancellor in accordance with arrangements under section 100, and
  - (b) makes to the Ombudsman not more than 28 days after being notified of the Commission's or Lord Chancellor's decision on the complaint.
- (2) If the Ombudsman considers that investigation of the complaint is not necessary, he must inform the complainant.
- (3) Otherwise he must investigate the complaint.
- (4) The Ombudsman may investigate a complaint which the complainant—
  - (a) has made to the Commission or the Lord Chancellor in accordance with arrangements under section 100, and
  - (b) makes to the Ombudsman at any time.
- (5) The Ombudsman may investigate a transferred complaint made to him, and no such complaint may be made under the Judicial Appointments Order after the commencement of this section.
- (6) The Judicial Appointments Order is the Judicial Appointments Order in Council 2001, which sets out the functions of Her Majesty's Commissioners for Judicial Appointments.
- (7) A transferred complaint is a complaint that lay to those Commissioners (whether or not it was made to them) in respect of the application of appointment procedures before the commencement of this section, but not a complaint that those Commissioners had declined to investigate or on which they had concluded their investigation.
- (8) Any complaint to the Ombudsman under this section must be in a form approved by him.

## **102 Report and recommendations**

- (1) The Ombudsman must prepare a report on any complaint he has investigated under section 101.

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- (2) The report must state—
  - (a) what findings the Ombudsman has made;
  - (b) whether he considers the complaint should be upheld in whole or part;
  - (c) if he does, what if any action he recommends should be taken by the Commission or the Lord Chancellor as a result of the complaint.
- (3) The recommendations that may be made under subsection (2)(c) include recommendations for the payment of compensation.
- (4) Such a recommendation must relate to loss which appears to the Ombudsman to have been suffered by the complainant as a result of maladministration and not as a result of any failure to be appointed to an office to which the complaint related.

### 103 Report procedure

- (1) This section applies to a report under section 102.
- (2) The Ombudsman must submit a draft of the report—
  - (a) to the Lord Chancellor, and
  - (b) if the complaint was a Commission complaint, to the Commission.
- (3) In finalising the report the Ombudsman—
  - (a) must have regard to any proposal by the Lord Chancellor or the Commission for changes in the draft report;
  - (b) must include in the report a statement of any such proposal not given effect to.
- (4) The report must be signed by the Ombudsman.
- (5) If the complaint was a Commission complaint the Ombudsman must send the report in duplicate to the Lord Chancellor and the Commission.
- (6) Otherwise the Ombudsman must send the report to the Lord Chancellor.
- (7) The Ombudsman must send a copy of the report to the complainant, but that copy must not include information—
  - (a) which relates to an identified or identifiable individual other than the complainant, and
  - (b) whose disclosure by the Ombudsman to the complainant would (apart from this subsection) be contrary to section 139.

### 104 References by the Lord Chancellor

- (1) If the Lord Chancellor refers to the Ombudsman any matter relating to the procedures of the Commission or a committee of the Commission, the Ombudsman must investigate it.
- (2) The matter may relate to such procedures generally or in a particular case.
- (3) The Ombudsman must report to the Lord Chancellor on any investigation under this section.
- (4) The report must state—
  - (a) what findings the Ombudsman has made;



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- (b) what if any action he recommends should be taken by any person in relation to the matter.
- (5) The report must be signed by the Ombudsman.

## 105 Information

The Commission and the Lord Chancellor must provide the Ombudsman with such information as he may reasonably require relating to the subject matter of any investigation by him under section 101 or 104.

### *Miscellaneous*

## 106 Consultation on appointment of lay justices

In section 10 of the Courts Act 2003 (c. 39) (appointment of lay justices etc.) after subsection (2) insert—

“(2A) The Lord Chancellor must ensure that arrangements for the exercise, so far as affecting any local justice area, of functions under subsections (1) and (2) include arrangements for consulting persons appearing to him to have special knowledge of matters relevant to the exercise of those functions in relation to that area.”

## 107 Disclosure of information to the Commission

- (1) Information which is held by or on behalf of a permitted person (whether obtained before or after this section comes into force) may be disclosed to the Commission or a committee of the Commission for the purposes of selection under this Part.
- (2) A disclosure under this section is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (3) But nothing in this section authorises the making of a disclosure—
  - (a) which contravenes the Data Protection Act 1998 (c. 29), or
  - (b) which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).
- (4) This section does not affect a power to disclose which exists apart from this section.
- (5) The following are permitted persons—
  - (a) a chief officer of police of a police force in England and Wales;
  - (b) a chief constable of a police force in Scotland;
  - (c) the Chief Constable of the Police Service of Northern Ireland;
  - (d) the Director General of the National Criminal Intelligence Service;
  - (e) the Director General of the National Crime Squad;
  - (f) the Commissioners of Inland Revenue;
  - (g) the Commissioners of Customs and Excise.
- (6) The Lord Chancellor may by order designate as permitted persons other persons who exercise functions which he considers are of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).

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- (7) Information must not be disclosed under this section on behalf of the Commissioners of Inland Revenue or on behalf of the Commissioners of Customs and Excise unless the Commissioners concerned authorise the disclosure.
- (8) The power to authorise a disclosure under subsection (7) may be delegated (either generally or for a specific purpose)—
  - (a) in the case of the Commissioners of Inland Revenue, to an officer of the Board of Inland Revenue,
  - (b) in the case of the Commissioners of Customs and Excise, to a customs officer.
- (9) For the purposes of this section a customs officer is a person commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979 (c. 2).

### CHAPTER 3

#### DISCIPLINE

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

**C5** Pt. 4 Ch. 3 applied (prosp.) by Coroners and Justice Act 2009 (c. 25), ss. 23, 182, Sch. 3 para. 14 (with s. 180, Sch. 22)

#### *Disciplinary powers*

#### **108 Disciplinary powers**

- (1) Any power of the Lord Chancellor to remove a person from an office listed in Schedule 14 is exercisable only after the Lord Chancellor has complied with prescribed procedures (as well as any other requirements to which the power is subject).
- (2) The Lord Chief Justice may exercise any of the following powers but only with the agreement of the Lord Chancellor and only after complying with prescribed procedures.
- (3) The Lord Chief Justice may give a judicial office holder formal advice, or a formal warning or reprimand, for disciplinary purposes (but this section does not restrict what he may do informally or for other purposes or where any advice or warning is not addressed to a particular office holder).
- (4) He may suspend a person from a judicial office for any period during which any of the following applies—
  - (a) the person is subject to criminal proceedings;
  - (b) the person is serving a sentence imposed in criminal proceedings;
  - (c) the person has been convicted of an offence and is subject to prescribed procedures in relation to the conduct constituting the offence.
- (5) He may suspend a person from a judicial office for any period if—
  - (a) the person has been convicted of a criminal offence,

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- (b) it has been determined under prescribed procedures that the person should not be removed from office, and
  - (c) it appears to the Lord Chief Justice with the agreement of the Lord Chancellor that the suspension is necessary for maintaining confidence in the judiciary.
- (6) He may suspend a person from office as a senior judge for any period during which the person is subject to proceedings for an Address.
- (7) He may suspend the holder of an office listed in Schedule 14 for any period during which the person—
- (a) is under investigation for an offence, or
  - (b) is subject to prescribed procedures.
- (8) While a person is suspended under this section from any office he may not perform any of the functions of the office (but his other rights as holder of the office are not affected).

## 109 Disciplinary powers: interpretation

- (1) This section has effect for the purposes of section 108.
- (2) A person is subject to criminal proceedings if in any part of the United Kingdom proceedings against him for an offence have been begun and have not come to an end, and the times when proceedings are begun and come to an end for the purposes of this subsection are such as may be prescribed.
- (3) A person is subject to proceedings for an Address from the time when notice of a motion is given in each House of Parliament for an Address for the removal of the person from office, until the earliest of the following events—
- (a) either notice is withdrawn;
  - (b) either motion is amended so that it is no longer a motion for an address for removal of the person from office;
  - (c) either motion is withdrawn, lapses or is disagreed to;
  - (d) where an Address is presented by each House, a message is brought to each House from Her Majesty in answer to the Address.
- (4) “Judicial office” means—
- (a) office as a senior judge, or
  - (b) an office listed in Schedule 14;
- and “judicial office holder” means the holder of a judicial office.
- (5) “Senior judge” means any of these—
- (a) Master of the Rolls;
  - (b) President of the Queen's Bench Division;
  - (c) President of the Family Division;
  - (d) Chancellor of the High Court;
  - [<sup>F16</sup>(da) Senior President of Tribunals;]
  - (e) Lord Justice of Appeal;
  - (f) puisne judge of the High Court.
- (6) “Sentence” includes any sentence other than a fine (and “serving” is to be read accordingly).

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- (7) The times when a person becomes and ceases to be subject to prescribed procedures for the purposes of section 108(4) or (7) are such as may be prescribed.
- (8) “Under investigation for an offence” has such meaning as may be prescribed.

#### Textual Amendments

**F16** S. 109(5)(da) inserted (19.9.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 48\(1\), 148, Sch. 8 para. 63; S.I. 2007/2709, art. 2\(c\)](#)

### *Applications for review and references*

#### 110 Applications to the Ombudsman

- (1) This section applies if an interested party makes an application to the Ombudsman for the review of the exercise by any person of a regulated disciplinary function, on the grounds that there has been—
- (a) a failure to comply with prescribed procedures, or
  - (b) some other maladministration.
- (2) The Ombudsman must carry out a review if the following three conditions are met.
- (3) The first condition is that the Ombudsman considers that a review is necessary.
- (4) The second condition is that—
- (a) the application is made within the permitted period,
  - (b) the application is made within such longer period as the Ombudsman considers appropriate in the circumstances, or
  - (c) the application is made on grounds alleging undue delay and the Ombudsman considers that the application has been made within a reasonable time.
- (5) The third condition is that the application is made in a form approved by the Ombudsman.
- (6) But the Ombudsman may not review the merits of a decision made by any person.
- (7) If any of the conditions in subsections (3) to (5) is not met, or if the grounds of the application relate only to the merits of a decision, the Ombudsman—
- (a) may not carry out a review, and
  - (b) must inform the applicant accordingly.
- (8) In this section and sections 111 to 113, “regulated disciplinary function” means any of the following—
- (a) any function of the Lord Chancellor that falls within section 108(1);
  - (b) any function conferred on the Lord Chief Justice by section 108(3) to (7);
  - (c) any function exercised under prescribed procedures in connection with a function falling within paragraph (a) or (b).
- (9) In this section, in relation to an application under this section for a review of the exercise of a regulated disciplinary function—
- “interested party” means—

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- (a) the judicial office holder in relation to whose conduct the function is exercised, or
  - (b) any person who has made a complaint about that conduct in accordance with prescribed procedures;
- “permitted period” means the period of 28 days beginning with the latest of—
- (a) the failure or other maladministration alleged by the applicant;
  - (b) where that failure or maladministration occurred in the course of an investigation, the applicant being notified of the conclusion or other termination of that investigation;
  - (c) where that failure or maladministration occurred in the course of making a determination, the applicant being notified of that determination.
- (10) References in this section and section 111 to the exercise of a function include references to a decision whether or not to exercise the function.

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

C6 S. 110 applied (3.4.2006) by [The Judicial Discipline \(Prescribed Procedures\) Regulations 2006 \(S.I. 2006/676\)](#), [reg. 44](#) (with [reg. 45](#))

## 111 Review by the Ombudsman

- (1) Where the Ombudsman is under a duty to carry out a review on an application under section 110, he must—
- (a) on the basis of any findings he makes about the grounds for the application, decide to what extent the grounds are established;
  - (b) decide what if any action to take under subsections (2) to (7).
- (2) If he decides that the grounds are established to any extent, he may make recommendations to the Lord Chancellor and Lord Chief Justice.
- (3) A recommendation under subsection (2) may be for the payment of compensation.
- (4) Such a recommendation must relate to loss which appears to the Ombudsman to have been suffered by the applicant as a result of any failure or maladministration to which the application relates.
- (5) If the Ombudsman decides that a determination made in the exercise of a function under review is unreliable because of any failure or maladministration to which the application relates, he may set aside the determination.
- (6) If a determination is set aside under subsection (5)—
- (a) the prescribed procedures apply, subject to any prescribed modifications, as if the determination had not been made, and
  - (b) for the purposes of those procedures, any investigation or review leading to the determination is to be disregarded.
- (7) Subsection (6) is subject to any direction given by the Ombudsman under this subsection—
- (a) for a previous investigation or review to be taken into account to any extent, or

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(b) for any investigation or review which may form part of the prescribed procedures to be undertaken, or undertaken again.

(8) This section is subject to section 112.

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

C7 S. 111 applied (3.4.2006) by The Judicial Discipline (Prescribed Procedures) Regulations 2006 (S.I. 2006/676), {reg. 44} (with reg. 45)

## 112 Reports on reviews

- (1) In this section references to the Ombudsman's response to an application are references to the findings and decisions referred to in section 111(1).
- (2) Before determining his response to an application the Ombudsman must prepare a draft of a report of the review carried out on the application.
- (3) The draft report must state the Ombudsman's proposed response.
- (4) The Ombudsman must submit the draft report to the Lord Chancellor and the Lord Chief Justice.
- (5) If the Lord Chancellor or the Lord Chief Justice makes a proposal that the Ombudsman's response to the application should be changed, the Ombudsman must consider whether or not to change it to give effect to that proposal.
- (6) The Ombudsman must produce a final report that sets out—
  - (a) the Ombudsman's response to the application, including any changes made to it to give effect to a proposal under subsection (5);
  - (b) a statement of any proposal under subsection (5) that is not given effect to.
- (7) The Ombudsman must send a copy of the final report to each of the Lord Chancellor and the Lord Chief Justice.
- (8) The Ombudsman must also send a copy of the final report to the applicant, but that copy must not include information—
  - (a) which relates to an identified or identifiable individual other than the applicant, and
  - (b) whose disclosure by the Ombudsman to the applicant would (apart from this subsection) be contrary to section 139.
- (9) Each copy must be signed by the Ombudsman.
- (10) No part of the Ombudsman's response to an application has effect until he has complied with subsections (2) to (9).

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

C8 S. 112 applied (3.4.2006) by The Judicial Discipline (Prescribed Procedures) Regulations 2006 (S.I. 2006/676), **reg. 44** (with reg. 45)

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### 113 References to the Ombudsman relating to conduct

- (1) The Ombudsman must investigate any matter referred to him by the Lord Chancellor or the Lord Chief Justice that relates to the exercise of one or more regulated disciplinary functions.
- (2) A matter referred to the Ombudsman under subsection (1) may relate to the particular exercise of a regulated disciplinary function or to specified descriptions of the exercise of such functions.

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

- C9 S. 113 applied (3.4.2006) by [The Judicial Discipline \(Prescribed Procedures\) Regulations 2006 \(S.I. 2006/676\)](#), [reg. 44](#) (with [reg. 45](#))

### 114 Reports on references

- (1) Where the Ombudsman carries out an investigation under section 113 he must prepare a draft of a report of the investigation.
- (2) If the investigation relates to a matter which is the subject of a review on an application under section 110, subsection (1) applies only when the Ombudsman has sent a copy of the final report on that review to the Lord Chancellor, the Lord Chief Justice and the applicant.
- (3) The draft report must state the Ombudsman's proposals as to—
  - (a) the findings he will make;
  - (b) any recommendations he will make for action to be taken by any person in relation to the matter subject to investigation.
- (4) Those findings and recommendations are referred to in this section as the Ombudsman's response on the investigation.
- (5) The Ombudsman must submit the draft report to the Lord Chancellor and the Lord Chief Justice.
- (6) If the Lord Chancellor or the Lord Chief Justice makes a proposal that the Ombudsman's response on the investigation should be changed, the Ombudsman must consider whether or not to change it to give effect to that proposal.
- (7) The Ombudsman must produce a final report that sets out—
  - (a) the Ombudsman's response on the investigation, including any changes made to it to give effect to a proposal under subsection (6);
  - (b) a statement of any proposal under subsection (6) that is not given effect to.
- (8) The Ombudsman must send a copy of the final report to each of the Lord Chancellor and the Lord Chief Justice.
- (9) Each copy must be signed by the Ombudsman.

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## General

### 115 Regulations about procedures

The Lord Chief Justice may, with the agreement of the Lord Chancellor, make regulations providing for the procedures that are to be followed in—

- (a) the investigation and determination of allegations by any person of misconduct by judicial office holders;
- (b) reviews and investigations (including the making of applications or references) under sections 110 to 112.

#### Commencement Information

- I8** S. 115 wholly in force at 3.4.2006; s. 115 not in force at Royal Assent see s. 148; s. 115 in force for specified purposes at 1.10.2005 by S.I. 2005/2505, art. 2(b); s. 115 in force at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 23

### 116 Contents of regulations

- (1) Regulations under section 115(a) may include provision as to any of the following—
  - (a) circumstances in which an investigation must or may be undertaken (on the making of a complaint or otherwise);
  - (b) steps to be taken by a complainant before a complaint is to be investigated;
  - (c) the conduct of an investigation, including steps to be taken by the office holder under investigation or by a complainant or other person;
  - (d) time limits for taking any step and procedures for extending time limits;
  - (e) persons by whom an investigation or part of an investigation is to be conducted;
  - (f) matters to be determined by the Lord Chief Justice, the Lord Chancellor, the office holder under investigation or any other person;
  - (g) requirements as to records of investigations;
  - (h) requirements as to confidentiality of communications or proceedings;
  - (i) requirements as to the publication of information or its provision to any person.
- (2) The regulations—
  - (a) may require a decision as to the exercise of functions under section 108, or functions mentioned in subsection (1) of that section, to be taken in accordance with findings made pursuant to prescribed procedures;
  - (b) may require that prescribed steps be taken by the Lord Chief Justice or the Lord Chancellor in exercising those functions or before exercising them.
- (3) Where regulations under section 115(a) impose any requirement on the office holder under investigation or on a complainant, a person contravening the requirement does not incur liability other than liability to such procedural penalty if any (which may include the suspension or dismissal of a complaint)—
  - (a) as may be prescribed by the regulations, or
  - (b) as may be determined by the Lord Chief Justice and the Lord Chancellor or either of them in accordance with provisions so prescribed.



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- (4) Regulations under section 115 may—
  - (a) provide for any prescribed requirement not to apply if the Lord Chief Justice and the Lord Chancellor so agree;
  - (b) make different provision for different purposes.
- (5) Nothing in this section limits the generality of section 115.

#### Commencement Information

- I9** S. 116 wholly in force at 3.4.2006; s. 116 not in force at Royal Assent see s. 148; s. 116 in force for specified purposes at 1.10.2005 by S.I. 2005/2505, art. 2(b); s. 116 in force at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 23

### 117 Procedural rules

- (1) Regulations under section 115 may provide for provision of a prescribed description that may be included in the regulations to be made instead by rules made by the Lord Chief Justice with the agreement of the Lord Chancellor.
- (2) But the provision that may be made by rules does not include—
  - (a) provision within section 116(2);
  - (b) provision made for the purposes of section 108(7) or (8) or 116(3).
- (3) The rules are to be published in such manner as the Lord Chief Justice may determine with the agreement of the Lord Chancellor.

#### Commencement Information

- I10** S. 117 wholly in force at 3.4.2006; s. 117 not in force at Royal Assent see s. 148; s. 117 in force for specified purposes at 1.10.2005 by S.I. 2005/2505, art. 2(b); s. 117 in force at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 23

### 118 Extension of discipline provisions to other offices

- (1) This Chapter applies in relation to an office designated by the Lord Chancellor under this section as it would apply if the office were listed in Schedule 14.
- (2) The Lord Chancellor may by order designate any office, not listed in Schedule 14, the holder of which he has power to remove from office.
- (3) An order under this section may be made only with the agreement of the Lord Chief Justice.

#### Commencement Information

- I11** S. 118 wholly in force at 3.4.2006; s. 118 not in force at Royal Assent see s. 148; s. 118 in force for specified purposes at 1.10.2005 by S.I. 2005/2505, art. 2(b); s. 118 in force at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 23

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## **119 Delegation of functions**

- (1) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4)) to exercise any of his functions under the relevant sections.
- (2) The relevant sections are—
  - (a) section 108(3) to (7);
  - (b) section 111(2);
  - (c) section 112;
  - (d) section 116(3)(b).

### *Scotland and Northern Ireland*

## **120 Scotland**

- (1) In section 108, in relation to a judicial office holder who exercises functions wholly or mainly in Scotland, references to the Lord Chief Justice are to be read as references to the Lord President of the Court of Session.
- (2) Regulations under section 115 and rules under section 117 do not apply in relation to a judicial office holder who exercises functions wholly or mainly in Scotland unless they are made with the agreement of the Lord President of the Court of Session.
- (3) In section 116(1)(f), (3)(b) and (4)(a) the references to the Lord Chief Justice include references to the Lord President of the Court of Session.
- (4) In section 118(3), where the description of offices designated by the order is limited to (or includes) offices in which the holder exercises functions wholly or mainly in Scotland, the reference to the Lord Chief Justice is to be read as (or as including) a reference to the Lord President of the Court of Session.
- (5) The Lord Chief Justice may by regulations provide for sections 110 to 113 to apply in relation to judicial office holders who exercise functions wholly or mainly in Scotland—
  - (a) as if in section 110(8)(b) the reference to the Lord Chief Justice were a reference to the Lord President of the Court of Session, and
  - (b) with any other modifications specified in the regulations.
- (6) Regulations under subsection (5) may be made only with the agreement of the Lord Chancellor and the Lord President of the Court of Session.
- (7) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise any of his functions under the relevant sections.
- (8) The relevant sections are—
  - (a) section 108(3) to (7);
  - (b) section 111(2);
  - (c) section 112;
  - (d) section 116(3)(b).

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## 121 Northern Ireland

- (1) In section 108, in relation to a judicial office holder who exercises functions wholly or mainly in Northern Ireland, references to the Lord Chief Justice are to be read as references to the Lord Chief Justice of Northern Ireland.
- (2) Regulations under section 115 and rules under section 117 do not apply in relation to a judicial office holder who exercises functions wholly or mainly in Northern Ireland, unless they are made with the agreement of the Lord Chief Justice of Northern Ireland.
- (3) In section 116(1)(f), (3)(b) and (4)(a) the references to the Lord Chief Justice include references to the Lord Chief Justice of Northern Ireland.
- (4) In section 118(3), where the description of offices designated by the order is limited to (or includes) offices in which the holder exercises functions wholly or mainly in Northern Ireland, the reference to the Lord Chief Justice is to be read as (or as including) a reference to the Lord Chief Justice of Northern Ireland.
- (5) The Lord Chief Justice may by regulations provide for sections 110 to 113 to apply in relation to judicial office holders who exercise functions wholly or mainly in Northern Ireland—
  - (a) as if in section 110(8)(b) the reference to the Lord Chief Justice were a reference to the Lord Chief Justice of Northern Ireland, and
  - (b) with any other modifications specified in the regulations.
- (6) Regulations under subsection (5) may be made only with the agreement of the Lord Chancellor and the Lord Chief Justice of Northern Ireland.
- (7) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise any of his functions under the relevant sections—
  - (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).
- (8) The relevant sections are—
  - (a) section 108(3) to (7);
  - (b) section 111(2);
  - (c) section 112;
  - (d) section 116(3)(b).

## CHAPTER 4

### INTERPRETATION OF PART 4

## 122 Interpretation of Part 4

In this Part—

“appoint” includes nominate or designate (and “appointment” is to be read accordingly);

the “Commission” means the Judicial Appointments Commission;

“Head of Division” means any of these—

- (a) the Master of the Rolls;

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- (b) the President of the Queen's Bench Division;
- (c) the President of the Family Division;
- (d) the Chancellor of the High Court;
  - “High Court” means the High Court in England and Wales;
  - “high judicial office” has the meaning given by section 60;
  - “lay member” of the Commission has the meaning given by paragraph 4 of Schedule 12;
  - “Lord Chief Justice”, unless otherwise stated, means the Lord Chief Justice of England and Wales;
  - “Lord Justice of Appeal” means a Lord Justice of Appeal in England and Wales;
  - “office” includes a position of any description;
  - the “Ombudsman” means the Judicial Appointments and Conduct Ombudsman;
  - “prescribed” means prescribed by regulations under section 115 or, subject to section 117(2), by rules under section 117;
  - “vacancy” in relation to an office to which one of sections 68, 77 and 86 applies, means a vacancy arising on a holder of the office vacating it at any time after the commencement of that section.

## PART 5

### JUDICIAL APPOINTMENTS AND REMOVALS: NORTHERN IRELAND

#### CHAPTER 1

##### APPOINTMENTS

###### *Disclosure of information to Commission*

### 123 **Disclosure of information to the Northern Ireland Judicial Appointments Commission**

- (1) The Justice (Northern Ireland) Act 2002 (c. 26) (“the 2002 Act”) is amended as follows.
- (2) After section 5 of the 2002 Act insert—

#### **“5A Disclosure of information to the Commission**

- (1) Information which is held by or on behalf of a permitted person (whether obtained before or after this section comes into force) may be disclosed to the Commission or a committee of the Commission for the purposes of selection under section 5.
- (2) A disclosure under this section is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (3) But nothing in this section authorises the making of a disclosure—

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- (a) which contravenes the Data Protection Act 1998, or
  - (b) which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.
- (4) This section does not affect a power to disclose which exists apart from this section.
- (5) The following are permitted persons—
- (a) a chief officer of police of a police force in England and Wales;
  - (b) a chief constable of a police force in Scotland;
  - (c) the Chief Constable of the Police Service of Northern Ireland;
  - (d) the Director General of the National Criminal Intelligence Service;
  - (e) the Director General of the National Crime Squad;
  - (f) the Commissioners of Inland Revenue;
  - (g) the Commissioners of Customs and Excise.
- (6) The Lord Chancellor may by order designate as permitted persons other persons who exercise functions which he considers are of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).
- (7) Information must not be disclosed under this section on behalf of the Commissioners of Inland Revenue or on behalf of the Commissioners of Customs and Excise unless the Commissioners concerned authorise the disclosure.
- (8) The power to authorise a disclosure under subsection (7) may be delegated (either generally or for a specific purpose)—
- (a) in the case of the Commissioners of Inland Revenue, to an officer of the Board of Inland Revenue,
  - (b) in the case of the Commissioners of Customs and Excise, to a customs officer.
- (9) For the purposes of this section a customs officer is a person commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979.”

**Commencement Information**

**I12** S. 123 partly in force; s. 123 not in force at Royal Assent see s. 148; s. 123 in force for specified purposes at 15.6.2005 by S.I. 2005/1431, art. 2(a)

*Ombudsman*

**124 Northern Ireland Judicial Appointments Ombudsman**

- (1) The italic cross-heading before section 9 of the 2002 Act is omitted.
- (2) After that section insert—

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## *“The Ombudsman*

### **9A Judicial Appointments Ombudsman**

- (1) There is to be a Northern Ireland Judicial Appointments Ombudsman.
  - (2) The Ombudsman is appointed by Her Majesty on the recommendation of the Lord Chancellor.
  - (3) Schedule 3A makes further provision about the Ombudsman.”
- (3) Schedule 15 inserts Schedule 3A to the 2002 Act.

## *Complaints and references*

### **125 Complaints: interpretation**

After section 9A of the 2002 Act insert—

#### **“9B Complaints: interpretation**

- (1) This section applies for the purposes of this Part.
- (2) A Commission complaint is a complaint by a qualifying complainant of maladministration by the Commission or a committee of the Commission.
- (3) A departmental complaint is a complaint by a qualifying complainant of maladministration by the Lord Chancellor or the Northern Ireland Court Service in connection with any of the following—
  - (a) recommendation for or appointment to a listed judicial office;
  - (b) appointment under section 2 of the Taxes Management Act 1970 as a Commissioner for the general purposes of the income tax for Northern Ireland.
- (4) A qualifying complainant is a complainant who claims to have been adversely affected, as an applicant for selection or as a person selected under this Part, by the maladministration complained of.”

#### **Commencement Information**

**I13** S. 125 partly in force; s. 125 not in force at Royal Assent see. s. 148; s. 125 in force for specified purposes at 25.9.2006 by S.I. 2006/1537, art. 3(b)

### **126 Complaints to the Commission or the Lord Chancellor**

After section 9B of the 2002 Act insert—

#### **“9C Complaints to the Commission or the Lord Chancellor**

- (1) The Commission must make arrangements for investigating any Commission complaint made to it.

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- (2) The Lord Chancellor must make arrangements for investigating any departmental complaint made to him.
- (3) Arrangements under this section need not apply to a complaint made more than 28 days after the matter complained of.”

## 127 Complaints to the Ombudsman

After section 9C of the 2002 Act insert—

### “9D Complaints to the Ombudsman

- (1) Subsections (2) and (3) apply to a complaint which the complainant—
  - (a) has made to the Commission or Lord Chancellor in accordance with arrangements under section 9C, and
  - (b) makes to the Ombudsman not more than 28 days after being notified of the Commission's or Lord Chancellor's decision on the complaint.
- (2) If the Ombudsman considers that investigation of the complaint is not necessary, he must inform the complainant.
- (3) Otherwise he must investigate the complaint.
- (4) The Ombudsman may investigate a complaint which the complainant—
  - (a) has made to the Commission or the Lord Chancellor in accordance with arrangements under section 9C, and
  - (b) makes to the Ombudsman at any time.
- (5) The Ombudsman may investigate a transferred complaint made to him, and no such complaint may be made under the Judicial Appointments Order after the commencement of this section.
- (6) The Judicial Appointments Order is the Judicial Appointments Order in Council 2001, which sets out the functions of Her Majesty's Commissioners for Judicial Appointments.
- (7) A transferred complaint is a complaint that lay to those Commissioners (whether or not it was made to them) in respect of the application of procedures for appointment to listed judicial offices before the commencement of this section, but not a complaint that those Commissioners had declined to investigate or on which they had concluded their investigation.
- (8) Any complaint to the Ombudsman under this section must be in a form approved by him.”

## 128 Report and recommendations

After section 9D of the 2002 Act insert—

### “9E Report and recommendations

- (1) The Ombudsman must prepare a report on any complaint he has investigated under section 9D.

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- (2) The report must state—
  - (a) what findings the Ombudsman has made;
  - (b) whether he considers the complaint should be upheld in whole or part;
  - (c) if he does, what if any action he recommends should be taken by the Commission or the Lord Chancellor as a result of the complaint.
- (3) The recommendations that may be made under subsection (2)(c) include recommendations for the payment of compensation.
- (4) Such a recommendation must relate to loss which appears to the Ombudsman to have been suffered by the complainant as a result of maladministration and not as a result of any failure to be appointed to an office to which the complaint related.”

## 129 Report procedure

After section 9E of the 2002 Act insert—

### “9F Report procedure

- (1) This section applies to a report under section 9E.
- (2) The Ombudsman must submit a draft of the report—
  - (a) to the Lord Chancellor, and
  - (b) if the complaint was a Commission complaint, to the Commission.
- (3) In finalising the report the Ombudsman—
  - (a) must have regard to any proposal by the Lord Chancellor or the Commission for changes in the draft report;
  - (b) must include in the report a statement of any such proposal not given effect to.
- (4) The report must be signed by the Ombudsman.
- (5) If the complaint was a Commission complaint the Ombudsman must send the report in duplicate to the Lord Chancellor and the Commission.
- (6) Otherwise the Ombudsman must send the report to the Lord Chancellor.
- (7) The Ombudsman must send a copy of the report to the complainant, but that copy must not include information—
  - (a) which relates to an identified or identifiable individual other than the complainant, and
  - (b) whose disclosure by the Ombudsman to the complainant would (apart from this subsection) be contrary to section 9I.”

## 130 References by the Lord Chancellor

After section 9F of the 2002 Act insert—



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### **“9G References by the Lord Chancellor**

- (1) If the Lord Chancellor refers to the Ombudsman any matter relating to the procedures of the Commission or a committee of the Commission, the Ombudsman must investigate it.
- (2) The matter may relate to such procedures generally or in a particular case.
- (3) The Ombudsman must report to the Lord Chancellor on any investigation under this section.
- (4) The report must state—
  - (a) what findings the Ombudsman has made;
  - (b) what if any action he recommends should be taken by any person in relation to the matter.
- (5) The report must be signed by the Ombudsman.”

## **131 Information**

After section 9G of the 2002 Act insert—

### **“9H Information**

The Commission and the Lord Chancellor must provide the Ombudsman with such information as he may reasonably require relating to the subject matter of an investigation under section 9D or 9G.”

## **132 Confidentiality in relation to judicial appointments and discipline**

After section 9H of the 2002 Act insert—

### **“9I Confidentiality in relation to judicial appointments and discipline**

- (1) A person who obtains confidential information, or to whom confidential information is provided, under or for the purposes of a relevant provision must not disclose it except with lawful authority.
- (2) These are the relevant provisions—
  - (a) section 12, 12A and 12B of the Judicature (Northern Ireland) Act 1978 (appointment and removal of Lord Chief Justice, Lords Justices of Appeal and judges of High Court);
  - (b) sections 3, 5, 7 and 9 to 9H of this Act (appointment and removal of judicial officers, and appointment and removal of lay magistrates);
  - (c) sections 134 and 135 of the Constitutional Reform Act 2005 (removal from judicial offices);
  - (d) section 16 of this Act (complaints about judicial officers);
- (3) Information is confidential if it relates to an identified or identifiable individual (a “subject”).

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- (4) Confidential information is disclosed with lawful authority only if and to the extent that any of the following applies—
  - (a) the disclosure is with the consent of each person who is a subject of the information (but this is subject to subsection (5));
  - (b) the disclosure is for (and is necessary for) the exercise by any person of functions under a relevant provision or a decision whether to exercise them;
  - (c) the disclosure is required, under rules of court or a court order, for the purposes of legal proceedings of any description.
- (5) An opinion or other information given by one identified or identifiable individual (A) about another (B)—
  - (a) is information that relates to both;
  - (b) must not be disclosed to B without A's consent.
- (6) This section does not prevent the disclosure with the agreement of the Lord Chancellor and the Lord Chief Justice of information as to disciplinary action taken in accordance with a relevant provision.
- (7) This section does not prevent the disclosure of information which is already, or has previously been, available to the public from other sources.
- (8) A contravention of this section in respect of any information is actionable, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (9) But it is actionable only at the suit of a person who is a subject of the information.

*Transfer of functions of justices of the peace”*

## CHAPTER 2

### REMOVALS

#### **133 Removal from most senior judicial offices**

In the Judicature (Northern Ireland) Act 1978 (c. 23) before section 13 insert—

##### **“12B Tenure of office**

- (1) The Lord Chief Justice, Lords Justices of Appeal and judges of the High Court hold office during good behaviour (subject to section 26 of, and Schedule 7 to, the Judicial Pensions and Retirement Act 1993).
- (2) Her Majesty may on an address presented to Her Majesty by both Houses of Parliament remove a person from office as Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court.
- (3) A motion for the presentation of an address to Her Majesty for the removal of a person from any of those offices may be made—

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- (a) to the House of Commons only by the Prime Minister; and
  - (b) to the House of Lords only by the Lord Chancellor or, if the Lord Chancellor is not a member of that House, by another Minister of the Crown at his request.
- (4) No motion for the presentation of such an address may be made unless a tribunal convened under section 135 of the Constitutional Reform Act 2005 has reported to the Lord Chancellor recommending that the person be removed from the office on the ground of misbehaviour.
- (5) The Prime Minister shall lay a copy of the report before the House of Commons before making a motion for the presentation of an address in that House; and a person making such a motion in the House of Lords shall lay a copy of the report before that House before making the motion.
- (6) If the Prime Minister and Lord Chancellor are considering the making of motions for the presentation of an address to Her Majesty in relation to the Lord Chief Justice, the Prime Minister may suspend him from office; and if they are considering the making of such motions in relation to a Lord Justice of Appeal or a judge of the High Court the Prime Minister may suspend him from office with the agreement of the Lord Chief Justice.
- (7) If a person is suspended from an office under subsection (6), he may not perform any of the functions of the office (but his other rights as holder of the office are unaffected).”

#### **134 Removal from listed judicial offices**

- (1) A person holding a listed judicial office other than as a judge of the High Court may be removed from office (and suspended from office pending a decision whether to remove him) but only in accordance with this section.
- (2) The power to remove or suspend him is exercisable by the Lord Chancellor.
- (3) He may only be removed if a tribunal convened under section 135 has reported to the Lord Chancellor recommending that he be removed on the ground of misbehaviour or inability to perform the functions of the office.
- (4) He may only be suspended if the tribunal, at any time when it is considering whether to recommend his removal, has recommended to the Lord Chancellor that he be suspended.
- (5) He may not be removed or suspended except after consultation with the Lord Chief Justice.
- (6) If he is suspended he may not perform any of the functions of the office until the decision whether to remove him has been taken (but his other rights as holder of the office are unaffected).

#### **135 Tribunals for considering removal**

- (1) A tribunal to consider the removal of the Lord Chief Justice may be convened by the Lord Chancellor.

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- (2) A tribunal to consider the removal of the holder of any other protected judicial office may be convened—
  - (a) by the Lord Chancellor, after consulting the Lord Chief Justice, or
  - (b) by the Lord Chief Justice, after consulting the Lord Chancellor.
- (3) A tribunal to consider the removal of the Lord Chief Justice or a Lord Justice of Appeal may not be convened unless the Prime Minister has been consulted.
- (4) A tribunal to consider the removal of the Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court is to consist of—
  - (a) a person who holds high judicial office within the meaning of Part 3 and does not hold (and has never held) the office of Lord Chief Justice, Lord Justice of Appeal or judge of the High Court,
  - (b) a person who is, or has been, a judge of the Court of Appeal of England and Wales or the Inner House of the Court of Session, and
  - (c) a person who does not hold (and has never held) a protected judicial office and is not (and has never been) a barrister or solicitor.
- (5) A tribunal to consider the removal of the holder of any other protected judicial office is to consist of—
  - (a) a person who holds, or has held, the office of Lord Chief Justice or Lord Justice of Appeal,
  - (b) a person who holds the office of judge of the High Court, and
  - (c) a person who does not hold (and has never held) a protected judicial office and is not (and has never been) a barrister or solicitor.
- (6) The chairman of a tribunal is the person mentioned in paragraph (a) of subsection (4) or (5).
- (7) The selection of the persons to be the members of a tribunal under paragraphs (a) and (b) of subsection (4) is to be made by the Lord Chancellor, after consultation with—
  - (a) the Lord Chief Justice (unless the tribunal is to consider his removal from office),
  - (b) the President of the Supreme Court of the United Kingdom,
  - (c) the Lord Chief Justice of England and Wales, and
  - (d) the Lord President of the Court of Session.
- (8) The selection of the persons to be the members of a tribunal under paragraphs (a) and (b) of subsection (5) is to be made by the Lord Chief Justice.
- (9) The selection of the person who is to be the member of a tribunal under paragraph (c) of subsection (4) or (5) is to be made by the Lord Chancellor.
- (10) The procedure of a tribunal is to be determined by the Lord Chief Justice except where—
  - (a) the office of Lord Chief Justice is vacant,
  - (b) he is not available, or
  - (c) the tribunal is to consider his removal from office;
 and in such a case its procedure is to be determined by its chairman.
- (11) The Lord Chancellor may pay to a member of a tribunal any such allowances or fees as he may determine.

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## 136 Interpretation of Part 5

In this Part—

“listed judicial office” means an office listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);

“Lord Chief Justice”, unless otherwise stated, means the Lord Chief Justice of Northern Ireland;

“Lord Justice of Appeal” means a person styled as such under section 3 of the Judicature (Northern Ireland) Act 1978 (c. 23);

“protected judicial office” means the office of Lord Chief Justice, the office of Lord Justice of Appeal or a listed judicial office.

VALID FROM 01/10/2009

## PART 6

### OTHER PROVISIONS RELATING TO THE JUDICIARY

#### 137 Parliamentary disqualification

- (1) In Part 1 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (judicial offices disqualifying for membership) at the beginning insert— “ Judge of the Supreme Court. ”
- (2) In Part 1 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (judicial offices disqualifying for membership) at the beginning insert— “ Judge of the Supreme Court. ”
- (3) A member of the House of Lords is, while he holds any disqualifying judicial office, disqualified for sitting or voting in—
  - (a) the House of Lords,
  - (b) a committee of that House, or
  - (c) a joint committee of both Houses.
- (4) In subsection (3) “disqualifying judicial office” means any of the judicial offices specified in—
  - (a) Part 1 of Schedule 1 to the House of Commons Disqualification Act 1975, or
  - (b) Part 1 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.
- (5) A member of the House of Lords who is disqualified under subsection (3) is not for that reason disqualified for receiving a writ of summons to attend that House, but any such writ is subject to that subsection.

#### 138 Judicial Committee of the Privy Council

Schedule 16 contains amendments about the Judicial Committee of the Privy Council.

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## PART 7

### GENERAL

#### 139 Confidentiality

- (1) A person who obtains confidential information, or to whom confidential information is provided, under or for the purposes of a relevant provision must not disclose it except with lawful authority.
- (2) These are the relevant provisions—
  - (a) sections 26 to 31;
  - (b) Part 4;
  - (c) regulations and rules under Part 4.
- (3) Information is confidential if it relates to an identified or identifiable individual (a “subject”).
- (4) Confidential information is disclosed with lawful authority only if and to the extent that any of the following applies—
  - (a) the disclosure is with the consent of each person who is a subject of the information (but this is subject to subsection (5));
  - (b) the disclosure is for (and is necessary for) the exercise by any person of functions under a relevant provision;
  - (c) the disclosure is for (and is necessary for) the exercise of functions under section 11(3A) of the Supreme Court Act 1981 (c. 54) or a decision whether to exercise them;
  - (d) the disclosure is for (and is necessary for) the exercise of powers to which section 108 applies, or a decision whether to exercise them;
  - (e) the disclosure is required, under rules of court or a court order, for the purposes of legal proceedings of any description.
- (5) An opinion or other information given by one identified or identifiable individual (A) about another (B)—
  - (a) is information that relates to both;
  - (b) must not be disclosed to B without A's consent.
- (6) This section does not prevent the disclosure with the agreement of the Lord Chancellor and the Lord Chief Justice of information as to disciplinary action taken in accordance with a relevant provision.
- (7) This section does not prevent the disclosure of information which is already, or has previously been, available to the public from other sources.
- (8) A contravention of this section in respect of any information is actionable, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (9) But it is actionable only at the suit of a person who is a subject of the information.

#### 140 “Enactment”

- (1) In this Act “enactment” includes—
  - (a) an enactment contained in this Act;

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- (b) an enactment contained in a local, personal or private Act;
  - (c) except in sections 19 and 143, an enactment contained in subordinate legislation;
- and any reference to an enactment includes a reference to an enactment whenever passed or made.
- (2) In section 22 “enactment” also includes an enactment contained in, or in an instrument made under, Northern Ireland legislation.
  - (3) In Part 3 “enactment” also includes—
    - (a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;
    - (b) an enactment contained in, or in an instrument made under, Northern Ireland legislation.
  - (4) In sections 19, 21 and 143 and in paragraph 3 of Schedule 7 “enactment” also includes—
    - (a) an enactment contained in Northern Ireland legislation;
    - (b) an enactment contained in a Measure of the Church Assembly or of the General Synod of the Church of England.

#### **141 “Subordinate legislation”**

- (1) In this Act “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (2) In sections 19 and 143 “subordinate legislation” also includes an enactment contained in an instrument made under Northern Ireland legislation.

#### **142 General interpretation**

In this Act—

“functions” includes powers and duties;

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

#### **143 Supplementary provision etc**

- (1) 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.
- (2) An order under this section 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;
  - (b) amend or repeal any of the following—

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- (i) an enactment other than one contained in an Act passed, or Northern Ireland legislation passed or made, after the Session in which this Act is passed;
  - (ii) subordinate legislation other than subordinate legislation made under an Act passed, or Northern Ireland legislation passed or made, after the Session in which this Act is passed;
  - (iii) any other instrument or document, including a prerogative instrument;
- (c) amend or repeal an enactment or subordinate legislation, whenever passed or made, in consequence of section 59.
- (3) The amendments that may be made by virtue of subsection (2)(b) are in addition to those made by or under any other provision of this Act.
- (4) In this section “prerogative instrument” means an Order in Council, warrant, charter or other instrument made under the prerogative.

#### **144 Orders and regulations**

- (1) Any power of a Minister of the Crown to make an order or regulations under this Act is exercisable by statutory instrument, except where subsection (2) applies.
- (2) Any power of the Lord Chancellor to make an order under section 19(1) or 143 amending an enactment contained in, or in an instrument made under, Northern Ireland legislation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (3) Regulations under section 115, 120(5) or 121(5) are to be made in the form of a statutory instrument to which the Statutory Instruments Act 1946 (c. 36) applies as if the regulations were made by a Minister of the Crown.
- (4) A statutory instrument to which this subsection applies may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) Subsection (4) applies to a statutory instrument which contains any of the following—
  - (a) an order under section 85(3)(a) or (b) which amends Part 1 of Schedule 14;
  - (b) an order under section 19(1) which amends a public general Act, except where the only such amendment is the inclusion in Schedule 7 of a function of the Lord Chancellor;
  - (c) an order under section 19(1) which amends subordinate legislation of which a draft was required to be laid before and approved by a resolution of each House of Parliament, except where the only such amendment consists of provision that falls within subsection (2)(b) of section 19;
  - (d) an order under section 143 which amends a public general Act;
  - (e) an order under paragraph 5 of Schedule 12.
- (6) In any other case a statutory instrument containing an order or regulations under this Act, unless it contains only an order under section 66(5) or 148, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A statutory rule made under a power to which subsection (2) applies is subject to annulment in pursuance of a resolution of either House of Parliament.



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## 145 Minor and consequential amendments

Schedule 17 (minor and consequential amendments) has effect.

### Commencement Information

**I14** S. 145 partly in force; s. 145 not in force at Royal Assent see s. 148; s. 145 in force for certain purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 27; 1.10.2009 by S.I. 2009/1604, art. 2

## 146 Repeals and revocations

The provisions listed in Schedule 18 are repealed or revoked to the extent specified.

### Commencement Information

**I15** S. 146 partly in force; s. 146 not in force at Royal Assent see s. 148; s. 146 in force for certain purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 29; 1.10.2009 by S.I. 2009/1604, art. 2

## 147 Extent

- (1) Sections 7, 8 and 9 extend to England and Wales only.
- (2) Section 6 and Part 5 extend to Northern Ireland only.
- (3) Any amendment, repeal or revocation made by this Act has the same extent as the provision to which it relates.
- (4) Subject to subsections (1) to (3), this Act extends to Northern Ireland.

## 148 Commencement

- (1) This Act, except the following provisions, comes into force in accordance with provision to be made by the Lord Chancellor by order.
- (2) The provisions excepted from subsection (1) are—
  - (a) section 4;
  - (b) sections 18 to 22;
  - (c) sections 140 to 144;
  - (d) section 147;
  - (e) this section;
  - (f) section 149;
  - (g) Schedules 6 and 7.
- (3) Section 4 comes into force in accordance with provision to be made by the Secretary of State by order.
- (4) An order by which section 23(1) comes into force at any time may not be made unless the Lord Chancellor is satisfied that the Supreme Court will at that time be provided with accommodation in accordance with written plans that he has approved.
- (5) The Lord Chancellor may approve plans only if, having consulted the Lords of Appeal in Ordinary holding office at the time of the approval, he is satisfied that

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accommodation in accordance with the plans will be appropriate for the purposes of the Court.

(6) An order under this section may make different provision for different purposes.

#### Subordinate Legislation Made

- P1** S. 148 power partly exercised: 15.6.2005 appointed for specified provision by {S.I. 2005/1431}, art. 2; 31.5.2005 by {S.I. 2005/2284}, art. 2; 1.10.2005 by {S.I. 2005/2505}, art. 2; 27.2.2006 by {S.I. 2006/228}, art. 2; 3.4.2006 by {S.I. 2006/1014}, art. 2, Schs. 1, 2; 15.6.2006 by {S.I. 2006/1537}, arts. 2, 3; 20.3.2007 appointed for specified provisions by {S.I. 2007/967}, art. 2; 8.5.2007 appointed for further specified provisions and purposes by {S.I. 2007/1252}, art. 2; 2.10.2008 appointed for further specified provision by {S.I. 2008/2597}, art. 2; 1.10.2009 appointed for further specified provisions and purposes by {S.I. 2009/1604}, art. 2
- P2** S. 148(3) power wholly exercised: 8.5.2007 appointed for specified provision by {S.I. 2007/1121}, art. 2

#### 149 Short title

This Act may be cited as the Constitutional Reform Act 2005.

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## SCHEDULES

### SCHEDULE 1

Section 12

#### POWERS TO MAKE RULES

##### PART 1

##### THE PROCESS

##### *Interpretation*

- 1 In this Part “designated rules” means rules under another Act which are, by virtue of provision in that Act, to be made in accordance with this Part.

##### *The process*

- 2 (1) It is for the Lord Chief Justice, or a judicial office holder nominated by the Lord Chief Justice with the agreement of the Lord Chancellor, to make designated rules.
- (2) The Lord Chief Justice may nominate a judicial office holder in accordance with sub-paragraph (1)—
- (a) to make designated rules generally, or
  - (b) to make designated rules under a particular enactment.
- (3) In this Part—
- (a) “judicial office holder” has the same meaning as in section 109(4);
  - (b) references to the Lord Chief Justice's nominee, in relation to designated rules, mean a judicial office holder nominated by the Lord Chief Justice under sub-paragraph (1) to make those rules.
- 3 (1) The Lord Chief Justice, or his nominee, may make designated rules only with the agreement of the Lord Chancellor.
- (2) If the Lord Chancellor does not agree designated rules made by the Lord Chief Justice, or by his nominee, the Lord Chancellor must give that person written reasons why he does not agree the rules.
- 4 (1) Designated rules made by the Lord Chief Justice, or by his nominee, and agreed by the Lord Chancellor—
- (a) come into force on such day as the Lord Chancellor directs, and
  - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 (c. 36) applies as if the instrument contained rules made by a Minister of the Crown.
- (2) A statutory instrument containing designated rules is subject to annulment in pursuance of a resolution of either House of Parliament.

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- 5 (1) This paragraph applies if the Lord Chancellor gives the Lord Chief Justice, or his nominee, written notice that he thinks it is expedient for designated rules to include provision that would achieve a purpose specified in the notice.
- (2) The Lord Chief Justice, or his nominee, must make such designated rules as he considers necessary to achieve the specified purpose.
- (3) Those rules must be—
- (a) made within a reasonable period after the Lord Chancellor gives notice under sub-paragraph (1);
  - (b) made in accordance with the provisions of this Part.

## PART 2

### RULE-MAKING POWERS SUBJECT TO THE PROCESS IN PART 1

#### *Trustee Act 1925 (c. 19)*

- 6 In section 54 of the Trustee Act 1925 (jurisdiction in regard to mental patients), for the paragraph after subsection (2)(d) substitute—

“(2A) Rules may be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 with respect to the exercise of the jurisdiction referred to in subsection (2).”

#### *Administration of Justice (Miscellaneous Provisions) Act 1933 (c. 36)*

- 7 In section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 (procedure for indictment of offenders), in subsection (6A)(a) for “by the Lord Chancellor” substitute “ in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 ”.

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

- 8 (1) Section 5 of the Reserve and Auxiliary Forces (Protection of Civilian Interests) Act 1951 (appropriate courts and procedure) is amended as follows.
- (2) In subsection (2) for “The Lord Chancellor may also make rules” substitute “ Rules may be made in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005 ”.
- (3) In subsections (3) to (5) for “Rules so made” substitute “ Rules under subsection (2) ”.
- (4) In subsection (6) for “this section” substitute “ subsection (1) ”.

#### *Courts-Martial (Appeals) Act 1968 (c. 20)*

- 9 (1) Section 49 of the Courts-Martial (Appeals) Act 1968 (rules of court) is amended as follows.
- (2) In subsection (1) for “by the Lord Chief Justice with the approval of the Lord Chancellor” substitute “ in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 ”.

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(3) In subsection (2) for “Lord Chief Justice” substitute “ person making the rules ”.

(4) Omit subsections (3) and (4).

*Adoption Act 1976 (c. 36)*

10 In section 66 of the Adoption Act 1976 (rules of procedure), in subsection (1) for “by the Lord Chancellor” substitute “ in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005 ”.

*Supreme Court Act 1981 (c. 54)*

11 The Supreme Court Act 1981 is amended as follows.

12 (1) Section 127 (probate rules) is amended as follows.

(2) In subsection (1) for the words from the beginning to “for regulating” substitute “ Rules of court (in this Part referred to as “probate rules”) may be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 for regulating ”.

(3) Omit subsection (3).

13 (1) Section 136 (production of documents filed in, or in custody of, Supreme Court) is amended as follows.

(2) In subsection (1) for the words from the beginning to “make rules” substitute “ Rules may be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 ”.

(3) In subsection (2)(b) for “Lord Chancellor” substitute “ person making the rules ”.

(4) Omit subsection (3).

*Mental Health Act 1983 (c. 20)*

14 The Mental Health Act 1983 is amended as follows.

15 In section 108 (general provisions as to rules under Part 7), after subsection (1) (as substituted by paragraph 129(2) of Schedule 4) insert—

“(1A) Rules under any other provision of this Part of this Act are to be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005.”

16 In section 143 (general provisions as to regulations, orders and rules), after subsection (3) insert—

“(4) This section does not apply to rules which are, by virtue of section 108 of this Act, to be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005.”

*County Courts Act 1984 (c. 28)*

17 (1) Section 38 of the County Courts Act (remedies available in county courts) is amended as follows.

(2) Omit subsection (4)(c).

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(3) After subsection (4) insert—

“(4A) If regulations are made under subsection (3), rules may be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 about procedure relevant to the matters prescribed in the regulations.”

*Matrimonial and Family Proceedings Act 1984 (c. 42)*

18 In section 40 of the Matrimonial and Family Proceedings Act 1984 (family proceedings rules), in the second paragraph of subsection (2)—

- (a) in paragraph (a) omit “by the Lord Chancellor”;
- (b) in paragraph (b) omit “by the President of the Family Division with the concurrence of the Lord Chancellor”.

*Coroners Act 1988 (c. 13)*

19 The Coroners Act 1988 is amended as follows.

20 In section 11 (proceedings at inquest), for subsection (5)(c) substitute—

“(c) shall be in such form as may be prescribed in rules made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005.”

21 (1) Section 32 (power to make rules) is amended as follows.

- (2) In subsection (1) for “The Lord Chancellor may, with the concurrence of the Secretary of State, make rules” substitute “ Rules may be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 ”.
- (3) In subsection (3) for “of the Lord Chancellor under this section to make rules” substitute “ to make rules under this section ”.
- (4) Omit subsection (4).

*Family Law Act 1996 (c. 27)*

22 The Family Law Act 1996 is amended as follows.

23 (1) For the title to section 12 substitute “ Rules about procedure ”.

- (2) In subsection (1) for “The Lord Chancellor may make rules” substitute “ Rules may be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 ”.
- (3) In subsection (2) for “The Lord Chancellor may make rules” substitute “ Rules may be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 ”.

24 In section 65 (rules, regulations and orders), in subsection (5) after “does not apply” insert “ to rules made under section 12 or ”.

25 The power to amend or repeal enactments that is referred to in section 109(5)(b) of the Courts Act 2003 (c. 39) may be exercised in relation to sections 12 and 65 of the Family Law Act 1996 (c. 27) as amended by paragraphs 24 and 25 of this Schedule.

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*Adoption and Children Act 2002 (c. 38)*

- 26 (1) The Adoption and Children Act 2002 is amended as follows.
- (2) Those amendments do not have effect at any time after the amendments made to the Adoption and Children Act 2002 by paragraph 413 of Schedule 8 to the Courts Act 2003 have come into force.
- 27 In section 141 (rules of procedure), in subsection (1) for “The Lord Chancellor may make rules” substitute “ Rules may be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005 ”.
- 28 In section 142 (supplementary and consequential provision), in subsection (4) for “this Act or” substitute “ this Act, any power to make rules under section 141 or any power ”.

*Courts Act 2003 (c. 39)*

- 29 In section 76 of the Courts Act 2003 (further provision about scope of Family Procedure Rules) omit “by the President of the Family Division, with the concurrence of the Lord Chancellor,”.

SCHEDULE 2

Section 13

POWERS TO GIVE DIRECTIONS

**PART 1**

THE PROCESS

*Interpretation*

- 1 In this Part “designated directions” means directions under another Act which are, by virtue of provision in that Act, to be made or given in accordance with this Part.

*The process*

- 2 (1) It is for the Lord Chief Justice, or a judicial office holder nominated by the Lord Chief Justice with the agreement of the Lord Chancellor, to make or give designated directions.
- (2) The Lord Chief Justice may nominate a judicial office holder in accordance with sub-paragraph (1)—
- (a) to make or give designated directions generally, or
  - (b) to make or give designated directions under a particular enactment.
- (3) In this Part—
- (a) “judicial office holder” has the same meaning as in section 109(4);
  - (b) references to the Lord Chief Justice's nominee, in relation to designated directions, mean a judicial office holder nominated by the Lord Chief Justice under sub-paragraph (1) to make or give those directions.

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- 3 (1) The Lord Chief Justice, or his nominee, may make or give designated directions only with the agreement of the Lord Chancellor.
- (2) Sub-paragraph (1) does not apply to designated directions to the extent that they consist of guidance about any of the following—
- (a) the application or interpretation of the law;
  - (b) the making of judicial decisions.
- (3) Sub-paragraph (1) does not apply to designated directions to the extent that they consist of criteria for determining which judges may be allocated to hear particular categories of case; but the directions may, to that extent, be made or given only after consulting the Lord Chancellor.
- (4) If sub-paragraph (1) applies but the Lord Chancellor does not agree designated directions made or given by the Lord Chief Justice, or by his nominee, the Lord Chancellor must give that person written reasons why he does not agree the directions.

## PART 2

### POWERS OF DIRECTION SUBJECT TO THE PROCESS IN PART 1

#### *Courts-Martial (Appeals) Act 1968 (c. 20)*

- 4 (1) Section 4 of the Courts-Martial (Appeals) Act 1968 is amended as follows.
- (2) In subsection (1) for “by the Lord Chief Justice with the consent of the Lord Chancellor” substitute “in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005”.
- (3) In subsection (2) for “If the Lord Chief Justice so directs” substitute “If such directions so provide”.
- (4) In subsection (3) for “the Lord Chief Justice shall direct” substitute “such directions may provide”.

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

- 5 In section 124 of the Supreme Court Act 1981 (place for deposit of original wills and other documents), for “as the Lord Chancellor may direct” substitute “as may be provided for in directions given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005”.

#### *Civil Procedure Act 1997 (c. 12)*

- 6 For section 5 of the Civil Procedure Act 1997 substitute—

#### “5 Practice directions

- (1) Practice directions may be given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005.
- (2) Practice directions given otherwise than under subsection (1) may not be given without the approval of—



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- (a) the Lord Chancellor, and
  - (b) the Lord Chief Justice.
- (3) Practice directions (whether given under subsection (1) or otherwise) may provide for any matter which, by virtue of paragraph 3 of Schedule 1, may be provided for by Civil Procedure Rules.
- (4) The power to give practice directions under subsection (1) includes power—
- (a) to vary or revoke directions given by any person;
  - (b) to give directions containing different provision for different cases (including different areas);
  - (c) to give directions containing provision for a specific court, for specific proceedings or for a specific jurisdiction.
- (5) Subsection (2)(a) does not apply to directions to the extent that they consist of guidance about any of the following—
- (a) the application or interpretation of the law;
  - (b) the making of judicial decisions.
- (6) Subsection (2)(a) does not apply to directions to the extent that they consist of criteria for determining which judges may be allocated to hear particular categories of case; but the directions may, to that extent, be given only—
- (a) after consulting the Lord Chancellor, and
  - (b) with the approval of the Lord Chief Justice.”

*Courts Act 2003 (c. 39)*

7 The Courts Act 2003 is amended as follows.

8 (1) Section 74 (practice directions as to practice and procedure of criminal courts) is amended as follows.

(2) In subsection (1) for “The Lord Chief Justice may, with the concurrence of the Lord Chancellor, give directions” substitute “ Directions may be given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005 ”.

(3) In subsection (2) for the words from “may not be given” to the end substitute “given otherwise than under subsection (1) may not be given without the approval of—

- (a) the Lord Chancellor, and
- (b) the Lord Chief Justice.”

(4) In subsection (3)(a) for “by the Lord Chief Justice or any other person” substitute “ under subsection (1) or otherwise ”.

(5) For subsection (4) substitute—

“(4) Subsection (2)(a) does not apply to directions to the extent that they consist of guidance about any of the following—

- (a) the application or interpretation of the law;
- (b) the making of judicial decisions.

(5) Subsection (2)(a) does not apply to directions to the extent that they consist of criteria for determining which judges may be allocated to hear particular categories of case; but the directions may, to that extent, be given only—

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- (a) after consulting the Lord Chancellor, and
  - (b) with the approval of the Lord Chief Justice.”
- 9 (1) Section 81 (practice directions relating to family proceedings) is amended as follows.
- (2) In subsection (1) for “The President of the Family Division may, with the concurrence of the Lord Chancellor, give directions” substitute “ Directions may be given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005 ”.
- (3) In subsection (2) for the words from “may not be given” to the end substitute “given otherwise than under subsection (1) may not be given without the approval of—
- (a) the Lord Chancellor, and
  - (b) the Lord Chief Justice.”
- (4) In subsection (3)(a) for “by the President of the Family Division or any other person” substitute “ under subsection (1) or otherwise ”.
- (5) After subsection (3) insert—
- “(4) Subsection (2)(a) does not apply to directions to the extent that they consist of guidance about any of the following—
- (a) the application or interpretation of the law;
  - (b) the making of judicial decisions.
- (5) Subsection (2)(a) does not apply to directions to the extent that they consist of criteria for determining which judges may be allocated to hear particular categories of case; but the directions may, to that extent, be given only—
- (a) after consulting the Lord Chancellor, and
  - (b) with the approval of the Lord Chief Justice.”

## SCHEDULE 3

Section 14

### TRANSFER OF APPOINTMENT FUNCTIONS TO HER MAJESTY

#### *District Judges*

- 1 (1) For section 6 of the County Courts Act 1984 (c. 28) substitute—
- “**6 District judges**
- (1) Her Majesty may, on the recommendation of the Lord Chancellor, appoint district judges.
- (2) The Lord Chief Justice, after consulting the Lord Chancellor—
- (a) must assign each district judge to one or more districts;
  - (b) may change an assignment so as to assign the district judge to a different district or districts.
- (3) A reference in any enactment or other instrument to the district judge for a district or of a county court is a reference to any district judge assigned to the district concerned.

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- (4) Every district judge is, by virtue of his office, capable of acting in any district whether or not assigned to it, but may do so only in accordance with arrangements made by or on behalf of the Lord Chief Justice.
  - (5) A district judge is to be paid such salary as may be determined by the Lord Chancellor with the concurrence of the Treasury.
  - (6) A salary payable under this section may be increased but not reduced by a determination or further determination under this section.”
- (2) That section as substituted applies to a district judge holding office by virtue of an appointment made before the commencement of sub-paragraph (1) as if he had been assigned to the district or districts for which he was appointed.
- 2 (1) For sections 100 and 101 of the Supreme Court Act 1981 (c. 54) substitute—

**“100 District judges**

- (1) The Lord Chief Justice, after consulting the Lord Chancellor—
    - (a) may assign a district judge to one or more district registries;
    - (b) may change an assignment so as to assign the district judge to a different district registry or registries (or to no district registry).
  - (2) A reference in any enactment or other instrument to the district judge of a district registry is a reference to any district judge assigned to the registry concerned.
  - (3) Every district judge is, by virtue of his office, capable of acting in any district registry whether or not assigned to it, but may do so only in accordance with arrangements made by or on behalf of the Lord Chief Justice.
  - (4) Whilst a district judge is assigned to one or more district registries in accordance with subsection (1) he is a district judge of the High Court.”
- (2) That section as substituted applies to a district judge holding office by virtue of an appointment made before the commencement of sub-paragraph (1) as if he had been assigned to the district registry or registries for which he was appointed.
- (3) In section 102 of that Act (deputy district judges) for subsection (4) substitute—
- “(4) A person appointed to be a deputy district judge in a district registry has, while acting under this section, the same jurisdiction as a district judge assigned to that registry.”

*High Court Masters and Registrars*

- 3 (1) Section 89 of the Supreme Court Act 1981 (c. 54) (masters and registrars) is amended as follows.
- (2) In subsection (1), for the words from “the Lord Chancellor” to the end substitute “Her Majesty.”
  - (3) After that subsection insert—

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“(1A) The maximum number of appointments under subsection (1) is such as may be determined from time to time by the Lord Chancellor with the concurrence of the Treasury.”

(4) For subsection (3) substitute—

“(3) Her Majesty shall, on the recommendation of the Lord Chancellor, appoint a person to each office listed in the first column of the table in subsection (3C) (“a senior office”).

(3A) A person may be appointed to a senior office only if—

- (a) he holds the office in the corresponding entry in the second column of that table (“the qualifying office”), or
- (b) he does not hold the qualifying office but could be appointed to it in compliance with section 88.

(3B) Where a person who is to be appointed to a senior office meets the condition in subsection (3A)(b) he shall, when appointed to the senior office, also be appointed to the qualifying office.

(3C) This is the table referred to in subsections (3) and (3A)—

<i>Senior office</i>	<i>Qualifying office</i>
Senior Master of the Queen's Bench Division	Master of the Queen's Bench Division
Chief Chancery Master	Master of the Chancery Division
Chief Taxing Master	Taxing master of the Senior Courts
Chief Bankruptcy Registrar	Registrar in bankruptcy of the High Court
Senior District Judge of the Family Division	Registrar of the Principal Registry of the Family Division”.

(5) Before subsection (8) insert—

“(7A) A person appointed under subsection (1) is to be paid such salary, and a person appointed to a senior office is to be paid such additional salary, as may be determined by the Lord Chancellor with the concurrence of the Treasury.

(7B) A salary payable under or by virtue of this section—

- (a) may in any case be increased, but
- (b) may not, in the case of a salary payable in respect of an office listed in column 1 of Part 2 of Schedule 2 or of a senior office, be reduced, by a determination or further determination under this section.”

#### Commencement Information

**I16** Sch. 3 para. 3 partly in force; Sch. 3 para. 3 not in force at Royal Assent see s. 148; Sch. 3 para. 3(1)(4) in force at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 9; Sch. 3 para. 3(2)(3)(5) in force for specified purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 9

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- 4 In section 93(2) of the Mental Health Act 1983 (c. 20) (Court of Protection) for “the Lord Chancellor” substitute “ Her Majesty ”.

*Senior District Judge (Chief Magistrate)*

- 5 In section 23 of the Courts Act 2003 (c. 39) (Senior District Judge (Chief Magistrate))—

- (a) for “The Lord Chancellor” substitute “ Her Majesty ”;
- (b) for “he” substitute “ she ”.

- 6 In section 10A(2) of the Justices of the Peace Act 1997 (c. 25) (until the coming into force of the repeal of that Act by the Courts Act 2003) for “The Lord Chancellor” substitute “ Her Majesty ”.

SCHEDULE 4

Section 15

OTHER FUNCTIONS OF THE LORD CHANCELLOR AND ORGANISATION OF THE COURTS

**PART 1**

AMENDMENTS

*Ecclesiastical Licences Act 1533 (c. 21)*

- 1 (1) In section 11 of the Ecclesiastical Licences Act 1533 (refusal of archbishop to grant licences etc.) any reference to the Lord Chancellor or Lord Keeper of the Great Seal (however expressed) is to be read as a reference to the Chancellor of the High Court.
- (2) The Chancellor of the High Court may nominate another judge of that court to exercise his functions under that section.

*Habeas Corpus Act 1679 (c. 2)*

- 2 The Habeas Corpus Act 1679 is amended as follows.
- 3 In section 1 (bringing before Lord Chancellor or other judges) omit “the lord chauncellor or lord keeper of the great seale of England for the time being or”.
- 4 In section 2 (appeal to Lord Chancellor or other judges) omit—
- (a) “the lord chauncellour or lord keeper or” in each place;
- (b) “lord chauncellor lord keeper”;
- (c) “the said lord chauncellor or lord keeper or” in the first and second places;
- (d) “lord chauncellor or lord keeper or” in the last place.
- 5 In section 9 (Lord Chancellor or other judge unduly denying writ) omit “the said lord chauncellor or lord keeper or”.

*Cestui que Vie Act 1707 (c. 72)*

- 6 Any reference to the Lord Chancellor and keeper or commissioners for the custody of the great seal of Great Britain for the time being in section 1 of the Cestui que

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Vie Act 1707 is to be construed as a reference to a judge of the Chancery Division of the High Court.

PROSPECTIVE

*Pluralities Act 1838 (c. 106)*

- 7 The Pluralities Act 1838 is amended as follows.
- 8 (1) Section 126 (consent of patron etc. where patronage in the Crown) is amended as follows.
  - (2) For the words from “if such benefice shall be above” to “great seal” substitute “ unless such benefice shall be within the patronage of the crown in right of the duchy of Lancaster, the instrument by which the power shall be exercised shall be executed by, and any such notice shall be given to, the Prime Minister ”.
  - (3) Omit “or persons”.
- 9 (1) Section 128 (consent of patron etc. where patronage attached to duchy of Cornwall) is amended as follows.
  - (2) For the words from “the same” to “benefice in the patronage of the crown” substitute “ the Prime Minister, in accordance with section 126 ”.
  - (3) Omit “or persons” in the second place.

PROSPECTIVE

*F17* ...

**Textual Amendments**

**F17** Sch. 4 paras. 10-12 and cross-heading repealed (E.) (1.7.2018) by [Statute Law \(Repeals\) Measure 2018](#) (No. 1), s. 2(3), [Sch. Pt. 3](#); S.I. 2018/718, art. 2

- F17**<sub>10</sub> .....
- F17**<sub>11</sub> .....
- F17**<sub>12</sub> .....

*Public Notaries Act 1843 (c. 90)*

- 13 (1) Section 5 of the Public Notaries Act 1843 (refusal of master of faculties to grant a faculty) is amended as follows.
  - (2) For “chancellor of England or the lord keeper of the great seal” substitute “ Chancellor of the High Court ”.
  - (3) At the end of that section insert— “ The Chancellor of the High Court may nominate another judge of that court to exercise his functions under this section. ”

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- (4) This paragraph is subject to section 2(3) and (4) of the Statute Law (Repeals) Act 1998 (repeals relating to Isle of Man and Channel Islands).

PROSPECTIVE

*Inclosure Act 1859 (22 & 23 Vict. c. 43)*

- 14 In section 12 of the Inclosure Act 1859 (adaptation of references to patron where patronage is in the Crown) for the words from “Lord High” to “Great Seal” substitute “Prime Minister”.

*British Law Ascertainment Act 1859 (c. 63)*

- 15 In section 5 of the British Law Ascertainment Act 1859 (interpretation) omit “the Lord Chancellor,”.

*Promissory Oaths Act 1871 (c. 48)*

- 16 (1) Section 2 of the Promissory Oaths Act 1871 (persons before whom oaths to be taken) (as amended by paragraph 51 of Schedule 8 to the Courts Act 2003 (c. 39)) is amended as follows.
- (2) In the paragraph beginning “In England and Wales” for “Lord Chancellor” substitute “Lord Chief Justice of England and Wales”.
- (3) After that paragraph insert— “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 the preceding paragraph.”
- (4) After the paragraph beginning “In Ireland” insert—
- “The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under the preceding paragraph—
- (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).”

*Stannaries Court (Abolition) Act 1896 (c. 45)*

- 17 (1) Section 1 of the Stannaries Court (Abolition) Act 1896 (abolition of Vice-Warden's Court) is amended as follows.
- (2) In subsection (1) after “may” insert “, after consulting the Lord Chief Justice,”.
- (3) After subsection (2) insert—
- “(3) 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.”

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PROSPECTIVE

*Judicial Committee Act 1915 (c. 92)*

- 18 (1) Section 1 of the Judicial Committee Act 1915 (power of Judicial Committee of the Privy Council to sit in more than one division at the same time) is amended as follows.
- (2) In subsection (1) for “Lord Chancellor” substitute “ President of the Supreme Court of the United Kingdom ”.

*Administration of Justice Act 1925 (c. 28)*

- 19 (1) Section 22 of the Administration of Justice Act 1925 (registration of deeds of arrangement) is amended as follows.
- (2) In subsection (5) for “by the Lord Chancellor with the concurrence” substitute “ by the Lord Chief Justice with the concurrence of the Lord Chancellor and ”.
- (3) After subsection (5) insert—
- “(5A) 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 subsection (5).”

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

- 20 (1) Section 45 of the Children and Young Persons Act 1933 (youth courts) (as amended by section 50 of the Courts Act 2003 (c. 39)) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor or a person acting on his behalf” substitute “ Lord Chief Justice, with the concurrence of the Lord Chancellor, ”.
- (3) In subsection (4) for “Lord Chancellor may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”.
- (4) In subsection (5) after “Lord Chancellor” insert “ or Lord Chief Justice ”.
- (5) After subsection (8) insert—
- “(9) 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 subsection (3) or (4) or his powers under rules under subsection (4).”

*Compensation (Defence) Act 1939 (c. 75)*

- 21 (1) The Compensation (Defence) Act 1939 is amended as follows.
- (2) For the title to section 9 substitute “ Incidental powers of tribunals and rules of procedure ”.
- (3) Omit section 9(1)(a) (powers of tribunals to make rules of procedure).
- (4) After section 9(1) insert—



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“(1A) Rules prescribing the procedure for notifying, presenting and hearing claims and all matters incidental thereto may be made in relation to each of the tribunals constituted under this Act.

(1B) Such rules are to be made as follows—

- (a) if the rules relate to proceedings in England and Wales, they are to be made by the Lord Chancellor;
- (b) if the rules relate to proceedings in Scotland, they are to be made by the Lord President of the Court of Session;
- (c) if the rules relate to proceedings in Northern Ireland, they are to be made by the Lord Chancellor with the concurrence of the Lord Chief Justice of Northern Ireland.”

(5) In subsection (2) for the words from the beginning to “subsection” substitute “ Such rules ”.

(6) After subsection (3) insert—

“(4) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.

(5) 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).”

22 In section 18 (application to Scotland and Northern Ireland)—

- (a) omit subsection (2);
- (b) for subsection (4) substitute—

“(4) Sections seven and nine of this Act shall have effect with these modifications—

- (a) in their application to proceedings in Scotland before a tribunal constituted under this Act, for references to the High Court there shall be substituted references to the Court of Session;
- (b) in their application to proceedings in Northern Ireland before a tribunal constituted under this Act, for references to the High Court there shall be substituted references to the High Court of Justice in Northern Ireland.”

*London Building Acts (Amendment) Act 1939 (c. xcvi)*

23 (1) Section 109 of the London Building Acts (Amendment) Act 1939 (constitution etc of tribunal appeal) is amended as follows.

(2) In subsection (1)(i) for “if he thinks fit” substitute “ , if he thinks fit and if the Lord Chief Justice agrees, ”.

(3) After subsection (2) insert—

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“(3) 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.”

*Pensions Appeal Tribunals Act 1943 (c. 39)*

- 24 The Pension Appeal Tribunals Act 1943 is amended as follows.
- 25 In section 6D (procedure in proceedings before Commissioner), after subsection (8) insert—
- “(9) In the application of this section to Northern Ireland—
- (a) for any reference to the Social Security Act 1998 there shall be substituted a reference to the Social Security (Northern Ireland) Order 1998;
- (b) for any reference to section 16 of that Act there shall be substituted a reference to Article 16 of that Order.”
- 26 Omit section 13 (application to Scotland).
- 27 Omit section 14 (application to Northern Ireland).
- 28 (1) The Schedule (constitution, jurisdiction and procedure of Tribunals) is amended as follows.
- (2) For paragraph 1 substitute—
- “1 (1) There shall be constituted in England and Wales such number of Pensions Appeal Tribunals as the Lord Chancellor may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (2) There shall be constituted in Scotland such number of Pensions Appeal Tribunals as the Lord President of the Court of Session may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (3) There shall be constituted in Northern Ireland such number of Pensions Appeal Tribunals as the Lord Chancellor may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (4) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before exercising any functions under sub-paragraph (1).
- (5) The Lord Chancellor must consult the Lord Chief Justice of Northern Ireland before exercising any functions under sub-paragraph (3).”
- (3) In paragraph 2 (membership)—
- (a) in sub-paragraph (1) for “appointed by the Lord Chancellor” substitute “appointed—
- (a) in relation to England and Wales, by the Lord Chancellor;

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- (b) in relation to Scotland, by the Lord President of the Court of Session;
  - (c) in relation to Northern Ireland, by the Lord Chancellor”;
  - (b) in sub-paragraph (2A) for “sub-paragraphs (3)” substitute “ sub-paragraphs (3A), (3B) ”;
  - (c) for sub-paragraph (3) substitute—
    - “(3A) The Lord Chancellor may, with the concurrence of the Lord Chief Justice of England and Wales, remove any member of a Tribunal appointed under sub-paragraph (1)(a).
    - (3B) The Lord President of the Court of Session may remove any member of a Tribunal appointed under sub-paragraph (1)(b).”;
  - (d) in sub-paragraph (4) for “sub-paragraph (3)” substitute “ sub-paragraphs (3A) and (3B) ”.
- (4) In paragraph 2A (persons to be appointed to Tribunals)—
- (a) in sub-paragraph (1) for the words from “The Lord Chancellor” to “paragraph 2 above” substitute “ Any person making appointments under paragraph 2 shall ensure that the appointments ”;
  - (b) in sub-paragraph (4) for the words from “In making” to “the Lord Chancellor” substitute “ It shall be the duty of any person making an appointment under paragraph 2 ”.
- (5) In paragraph 2B (President and Deputy President of Pension Appeal Tribunals), in sub-paragraph (2)(c) for “Lord Chief Justice of Northern Ireland” substitute “ Lord Chancellor ”.
- (6) In paragraph 5 (rules)—
- (a) in sub-paragraph (1) for “the Lord Chancellor may make rules” substitute “ rules may be made ”;
  - (b) for “Lord Chancellor” in the second place substitute “person making them”;
  - (c) after sub-paragraph (1) insert—
    - “(1A) Such rules are to made by the following person—
    - (a) if the rules relate to England and Wales, by the Lord Chancellor;
    - (b) if the rules relate to Scotland, by the Lord President of the Court of Session;
    - (c) if the rules relate to Northern Ireland, by the Lord Chief Justice of Northern Ireland.”;
  - (d) in sub-paragraph (4)(b) after “Lord Chancellor” insert “ , or in relation to Scotland by the Lord President of the Court of Session, in either case ”.
- (7) Before paragraph 8 insert—
- “7B (1) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under paragraph 1.
  - (2) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner

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House of that Court to exercise his functions under any of the provisions listed in sub-paragraph (3).

- (3) Those provisions are—
- (a) paragraph 3C(2)(b);
  - (b) paragraph 5(1A)(b).
- (4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under any of the provisions listed in sub-paragraph (5)—
- (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).
- (5) Those provisions are—
- (a) paragraph 1;
  - (b) paragraph 3C(2)(c);
  - (c) paragraph 5(1A)(c).”

*Agriculture Act 1947 (c. 48)*

- 29 The Agriculture Act 1947 is amended, or has effect, as follows.
- 30 In section 73 (establishment, constitution and procedure of Agricultural Land Tribunals), in subsection (1) for the words before “by order” substitute “ For the purposes of this section the Lord Chancellor shall, after consulting the Chairman of the Agricultural Land Tribunals, ”.
- 31 (1) The functions of the Lord Chancellor under section 75 (provisions as to land lying partly in one area and partly in another) are exercisable only after consultation with the Lord Chief Justice.
- (2) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of this Act) to exercise his functions under sub-paragraph (1).
- 32 In section 108 (regulations and orders), in subsection (1) omit “by the Minister” in the second place.
- 33 (1) Schedule 9 (constitution of Agricultural Land Tribunals) is amended as follows.
- (2) In paragraph 13 (chairman of each Tribunal), in sub-paragraph (4)—
- (a) for “is” substitute “ and Lord Chief Justice are both ”;
  - (b) after “may” insert “ , with the concurrence of the Lord Chief Justice, ”.
- (3) In paragraph 16A (discharge of chairman's duties)—
- (a) that paragraph becomes sub-paragraph (1) of paragraph 16A;
  - (b) in that sub-paragraph for “Lord Chancellor” substitute “ Lord Chief Justice, after consulting the Lord Chancellor ”;
  - (c) after that sub-paragraph insert—
- “(2) 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 sub-paragraph (1).”

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*Lands Tribunal Act 1949 (c. 42)*

- 34 (1) Section 2 of the Lands Tribunal Act 1949 (members, officers and expenses of Lands Tribunal) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor may” substitute “ Lord Chief Justice of England and Wales may, after consulting the Lord Chancellor, ”.
- (3) In subsection (4) after “Lord Chancellor” insert “ and the Lord Chief Justice of England and Wales ”.
- (4) In subsection (9)(a) after “Lord Chancellor” insert “ and the Lord Chief Justice of England and Wales ”.
- (5) After subsection (10) insert—
- “(11) 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 subsections (3) and (9A).”

*Registered Designs Act 1949 (c. 88)*

- 35 The Registered Designs Act 1949 is amended as follows.
- 36 (1) Section 27 (meaning of the court) is amended as follows.
- (2) In subsection (2) for “Lord Chancellor may select” substitute “ Lord Chief Justice of England and Wales may, after consulting the Lord Chancellor, select ”.
- (3) After subsection (2) insert—
- “(3) 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 subsection (2).”
- 37 (1) Section 28 (the Appeal Tribunal) is amended as follows.
- (2) In subsection (2)(a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”.
- (3) After subsection (10) insert—
- “(11) 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 subsection (2)(a).”

*Courts-Martial (Appeals) Act 1951 (c. 46)*

- 38 The Courts-Martial (Appeals) Act 1951 is amended as follows.
- 39 In section 28 (provisions with respect to office of Judge Advocate of fleet), after subsection (3) insert—
- “(3A) The Lord Chancellor may make a recommendation under subsection (3) only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;

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(c) the Lord Chief Justice of Northern Ireland.”

40 In section 32 (tenure of office of Judge Advocate General and assistants), for subsection (1) substitute—

“(1) The Judge Advocate General shall be removable by Her Majesty on the ground of inability or misbehaviour upon a recommendation in that behalf made by the Lord Chancellor with the concurrence of all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(1A) The Vice Judge Advocate General may be removed for inability or misbehaviour by the Lord Chancellor with the concurrence of all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(1B) An Assistant Judge Advocate General may be removed for inability or misbehaviour by the Lord Chancellor with the concurrence of the appropriate senior judge.

(1C) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the Assistant Judge Advocate General exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the Assistant Judge Advocate General exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

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

41 (1) Section 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (appropriate courts and procedure) is amended as follows.

(2) After subsection (5) insert—

“(5A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before making rules under subsection (1) that relate to England and Wales.

(5B) 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 subsection (5A).”

PROSPECTIVE

*City of London (Guild Churches) Act 1952 (c. xxxviii)*

42 In Schedule 1 to the City of London (Guild Churches) Act 1952, for the entries in column 2 (patrons) relating to each of—

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- (a) All Hallows London Wall,
  - (b) St. Margaret Pattens, and
  - (c) St. Mary Aldermary,
- substitute “ Her Majesty ”.

*Pharmacy Act 1954 (c. 61)*

- 43 (1) In Schedule 1C to the Pharmacy Act 1954 (appeal tribunals), paragraph 3 (appointments) is amended as follows.
- (2) In sub-paragraph (4) for “by the Lord Chancellor and” substitute “ by the Lord Chief Justice, after consulting the Lord Chancellor, and by ”.
- (3) After sub-paragraph (5) insert—
- “(6) 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 paragraph.”

*Mines and Quarries Act 1954 (c. 70)*

- 44 (1) Section 170 of the Mines and Quarries Act 1954 (provisions as to references upon notices) is amended as follows.
- (2) In subsection (9) after “Lord Chancellor” insert “ , the Lord Chief Justice ”.
- (3) After subsection (9) insert—
- “(10) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (9).”

*Land Powers (Defence) Act 1958 (c. 30)*

- 45 Schedule 2 to the Land Powers (Defence) Act 1958 (provisions with respect to making certain orders under the Act) is amended as follows.
- 46 (1) Paragraph 4 (inquiries into objections) is amended as follows.
- (2) In sub-paragraph (1) for “by the Lord Chancellor” substitute “ in accordance with sub-paragraph (1A) ”.
- (3) After sub-paragraph (1) insert—
- “(1A) A person to hold an inquiry for the purposes of sub-paragraph (1) is to be appointed as follows—
- (a) if the inquiry relates to land in England and Wales, the person is to be appointed by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor;
  - (b) if the inquiry relates to land in Scotland, the person is to be appointed by the Lord President of the Court of Session;
  - (c) if the inquiry relates to land in Northern Ireland, the person is to be appointed by the Lord Chief Justice of Northern Ireland after consulting Lord Chancellor.”

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- (4) In sub-paragraph (3) for “The Lord Chancellor shall by statutory instrument make rules of procedure” substitute “ Rules of procedure shall be made by statutory instrument in accordance with sub-paragraph (3A) ”.
- (5) After sub-paragraph (3) insert—
- “(3A) Rules under sub-paragraph (3) are to be made as follows—
- (a) if the rules are for the purposes of inquiries held in relation to land in England and Wales, they are to be made by the Lord Chancellor;
- (b) if the rules are for the purposes of inquiries held in relation to land in Scotland, they are to be made by the Secretary of State after consultation with the Lord President of the Court of Session;
- (c) if the rules are for the purposes of inquiries held in relation to land in Northern Ireland, they are to be made by the Lord Chancellor after consultation with the Lord Chief Justice of Northern Ireland.”
- (6) In sub-paragraph (4) for the words from “as the Lord Chancellor” to the end substitute “as may be determined, with the approval of the Treasury—
- (a) by the Lord Chancellor, or
- (b) in a case where the Lord President of the Court of Session appointed the person, by the Secretary of State.”
- (7) After sub-paragraph (4) insert—
- “(5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (6) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (7) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (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).”
- 47 (1) Paragraph 8 (application to court to challenge order) is amended as follows.
- (2) That paragraph becomes sub-paragraph (1) of paragraph 8.
- (3) In that sub-paragraph “for High Court” substitute “ appropriate court ”.
- (4) After that sub-paragraph insert—
- “(2) In this paragraph “appropriate court” means—
- (a) if the order relates to land in England and Wales, the High Court in England and Wales;
- (b) if the order relates to land in Scotland, the Court of Session;
- (c) if the order relates to land in Northern Ireland, the High Court in Northern Ireland.”
- 48 Omit paragraphs 10 and 11 (modifications for application to Scotland and Northern Ireland).



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*Agriculture Act 1958 (c. 71)*

- 49 In the Agriculture Act 1958, in section 5 (functions under section 73 of the Agriculture Act 1947) for “by the Lord Chancellor and not by the Minister” substitute “ as provided for in that section ”.

*Land Powers (Defence) Act (Inquiries) Rules 1958 (S.I. 1958/2231)*

- 50 (1) Rule 2 of the Land Powers (Defence) Act (Inquiries) Rules 1958 (interpretation) is amended as follows.
- (2) In paragraph (1), in the definition of “appointed person” for the words from “appointed by” to the end substitute “ appointed in accordance with subparagraph (1A) of paragraph 4 of the Second Schedule to the Act to hold an inquiry pursuant to that paragraph; ”.

*Mental Health Act 1959 (c. 72)*

- 51 In section 145 of the Mental Health Act 1959 (general provisions as to regulations, orders and rules) omit “or the Lord Chancellor”.

*Administration of Justice Act 1960 (c. 65)*

- 52 In section 14 of the Administration of Justice Act 1960 (procedure on application for habeas corpus), in subsection (2) omit “; and no such application shall in any case be made to the Lord Chancellor”.

*Transport Act 1962 (c. 46)*

- 53 The Transport Act 1962 is amended as follows.
- 54 (1) Section 74 (Minister's power to make orders about pensions) is amended as follows.
- (2) In subsection (6)(c) after “Lord Chancellor” insert “ and the Lord Chief Justice of England and Wales ”.
- (3) After subsection (9) insert—
- “(10) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.”
- 55 (1) Section 81 (compensation to officers and servants of the Commission) is amended as follows
- (2) In subsection (4)(b) after “Lord Chancellor” insert “ and the Lord Chief Justice of England and Wales ”.
- (3) After subsection (10) insert—
- “(11) 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.”
- 56 (1) In Schedule 7 (transitional provisions) paragraph 17 is amended as follows.

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- (2) In sub-paragraph (3) after “Lord Chancellor” insert “ and the Lord Chief Justice of England and Wales ”.
- (3) After sub-paragraph (6) insert—
- “(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 paragraph.”
- 57 Schedule 11 (application to Northern Ireland) is amended as follows.
- 58 (1) Paragraph 6 (appointment of referee or board of referees) is amended as follows.
- (2) That paragraph becomes sub-paragraph (1) of paragraph 6.
- (3) After that sub-paragraph insert—
- “(2) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (1)—
- (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).”
- 59 Omit paragraph 10.

*City of London (Courts) Act 1964 (c. iv)*

- 60 (1) Section 15 of the City of London (Courts) Act 1964 (oaths) is amended as follows.
- (2) That section becomes subsection (1) of section 15.
- (3) In that subsection for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (4) After that subsection insert—
- “(2) 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 subsection (1).”

*Finance Act 1966 (c. 18)*

- 61 (1) In Schedule 1 to the Finance Act 1966 (reliefs for shipbuilders), paragraph 6 is amended as follows.
- (2) In sub-paragraph (2)—
- (a) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice of England and Wales ”;
- (b) before “the Lord Chief Justice of Northern Ireland” insert “ by the Lord Chancellor with the concurrence of ”.
- (3) After sub-paragraph (4) insert—
- “(5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

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- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (2)—
- (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).”

*Courts-Martial (Appeals) Act 1968 (c. 20)*

- 62 (1) Section 5 of the Courts-Martial (Appeals) Act 1968 (constitution of court for particular sittings) is amended as follows.
- (2) In subsection (4) after “expedient to do so” insert “ after consulting the Lord Chief Justice ”.
- (3) After subsection (5) insert—
- “(6) 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.”

*Taxes Management Act 1970 (c. 9)*

- 63 The Taxes Management Act 1970 is amended as follows.
- 64 In section 2 (General Commissioners), after subsection (6) insert—
- “(6A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales or, in Northern Ireland, the Lord Chief Justice of Northern Ireland before exercising any function conferred on him by subsection (1) or (6).
- (6B) The Lord Chief Justice of England and Wales 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.
- (6C) The Lord Chief Justice of Northern Ireland may nominate one 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).”
- 65 (1) Section 4 (Special Commissioners) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) The Lord Chancellor may designate a person under subsection (3) only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland.”
- (3) After subsection (4) insert—
- “(4A) The Lord Chancellor may remove a Special Commissioner from office under subsection (4) only with the concurrence of the appropriate senior judge.

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- (4B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—
- (a) the Special Commissioner exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
  - (b) the Special Commissioner exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

(4) After subsection (7) insert—

“(8) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (3A).

(9) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (3A).

(10) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (3A)—

- (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).”

*Administration of Justice Act 1970 (c. 31)*

66 (1) Section 10 of the Administration of Justice Act 1970 (temporary additional judges of the Registered Designs Appeal Tribunal) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies if both of the following conditions are met—

- (a) the Lord Chancellor thinks that it is expedient, having regard to the state of business pending before the Registered Designs Appeal Tribunal and after consulting the Lord Chief Justice, for a person to be appointed to sit and act as an additional judge of the Tribunal (either alone or with a judge of the High Court who is a judge of the Tribunal);
- (b) the Lord Chancellor requests the Lord Chief Justice to make such an appointment.

(1A) The Lord Chief Justice may, after consulting the Lord Chancellor, appoint one of the following persons as mentioned in subsection (1)(a)—

- (a) a judge of the Court of Appeal;
- (b) a person who has held office as a judge of the Court of Appeal or of the High Court;
- (c) one of Her Majesty's Counsel.

(1B) An appointment under this section is—

- (a) for such period, or
- (b) for the purpose of hearing such appeals,

as the Lord Chief Justice determines, after consulting the Lord Chancellor.”

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(3) After subsection (4) insert—

“(4A) 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.”

*Courts Act 1971 (c. 23)*

67 The Courts Act 1971 is amended as follows.

68 In section 17 (retirement, removal and disqualification of Circuit judges), in subsection (4) after “fit” insert “ and if the Lord Chief Justice agrees ”.

69 (1) Section 21 (appointment of Recorders) is amended as follows.

(2) For subsections (3) and (4) substitute—

“(3) The appointment of a person as a Recorder shall specify the following—

- (a) the term for which he is appointed;
- (b) the frequency and duration of the occasions during that term on which he will be required to be available to undertake the duties of a Recorder;
- (c) the circumstances in which the Lord Chancellor may—
  - (i) decline to extend the term of the appointment, or
  - (ii) terminate the appointment,
 (other than those in subsection (4C)(a) or (b) and subsection (6)(a) or (b)).

(4) Circumstances may be specified under subsection (3)(c) in an appointment only if the Lord Chief Justice agrees.

(4A) Subject to subsections (4B) to (5), the Lord Chancellor must extend the term of a Recorder's appointment (including a term already extended under this subsection) before its expiry, for such term as the Lord Chancellor thinks appropriate.

(4B) The Lord Chancellor must not extend the term of a Recorder's appointment unless the Recorder agrees to the extension.

(4C) The Lord Chancellor may, with the agreement of the Lord Chief Justice, decline to extend the term of a Recorder's appointment on any of these grounds—

- (a) the incapacity or misbehaviour of the Recorder;
- (b) a failure of the Recorder to comply with any requirement specified under subsection (3)(b) in the terms of his appointment;
- (c) one or more of the circumstances specified under subsection (3)(c) in his appointment applies.”

(3) For subsection (6) substitute—

“(6) The Lord Chancellor may, with the agreement of the Lord Chief Justice, terminate the appointment of a Recorder on any of these grounds—

- (a) the incapacity or misbehaviour of the Recorder;

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- (b) a failure of the Recorder to comply with any requirement specified under subsection (3)(b) in the terms of his appointment;
  - (c) one or more of the circumstances specified under subsection (3)(c) in his appointment applies.”
- 70 (1) Section 22 (oaths to be taken by Circuit judges and Recorders) is amended as follows.
- (2) In subsection (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) After subsection (3) insert—
- “(3A) 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 subsection (2).”
- 71 (1) Section 24 (deputy Circuit judges and assistant Recorders) is amended as follows.
- (2) In subsection (1)—
- (a) for “the Lord Chancellor” substitute “ him ”;
  - (b) omit “, he may”;
  - (c) in paragraph (a), before “appoint” insert “ the Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”, and omit the word “or” in the last place where it occurs;
  - (d) in paragraph (b), before “appoint” insert “ the Lord Chancellor may ”.
- (3) After subsection (5) insert—
- “(6) 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 subsection (1)(a).”
- 72 In the table in paragraph 2 of Schedule 8 (general rules of construction), in the second column of entry 7 and of entry 14 for “Lord Chancellor” in each place substitute “ Lord Chief Justice ”.
- 73 In Schedule 10 (transitional provisions), omit paragraphs 3 and 4.

*Misuse of Drugs Act 1971 (c. 38)*

- 74 (1) Schedule 3 to the Misuse of Drugs Act 1971 (tribunal, advisory bodies and professional panels) is amended as follows.
- (2) In the table in paragraph 21 (application of Parts 1 to 3 to Northern Ireland), in the entry for paragraph 1—
- (a) for “the references to the Lord Chancellor and” substitute “ any reference to ”;
  - (b) for “respectively references to the Lord Chief Justice of Northern Ireland and” substitute “ a reference to ”.
- (3) In that table, in the entry for paragraph 13—
- (a) for “the references to the Lord Chancellor and” substitute “ any reference to the ”;
  - (b) for “respectively references to the Lord Chief Justice of Northern Ireland and” substitute “ a reference to ”;
  - (c) at the end of that entry insert—

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“

After sub-paragraph (2) there shall be inserted—

“(3) The Lord Chancellor must obtain the concurrence of the Lord Chief Justice of Northern Ireland before exercising his functions under sub-paragraph (1)(a).

(4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (3)

- (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).”

*Land Charges Act 1972 (c. 61)*

75 In section 16 of the Land Charges Act 1972 (general rules), in subsection (2) omit “of the Lord Chancellor, with the concurrence of the Secretary of State.”

*Matrimonial Causes Act 1973 (c. 18)*

76 (1) Section 10A of the Matrimonial Causes Act 1973 (proceedings after decree nisi: religious marriage) is amended as follows.

(2) In subsection (6) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.

(3) After subsection (7) insert—

“(8) 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.”

*Juries Act 1974 (c. 23)*

77 The Juries Act 1974 is amended as follows.

78 In section 5 (panels of persons summoned as jurors), after subsection (4) insert—

“(5) The Lord Chancellor must consult the Lord Chief Justice before giving any direction under subsection (1).

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(6) 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.”

79 (1) Section 9AA (requirement to issue guidance) is amended as follows.

(2) In subsection (1) after “shall” insert “, after consulting the Lord Chief Justice,”.

(3) After subsection (2) insert—

“(3) 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.”

*Plant Varieties and Seeds Tribunal Rules 1974 (S.I. 1974/1136)*

80 (1) Rule 2 of the Plant Varieties and Seeds Tribunals Rules 1974 (interpretation) is amended as follows.

(2) In paragraph (1), in the definition of “the chairman” for the words from “appointed” to “Northern Ireland” in the second place substitute “ appointed in accordance with paragraph 2, 3 or 4 of Schedule 3 to the Plant Varieties Act 1997 ”.

*Industry Act 1975 (c. 68)*

81 (1) Schedule 3 to the Industry Act 1975 (tribunals to arbitrate disputes relating to vesting and compensation orders) is amended as follows.

(2) In paragraph 4 (constitution and sittings)—

- (a) that paragraph becomes sub-paragraph (1) of paragraph 4;
- (b) in that sub-paragraph after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice of England and Wales, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland,”;
- (c) after that sub-paragraph insert—

“(2) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

(3) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.

(4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

- (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).”

(3) In paragraph 5 (Scottish proceedings) for “paragraph 4” substitute “ paragraph 4(1) ”.



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(4) In paragraph 8(a) (meaning of “appointor”) for “paragraph 4” substitute “ paragraph 4(1) ”.

(5) After paragraph 8 insert—

“8A Where the appointor is, by virtue of paragraph 8(a), the Lord Chancellor, the power conferred by paragraph 6(1)(b) may be exercised only with the concurrence of the appropriate senior judge.

8B The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the member to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

*Local Land Charges Act 1975 (c. 76)*

82 The Local Land Charges Act 1975 is amended as follows.

83 After section 13 insert—

**“13A Specification of fees by registering authorities in England**

(1) Each registering authority in England must specify fees which are to be payable by persons for services relating to local land charges which are provided to them by the authority.

(2) This section does not apply to any fees payable for the making of a personal search (for which see section 14(1)(h)(i) below).

(3) Different fees may be specified for different services or descriptions of service.

(4) A registering authority may provide for there to be services or descriptions of service in respect of which no fees are to be payable.

(5) In specifying fees, a registering authority must secure that, taking one financial year with another, the income from fees for each service or description of service, or for each group of services or descriptions of service that they think appropriate, does not exceed the costs of its provision.

(6) When exercising the duty under subsection (1) above, a registering authority must specify the date on or after which the fees specified under that subsection are to be payable.

(7) Where the duty under subsection (1) above is exercised by a registering authority, they must publish details of the fees specified under that subsection before the date mentioned in subsection (6) above.

(8) If any fees specified under subsection (1) above are to be the same immediately before as immediately after the beginning of a financial year, a registering authority must publish details of those fees shortly before the beginning of the financial year.

(9) In specifying fees or publishing details of fees, a registering authority must have regard to such guidance as the Lord Chancellor may issue.

(10) That guidance—

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- (a) may also include provision concerning the manner in which fees are to be paid, and
  - (b) may be framed by reference to guidance issued by a person other than the Lord Chancellor.
- (11) The Lord Chancellor must lay before both Houses of Parliament any guidance that he issues under this section.
- (12) In this section “financial year” means a period of 12 months beginning with 1st April.”
- 84 (1) Section 9 (official searches) is amended as follows.
- (2) For subsection (3) substitute—
- “(3) In relation to England, the fee (if any) specified by a registering authority under section 13A below shall be payable, in such manner as the authority may specify, in respect of any requisition made under this section to that authority.
- (3A) In relation to Wales, the prescribed fee (if any) shall be payable in the prescribed manner in respect of any requisition made under this section.”
- (3) In subsection (4)—
- (a) after “fee” insert “ (if any) ”;
  - (b) after “(3)” insert “ or (3A) ”.
- 85 (1) In section 14 (rules), for subsection (1)(h) substitute—
- “(h) for prescribing—
- (i) in relation to England, the fees, if any, to be paid for the making of any personal search;
  - (ii) in relation to Wales, the fees, if any, to be paid for the filing of documents with a registering authority, the making of any entry on a register, the supply of copies of, or the variation or cancellation of, any such entry, and the making of any search of a register.”
- (2) The reference to that section in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044) is to be treated as referring to that section as amended by this paragraph.

*Armed Forces Act 1976 (c. 52)*

- 86 (1) Section 6 of the Armed Forces Act 1976 (establishment of Standing Civilian Courts) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) The Lord Chancellor may give approval to an order under subsection (3) only after consulting the relevant judges.”
- (3) After subsection (4) insert—
- “(4A) The Lord Chancellor may make an appointment under subsection (4) only with the concurrence of the relevant judges.”
- (4) In subsection (7) after “Lord Chancellor” insert “ and the relevant judges ”.

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(5) After subsection (8) insert—

“(8A) The Lord Chancellor may give his approval under section (8) only with the concurrence of the relevant judges.”

(6) After subsection (11) insert—

“(11A) The Lord Chancellor may give his approval to the removal of a member under subsection (11) only with the concurrence of the Lord Chief Justice of England and Wales.”

(7) After subsection (17) insert—

“(18) References in this section to the relevant judges are references to all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(19) The Lord Chief Justice of England and Wales 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, except his functions under subsection (11A).

(20) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.

(21) 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).”

*Race Relations Act 1976 (c. 74)*

87 (1) Section 67 of the Race Relations Act 1976 (sheriff courts and designated county courts) is amended as follows.

(2) In subsection (1) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice ”.

(3) After subsection (5) insert—

“(6) 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.”

*Rent (Agriculture) Act 1976 (c. 80)*

88 In section 26 of the Rent (Agriculture) Act 1976 (jurisdiction and procedure), omit subsection (5).

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*Aircraft and Shipbuilding Industries Act 1977 (c. 3)*

- 89 (1) Section 42 of the Aircraft and Shipbuilding Industries Act 1977 (the arbitration tribunal) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The arbitration tribunal shall either sit as a single tribunal or sit in two or more divisions, as the Lord Chancellor may direct after consulting all of the following—
- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.”
- (3) In subsection (3) for the words from the beginning to “consist of” substitute “ For the hearing of any proceedings, the arbitration tribunal shall, subject to subsection (4) below, consist of”.
- (4) After subsection (8) insert—
- “(8A) Where the appointor is, by virtue of subsection (8)(a), the Lord Chancellor, the power conferred by subsection (5)(b) may be exercised only with the concurrence of the appropriate senior judge.
- (8B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the member whose office is to be declared vacant exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”
- (5) At the end insert—
- “(11) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (2A)(a).
- (12) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (2A)(b).
- (13) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (2A)(c)—
- (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).”

*Patents Act 1977 (c. 37)*

- 90 The Patents Act 1977 is amended as follows.
- 91 (1) Section 97 (appeals from the comptroller) is amended as follows.
- (2) In subsection (2) for “or on behalf of the Lord Chancellor” substitute “ the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”.
- (3) After subsection (3) insert—

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“(4) 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 subsection (2).”

92 (1) Section 102A (right of audience etc in proceedings on appeal from the comptroller) is amended as follows.

(2) In subsection (3) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice of England and Wales,”.

(3) After subsection (6) insert—

“(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.”

*Administration of Justice Act 1977 (c. 38)*

93 (1) Section 23 of the Administration of Justice Act 1977 (jurisdiction of ancient courts) is amended as follows.

(2) In subsection (4) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.

(3) After subsection (5) insert—

“(6) 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.”

*Rent Act 1977 (c. 42)*

94 Omit section 142 of the Rent Act 1977 (rules as to procedure).

*National Health Service Act 1977 (c. 49)*

95 F18 .....

**Textual Amendments**

**F18** Sch. 4 para. 95 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch.4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

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

96 (1) Section 2 of the Domestic Proceedings and Magistrates' Courts Act 1978 (powers of court to make orders for financial provision) is amended as follows.

(2) In subsection (3) omit the second paragraph.

(3) After subsection (3) insert—

“(4) An order made by the Lord Chancellor under this section—

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- (a) shall be made only after consultation with the Lord Chief Justice;
- (b) shall be made by statutory instrument and be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) 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.”

*Customs and Excise Management Act 1979 (c. 2)*

97 In Schedule 3 to the Customs and Excise Management Act 1979 (provisions relating to forfeiture), after paragraph 17(4) insert—

“(5) The Lord Chancellor may make an appointment under sub-paragraph (4) only with the concurrence—

- (a) where the proceedings referred to in sub-paragraph (1) were taken in England and Wales, of the Lord Chief Justice of England and Wales;
- (b) where those proceedings were taken in Scotland, of the Lord President of the Court of Session;
- (c) where those proceedings were taken in Northern Ireland, of the Lord Chief Justice of Northern Ireland.

(6) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

(7) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.

(8) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

- (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).”

*Tobacco Products Duty Act 1979 (c. 7)*

98 (1) Section 5 of the Tobacco Products Duty Act 1979 (retail price of cigarettes) is amended as follows.

(2) In subsection (4) for the words from “by the Lord Chancellor” to the end substitute “in accordance with subsections (7) to (9).”

(3) After subsection (6) insert—

“(7) The Lord Chancellor is to appoint the referee.

(8) The appointment is to be made only with the concurrence of—

- (a) the Lord Chief Justice of England and Wales, if the determination of the Commissioners was made in relation to England and Wales;
- (b) the Lord President of the Court of Session, if the determination was made in relation to Scotland; or

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- (c) the Lord Chief Justice of Northern Ireland, if the determination was made in relation to Northern Ireland.
- (9) None of the following may be appointed—
  - (a) an official of any government department;
  - (b) an office holder in, or a member of the staff of, the Scottish Administration.
- (10) The Lord Chief Justice of England and Wales 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.
- (11) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.
- (12) 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)."

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

99 The Magistrates' Courts Act 1980 is amended as follows.

- 100 (1) Section 3B (transfer of trials of summary offences) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”.
  - (3) After subsection (4) insert—
    - “(5) 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 subsection (3).”
- 101 (1) Section 67 (Family Proceedings Courts) (as substituted by section 49(1) of the Courts Act 2003 (c. 39)) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor or a person acting on his behalf” substitute “ Lord Chief Justice ”.
  - (3) In subsection (4) for “Lord Chancellor may by rules” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, by rules ”.
  - (4) In subsection (5) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
  - (5) After subsection (8) insert—
    - “(9) 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 subsection (3) or (4) or the powers conferred on him by rules under subsection (4).”

102 (1) Section 144 (rule committee and rules of procedure) is amended as follows.

- (2) Before subsection (1) insert—

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“(A1) The Lord Chancellor may appoint a rule committee for magistrates' courts.”

(3) In subsection (1)—

- (a) for the words from the beginning to “and may on” substitute “ The Lord Chief Justice may on ”;
- (b) after “consultation with the rule committee” insert “ , and with the concurrence of the Lord Chancellor, ”.

(4) After subsection (1) insert—

“(1A) If the Lord Chancellor does not agree rules made by the Lord Chief Justice, the Lord Chancellor must give the Lord Chief Justice and the rules committee written reasons for doing so.”

(5) In subsection (2) for “he may determine” substitute “ he may, after consulting the Lord Chief Justice, determine ”.

(6) After subsection (4) insert—

“(4A) 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.”

103 After section 144 insert—

**“144A Rules to be made if required by Lord Chancellor**

- (1) This section applies if the Lord Chancellor gives the Lord Chief Justice written notice that he thinks it is expedient for rules made under section 144 to include provision that would achieve a purpose specified in the notice.
- (2) The Lord Chief Justice must make such rules as he considers necessary to achieve the specified purpose.
- (3) Those rules must be—
  - (a) made within a reasonable period after the Lord Chancellor gives notice to the Lord Chief Justice;
  - (b) made in accordance with section 144.
- (4) 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.”

*Housing Act 1980 (c. 51)*

104 In section 86 of the Housing Act 1980 (jurisdiction of county court), omit subsections (4) to (6) (rules and directions).

*Pensions Appeal Tribunals (Posthumous Appeals) Order 1980 (S.I. 1980/1082)*

105 The Pensions Appeal Tribunals (Posthumous Appeals) Order 1980 is amended as follows.



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- 106 In Article 6 (directions in relation to appeals brought or continued under the Order) for “judge of the High Court nominated by the Lord Chancellor in accordance with” substitute “ relevant judicial authority for the purposes of ”.
- 107 In Article 10 (application to Scotland), omit paragraphs (b) and (c).
- 108 In Article 11 (application to Northern Ireland)—
- (a) omit paragraphs (b) and (c);
  - (b) in paragraph (d) for “Chairman” substitute “ President ”.

*Judicial Pensions Act 1981 (c. 20)*

- 109 The Judicial Pensions Act 1981 is amended as follows.
- 110 In section 1 (interpretation) in the entry beginning “Judge of the Supreme Court” in the first column of the table omit “, other than the Lord Chancellor”.
- 111 (1) Section 5 (Circuit Judge in England and Wales) is amended as follows.
- (2) After subsection (1) insert—

“(1A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before making a recommendation in a case that falls within subsection (1)(b) or (c).”
  - (3) After subsection (6) insert—

“(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.”
- 112 (1) Section 7 (stipendiary magistrates in England and Wales) is amended as follows.
- (2) After subsection (1) insert—

“(1A) The Lord Chancellor must consult the Lord Chief Justice before making a recommendation in a case that falls within subsection (1)(b).”
  - (3) After subsection (6) insert—

“(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.”
- 113 (1) Section 13 (Social Security Commissioners) is amended as follows.
- (2) After subsection (1) insert—

“(1A) In a case that falls within subsection (1)(c), the Lord Chancellor must consult—

    - (a) the Lord Chief Justice of England and Wales before making a recommendation in relation to a Commissioner who holds office in England and Wales;
    - (b) the Lord President of the Court of Session before making a recommendation in relation to a Commissioner who holds office in Scotland;

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- (c) the Lord Chief Justice of Northern Ireland before making a recommendation in relation to a Commissioner who holds office in Northern Ireland.”

(3) After subsection (6)—

“(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 President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.

(9) 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).”

*Supreme Court Act 1981 (c. 54)*

114 The Supreme Court Act 1981 is amended as follows.

115 (1) Section 2 (membership of the Court of Appeal) is amended as follows.

(2) In subsection (2)—

- (a) omit paragraph (a);
- (b) in paragraph (b) for “has been Lord Chancellor” substitute “ was Lord Chancellor before 12 June 2003 ”;
- (c) for paragraphs (f) and (g) substitute—
- “(f) the President of the Queen's Bench Division;
- (g) the President of the Family Division;
- (h) the Chancellor of the High Court;”
- (d) for “Lord Chancellor's request” substitute “ request of the Lord Chief Justice ”.

(3) After subsection (2) insert—

“(2A) 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 function under subsection (2) of making requests to persons within paragraphs (b) and (c) of that subsection.”

(4) After subsection (4) insert—

“(4A) It is for the Lord Chancellor to recommend to Her Majesty the making of an Order under subsection (4).”

(5) In subsection (6)—

- (a) omit “Lord Chancellor;”;
- (b) for “President of the Family Division or Vice-Chancellor” substitute “ President of the Queen's Bench Division, President of the Family Division or Chancellor of the High Court ”.

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#### Commencement Information

**117** Sch. 4 para. 115 wholly in force at 3.4.2006; Sch. 4 para. 115 not in force at Royal Assent see s. 148; Sch. 4 para. 115(2)(c)(5)(b) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 115 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para 11(f)

- 116 (1) Section 3 (Divisions of Court of Appeal) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor may” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor ”.
- (3) After subsection (5) insert—

“(6) 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 subsection (3).”

- 117 (1) Section 4 (membership of the High Court) is amended as follows.

- (2) In subsection (1)—
- (a) omit paragraph (a);
- (b) for paragraphs (c) and (d) substitute—
- “(ba) the President of the Queen's Bench Division;
- (c) the President of the Family Division;
- (d) the Chancellor of the High Court;”.

- (3) After subsection (4) insert—

“(4A) It is for the Lord Chancellor to recommend to Her Majesty the making of an Order under subsection (4).”

- (4) In subsection (6)—
- (a) omit “Lord Chancellor;”;
- (b) for “President of the Family Division, Vice-Chancellor” substitute “ President of the Queen's Bench Division, President of the Family Division, Chancellor of the High Court ”.

#### Commencement Information

**118** Sch. 4 para. 117 wholly in force at 3.4.2006; Sch. 4 para. 117 not in force at Royal Assent see s. 148; Sch. 4 para. 117(2)(b)(4)(b) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 117 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(h)

- 118 (1) Section 5 (divisions of the High Court) is amended as follows.
- (2) In subsection (1)(a) for the words from “the Lord Chancellor” to “vice-president thereof,” substitute “ the Chancellor of the High Court, who shall be president thereof, ”.
- (3) In subsection (1)(b) for “who shall be president thereof” substitute “ , the President of the Queen's Bench Division ”.
- (4) In subsection (2) for “of the Lord Chancellor” in each place substitute “ given by the Lord Chief Justice after consulting the Lord Chancellor ”.

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(5) In subsection (3) for the words from “with the concurrence of” to the end substitute “with the concurrence of both of the following—

- (a) the senior judge of the Division to which the judge is attached;
- (b) the senior judge of the Division of which the judge is to act as an additional judge.”

(6) After subsection (5) insert—

“(6) 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 subsection (2).”

#### Commencement Information

**I19** Sch. 4 para. 118 wholly in force at 3.4.2006; Sch. 4 para. 118 not in force at Royal Assent see s. 148; Sch. 4 para. 118(3) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 118 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(i)

119 (1) Section 6 (the Patents, Admiralty and Commercial Courts) is amended as follows.

(2) In subsection (2) for “Lord Chancellor may” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, ”.

(3) After subsection (2) insert—

“(3) 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 subsection (2).”

120 (1) Section 7 (power to alter Divisions etc) is amended as follows.

(2) In subsection (1) after “recommendation of” insert “ the Lord Chancellor and ”.

(3) In subsection (2)—

- (a) omit “the Lord Chancellor,”;
- (b) for “the President of the Family Division and the Vice-Chancellor” substitute “ the President of the Queen's Bench Division, the President of the Family Division and the Chancellor of the High Court ”.

#### Commencement Information

**I20** Sch. 4 para. 120 wholly in force at 3.4.2006; Sch. 4 para. 120 not in force at Royal Assent see s. 148; Sch. 4 para. 120(3)(b) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 120 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(k)

121 (1) Section 9 (assistance for transaction of judicial business of Supreme Court) is amended as follows.

(2) In subsection (2)—

- (a) for the definition of “the appropriate authority” substitute—

““the appropriate authority” means—

- (a) the Lord Chief Justice or a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005)

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- nominated by him to exercise his functions under this section, or
- (b) at any time when the Lord Chief Justice or the nominated judicial office holder is unable to make such a request himself, or there is a vacancy in the office of Lord Chief Justice, the Master of the Rolls;”
- (b) omit the words after the definition of “relevant court”.
- (3) After subsection (2) insert—
- “(2A) The power of the appropriate authority to make a request under subsection (1) is subject to subsections (2B) to (2D).
- (2B) In the case of a request to a person within entry 1, 3, 5 or 6 in column 1 of the Table, the appropriate authority may make the request only after consulting the Lord Chancellor.
- (2C) In any other case the appropriate authority may make a request only with the concurrence of the Lord Chancellor.
- (2D) In the case of a request to a Circuit judge or Recorder to act as a judge of the High Court, the appropriate authority may make the request only with the concurrence of the Judicial Appointments Commission.”
- (4) In subsection (4)—
- (a) for “appears to the Lord Chancellor” substitute “ appears to the Lord Chief Justice, after consulting the Lord Chancellor, ”;
- (b) for “Lord Chancellor thinks fit” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, think fit ”.
- (5) After subsection (8) insert—
- “(9) 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 subsection (4).”
- 122 (1) Section 10 (appointment of judges of Supreme Court) is amended as follows.
- (2) In subsection (1)—
- (a) for “President of the Family Division or Vice-Chancellor” substitute “ President of the Queen's Bench Division, President of the Family Division or Chancellor of the High Court ”;
- (b) after “may” insert “ , on the recommendation of the Lord Chancellor, ”.
- (3) In subsection (2) after “may” insert “ , on the recommendation of the Lord Chancellor, ”.
- (4) In subsection (3)(a) for “President of the Family Division or Vice-Chancellor” substitute “ President of the Queen's Bench Division, President of the Family Division or Chancellor of the High Court ”.
- (5) For subsection (4) substitute—
- “(4) A person appointed—
- (a) to any of the offices mentioned in subsection (1),
- (b) as a Lord Justice of Appeal, or

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- (c) as a puisne judge of the High Court,  
 shall take the required oaths as soon as may be after accepting office.
- (5) In the case of a person appointed to the office of Lord Chief Justice, the required oaths are to be taken in the presence of all of the following—
- (a) the Master of the Rolls;
  - (b) the President of the Queen's Bench Division;
  - (c) the President of the Family Division;
  - (d) the Chancellor of the High Court.
- (6) Where subsection (5) applies but there is a vacancy in one or more (but not all) of the offices mentioned in that subsection, the required oaths are to be taken in the presence of the holders of such of the offices as are not vacant.
- (7) In the case of a person appointed other than to the office of Lord Chief Justice, the required oaths are to be taken in the presence of—
- (a) the Lord Chief Justice, or
  - (b) a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) nominated by him for this purpose.
- (8) In this section “required oaths” means—
- (a) the oath of allegiance, and
  - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.”

#### Commencement Information

**I21** Sch. 4 para. 122 wholly in force at 3.4.2006; Sch. 4 para. 122 not in force at Royal Assent see s. 148; Sch. 4 para. 122(2)(a)(4) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para 122 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(m)

- 123 (1) Section 11 (tenure of office) is amended as follows.
- (2) In subsection (1) omit “except the Lord Chancellor”.
- (3) After subsection (3) insert—
- “(3A) It is for the Lord Chancellor to recommend to Her Majesty the exercise of the power of removal under subsection (3).”
- (4) In subsection (9)(a) for “the President of the Family Division and the Vice-Chancellor,” substitute “ the President of the Queen's Bench Division, the President of the Family Division and the Chancellor of the High Court, ”.

#### Commencement Information

**I22** Sch. 4 para. 123 wholly in force at 3.4.2006; Sch. 4 para. 123 not in force at Royal Assent see s. 148; Sch. 4 para. 123(4) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 123 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(n)

- 124 In section 12 (salaries etc of judges of Supreme Court), in subsection (1) omit “, other than the Lord Chancellor,”.

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- 125 (1) Section 13 (precedence of judges of Supreme Court) is amended as follows.
- (2) For subsections (2) and (3) substitute—
- “(2) Subject to subsection (1)(b), the President of the Queen's Bench Division shall rank next after the Master of the Rolls.
- (2A) The President of the Family Division shall rank next after the President of the Queen's Bench Division.
- (3) The Chancellor of the High Court shall rank next after the President of the Family Division.”
- (3) In subsection (4) for “Vice-Chancellor” substitute “Chancellor of the High Court”.
- 126 In section 44 (extraordinary functions of judges of High Court), in subsection (2) omit “the Lord Chancellor”.
- 127 In section 56B (allocation of cases in criminal division), in subsection (1) for “with the concurrence of the Lord Chancellor” substitute “after consulting the Lord Chancellor”.
- 128 (1) Section 57 (Court of Appeal: sittings and vacations) is amended as follows.
- (2) In subsection (2) after “Lord Chancellor” insert “after consulting the Lord Chief Justice”.
- (3) After subsection (4) insert—
- “(5) 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.”
- 129 (1) Section 61 (distribution of business among Divisions) is amended as follows).
- (2) In subsection (3)—
- (a) for “Lord Chancellor may” substitute “Lord Chief Justice may, with the concurrence of the Lord Chancellor,”;
- (b) in paragraph (b) for “appears to him” substitute “appears to the Lord Chief Justice and the Lord Chancellor”.
- (3) After subsection (8) insert—
- “(9) 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 subsection (3).”
- 130 (1) Section 63 (business assigned to specially nominated judges) is amended as follows.
- (2) In subsection (1) for “by the Lord Chancellor” substitute “by the Lord Chief Justice after consulting the Lord Chancellor”.
- (3) In subsection (2) for “Lord Chancellor” substitute “Lord Chief Justice, after consulting the Lord Chancellor, to be”.
- (4) After subsection (3) insert—
- “(4) 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 subsection (1) or (2).”

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- 131 (1) Section 68 (exercise of jurisdiction of High Court otherwise than by judges of that court) is amended as follows.
- (2) In subsection (1)(a) for “Lord Chancellor may” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, ”.
- (3) In subsection (6) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice after consulting the Lord Chancellor ”.
- (4) After subsection (7) insert—
- “(8) 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 subsections (1)(a) and (6).”
- 132 (1) Section 71 (High Court: sittings and vacations) is amended as follows.
- (2) In subsection (2) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.
- (3) After subsection (5) insert—
- “(6) 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.”
- 133 (1) Section 74 (appeals and committals for sentence) is amended as follows.
- (2) After subsection (5) insert—
- “(5A) Before exercising any functions under subsection (4), the Lord Chancellor must consult the Lord Chief Justice.”
- (3) After subsection (7) insert—
- “(8) 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.”
- 134 (1) Section 78 (Crown Court: sittings) is amended as follows.
- (2) In subsection (3) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.
- (3) After subsection (3) insert—
- “(4) 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.”
- 135 (1) Section 82 (duties of officers of Crown Court) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.
- (3) After subsection (2) insert—
- “(3) 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.”



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- 136 Omit section 84(8) (rules of court for Crown Court etc to be made by statutory instrument).
- 137 (1) Section 86 (the Crown Court Rule Committee) is amended as follows.
- (2) In subsection (1) for “by the Lord Chancellor together with any four or more of the following persons, namely—” substitute “by a committee known as the Crown Court Rule Committee, which is to consist of the following persons—”.
- (3) For subsections (2) to (4) substitute—
- “(2) The members of the Crown Court Rule Committee, other than those eligible to act by virtue of their office, are appointed under subsection (3) or (4).
- (3) The Lord Chief Justice must appoint the persons referred to in paragraphs (b), (c) and (e) of subsection (1), after consulting the Lord Chancellor.
- (4) The Lord Chancellor must appoint the persons referred to in paragraphs (f) and (g) of subsection (1), after consulting the following—
- (a) the Lord Chief Justice;
- (b) any authorised body with members who are eligible for appointment under the relevant paragraph.
- (5) A person is to be appointed under subsection (3) or (4) for such period as the Lord Chancellor determines after consulting the Lord Chief Justice.
- (6) 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.”
- 138 After section 86 insert—

**“86A Process for making rules of court under section 84**

- (1) Crown Court rules must be—
- (a) signed by a majority of the members of the Crown Court Rule Committee, and
- (b) submitted to the Lord Chancellor.
- (2) The Lord Chancellor may allow or disallow rules so made.
- (3) If the Lord Chancellor disallows rules, he must give the Committee written reasons for doing so.
- (4) Rules so made and allowed by the Lord Chancellor—
- (a) come into force on such day as the Lord Chancellor directs, and
- (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by a Minister of the Crown.
- (5) A statutory instrument containing Crown Court rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section and section 86B “Crown Court rules” means rules of court made under section 84.

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### 86B Rules to be made if required by Lord Chancellor

- (1) This section applies if the Lord Chancellor gives the Crown Court Rule Committee written notice that he thinks it is expedient for Crown Court rules to include provision that would achieve a purpose specified in the notice.
- (2) The Committee must make such Crown Court rules as it considers necessary to achieve the specified purpose.
- (3) Those rules must be—
  - (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
  - (b) made in accordance with section 86A.”

139 (1) Section 91 (deputies and temporary appointments) is amended as follows.

- (2) In subsection (1)—
  - (a) for “Lord Chancellor” in the first place substitute “ Lord Chief Justice, after consulting the Lord Chancellor, ”;
  - (b) in paragraph (a) omit “or III”;
  - (c) for “Lord Chancellor thinks fit” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, think fit ”.

(3) After subsection (1) insert—

“(1A) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business in the Senior Courts, he may appoint a person—

- (a) to act as a deputy for any person holding an office listed in column 1 of Part 3 of Schedule 2; or
- (b) to act as a temporary additional officer in any such office, during such period or on such occasions as the Lord Chancellor may think fit.”

(4) After subsection (6) insert—

“(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 subsection (1).”

140 (1) Section 92 (tenure of office) is amended as follows.

(2) In subsection (5) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice ”.

(3) In subsection (6) after “also” insert “ , with the concurrence of the Lord Chief Justice, ”.

(4) After subsection (7) insert—

“(8) It is for the Lord Chancellor to recommend to Her Majesty the exercise of any power under subsection (7).”

141 (1) Section 96 (Central Office) is amended as follows.

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- (2) In subsection (1) leave out “Lord Chancellor may” and insert “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”.
- (3) In subsection (2) for “of the Lord Chancellor under this section” substitute “ under subsection (1) ”.
- (4) After subsection (2) insert—
- “(3) 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.”
- 142 In section 98 (judges' clerks and secretaries), in subsection (1) for “the President of the Family Division and the Vice-Chancellor” substitute “ the President of the Queen's Bench Division, the President of the Family Division and the Chancellor of the High Court ”.
- 143 (1) Section 99 (district registries) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (3) After subsection (2) insert—
- “(3) 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.”
- 144 (1) Section 104 (district probate registries) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (3) After subsection (2) insert—
- “(3) 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.”
- 145 (1) Section 131 (conveyancing counsel of Supreme Court) is amended as follows.
- (2) In subsection (2) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice ”.
- (3) After subsection (2) insert—
- “(3) 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.”
- 146 In section 151 (interpretation), in subsection (1) for the definition of “senior judge” substitute—
- ““senior judge”, where the reference is to the senior judge of a Division, means the president of that Division;”.

*Administration of Justice Act 1982 (c. 53)*

- 147 The Administration of Justice Act 1982 is amended as follows.

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- 148 (1) Section 25 (regulations as to deposit and registration of wills) is amended as follows.
- (2) In subsection (4) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice of England and Wales ”.
- (3) After subsection (8) insert—
- “(9) 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 subsection (4).”

*Representation of the People Act 1983 (c. 2)*

- 149 In section 161 of the Representation of the People Act 1983 (justices of the peace guilty of corrupt practice)—
- (a) after “Lord Chancellor” insert “ and the Lord Chief Justice ”;
- (b) after “Scotland,” insert “ to ”.

*Mental Health Act 1983 (c. 20)*

- 150 The Mental Health Act 1983 is amended as follows.
- 151 (1) Section 93 (judicial authorities and Court of Protection) is amended as follows.
- (2) In subsection (1) for “Lord Chancellor shall” substitute “ Lord Chief Justice shall, after consulting the Lord Chancellor, ”.
- (3) In subsection (3) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (4) In subsection (4) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.
- (5) After subsection (4) insert—
- “(5) 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 subsection (1), (3) or (4).”
- 152 In section 94 (exercise of the judge's functions: the patient), in subsection (1) omit “by the Lord Chancellor or”.
- 153 In section 96 (powers of the judge as to the patient's property and affairs), in subsection (3) omit “the Lord Chancellor or”.
- 154 In section 104 (general powers of the judge with respect to proceedings), in subsection (3) omit “the Lord Chancellor or” in both places.
- 155 In section 105 (appeals), in subsection (2) omit “from any decision of the Lord Chancellor or”.
- 156 (1) Section 108 (general provisions as to rules under Part 7) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Rules under section 106(5) are to be made by the Lord Chancellor after consulting the Lord Chief Justice.”
- (3) After subsection (2) insert—

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“(3) 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.”

(4) Paragraph 16 of Schedule 1 also amends section 108.

157 (1) Section 111 (construction of references in other Acts) is amended as follows.

(2) In subsection (1) omit “by the Lord Chancellor or”.

(3) In subsection (2) omit “the Lord Chancellor,”.

(4) In subsection (4)—

(a) in paragraph (a) omit “the Lord Chancellor or”;

(b) in paragraph (b) omit “the Lord Chancellor,”.

158 (1) Schedule 2 (mental health review tribunals) is amended as follows.

(2) In paragraph 1(b) and (c) omit “after consultation with the Secretary of State”.

(3) After paragraph 1 insert—

“1A As part of the selection process for an appointment under paragraph 1(b) or (c) the Judicial Appointments Commission shall consult the Secretary of State.”

PROSPECTIVE

*Pastoral Measure 1983 (1983 No. 1)*

159 (1) Section 81(2) of the Pastoral Measure 1983 (application to benefices in the patronage of the Crown or the Duke of Cornwall) is amended as follows.

(2) In paragraph (a)—

(a) for the words from the beginning to “benefices” substitute “ any consent under the foregoing subsection in respect of a benefice or benefices ”;

(b) omit the words from “, or a” to “books”;

(c) omit “last-mentioned”.

(3) Omit paragraph (b).

*County Courts Act 1984 (c. 28)*

160 The County Courts Act 1984 is amended as follows.

161 (1) Section 2 (county court districts etc) is amended as follows.

(2) In subsection (1) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.

(3) In subsection (3) after “given” insert “, after consulting the Lord Chief Justice,”.

(4) After subsection (4) insert—

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“(5) 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 subsection (1) or (3).”

162 (1) Section 3 (places and times of sittings) is amended as follows.

(2) In subsection (1) after “given” insert “, after consulting the Lord Chief Justice, ”.

(3) After subsection (4) insert—

“(5) 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 subsection (1).”

163 (1) Section 5 (judges of county courts) is amended as follows.

(2) In subsection (1) for “Lord Chancellor shall” substitute “ Lord Chief Justice shall, after consulting the Lord Chancellor, ”.

(3) In subsection (2) for “or on behalf of the Lord Chancellor” substitute “ the Lord Chief Justice after consulting the Lord Chancellor ”.

(4) In subsection (3) for “Lord Chancellor considers desirable” substitute “ Lord Chief Justice considers desirable after consulting the Lord Chancellor ”.

(5) In subsection (4)(a) for “Lord Chancellor may direct” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, direct ”.

(6) After subsection (4) insert—

“(5) 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.”

164 (1) Section 11 (tenure of office) is amended as follows.

(2) In subsection (5) after “by the Lord Chancellor” insert “, but only with the concurrence of the Lord Chief Justice ”.

(3) In subsection (6) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice, ”.

165 In section 12 (records of proceedings to be kept by district judges), after subsection (2) insert—

“(3) The Lord Chancellor must consult the Lord Chief Justice before making regulations under this section.

(4) 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.”

166 (1) Section 26 (districts for Admiralty purposes) is amended as follows.

(2) In subsection (1)—

(a) after “Lord Chancellor” insert “ and the Lord Chief Justice ”;

(b) for “him” substitute “ the Lord Chancellor ”.

(3) After subsection (4) insert—

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“(5) 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.”

167 In section 38 (remedies available in county courts), in subsection (5) for “by the Lord Chancellor under this section” substitute “ under this section by the Lord Chancellor after consulting the Lord Chief Justice ”.

168 (1) Section 61 (right of audience by direction) is amended as follows.

(2) In subsection (1) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

(3) After subsection (4) insert—

“(5) 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.”

169 Omit section 74A (practice directions).

170 In section 145 (power to raise monetary limits), after subsection (2) insert—

“(2A) It is for the Lord Chancellor to recommend to Her Majesty the making of an Order under subsection (1).”

*Matrimonial and Family Proceedings Act 1984 (c. 42)*

171 The Matrimonial and Family Proceedings Act 1984 is amended as follows.

172 (1) Section 33 (jurisdiction of county courts in matrimonial cases) is amended as follows.

(2) In subsections (1) and (4) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

(3) After subsection (5) insert—

“(6) 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.”

173 (1) Section 36 (assignment of circuit judges to family proceedings) is amended as follows.

(2) That section becomes subsection (1) of section 36.

(3) In that subsection, for “Lord Chancellor may direct” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, direct ”.

(4) After that subsection insert—

“(2) 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.”

174 (1) Section 42 (county court proceedings in principal registry of Family Division) is amended as follows.

(2) In subsection (2)(a) for “may direct” substitute “ may, after consulting the Lord Chief Justice, direct ”.

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(3) After subsection (6) insert—

“(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.”

*Inheritance Tax Act 1984 (c. 51)*

175 The Inheritance Tax Act 1984 is amended as follows.

176 In section 256 (regulations about accounts etc), for subsection (3A) substitute—

“(3A) Regulations under this section may only be made—

- (a) in relation to England and Wales, after consulting the Lord Chancellor;
- (b) in relation to Scotland, after consulting the Scottish Ministers;
- (c) in relation to Northern Ireland, after consulting the Lord Chief Justice of Northern Ireland.

(3B) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (3A)—

- (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).”

177 (1) Section 257 (form etc of accounts) is amended as follows.

(2) In subsection (3) for “Lord Chancellor” substitute “ Lord Chief Justice of Northern Ireland ”.

(3) After subsection (3) insert—

“(4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (3)—

- (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).”

*Reserve Forces (Safeguard of Employment) Act 1985 (c. 17)*

178 (1) Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985 (Reinstatement Committees and Umpires) is amended as follows.

(2) In paragraph 2 (membership of Reinstatement Committees), for “Lord Chief Justice of Northern Ireland” substitute “ Lord Chancellor ”.

*Transport Act 1985 (c. 67)*

179 (1) Schedule 4 to the Transport Act 1985 (constitution, powers and proceedings of the Transport Tribunal) is amended as follows.

(2) In paragraph 3 (tenure of office), after sub-paragraph (3) insert—

“(3A) The Lord Chancellor may remove a judicial member from office under sub-paragraph (3) only with the concurrence of the appropriate senior judge.



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(3B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the judicial member who is to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.”

(3) In paragraph 10 (the president)—

- (a) in sub-paragraph (1) for “Lord Chancellor” substitute “ Lord Chief Justice ”;
- (b) after sub-paragraph (1) insert—

“(1A) Before exercising his functions under sub-paragraph (1) the Lord Chief Justice must—

- (a) consult the Lord Chancellor, and
- (b) obtain the agreement of the Lord President of the Court of Session.”;

(c) after sub-paragraph (3) insert—

“(4) 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 sub-paragraph (1).

(5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under sub-paragraph (1A)(b).”

*Housing Act 1985 (c. 68)*

180 The Housing Act 1985 is amended as follows.

181 Omit section 111 (secure tenancies: county court rules and directions).

182 In section 181 (right to buy: jurisdiction of county court), omit subsections (4) and (5) (rules and directions).

183 In section 572 (assistance for owners of defective housing: jurisdiction of county court), omit subsections (4) to (6) (rules and directions).

*Merchant Shipping (Formal Investigations) Rules 1985 (S.I. 1985/1001)*

184 In rule 17 of the Merchant Shipping (Formal Investigations) Rules 1985 (application to Northern Ireland), omit sub-paragraph (a).

*Insolvency Act 1986 (c. 45)*

185 The Insolvency Act 1986 is amended as follows.

186 (1) Section 117 (High Court and county court jurisdiction) is amended as follows.

(2) In subsection (4) for “may by order” substitute “ may, with the concurrence of the Lord Chief Justice, by order ”.

(3) After subsection (7) insert—

“(8) 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.”

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- 187 (1) Section 374 (insolvency districts) is amended as follows.
- (2) In subsection (1) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice,”.
- (3) In subsection (2) after “Lord Chancellor” insert “ and the Lord Chief Justice ”.
- (4) After subsection (4) insert—
- “(5) 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.”
- 188 (1) Section 411 (company insolvency rules) is amended as follows.
- (2) In subsection (1)(a) after “Secretary of State” insert “ and, in the case of rules that affect court procedure, with the concurrence of the Lord Chief Justice ”.
- (3) After subsection (6) insert—
- “(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.”
- 189 (1) Section 412 (individual insolvency rules (England and Wales)) is amended as follows.
- (2) In subsection after “Secretary of State” insert “ and, in the case of rules that affect court procedure, with the concurrence of the Lord Chief Justice ”.
- (3) After subsection (5) insert—
- “(6) 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.”
- 190 (1) Section 413 (Insolvency Rules committee) is amended as follows.
- (2) In subsection (3) for “by the Lord Chancellor” substitute “ in accordance with subsection (3A) or (3B) ”.
- (3) After subsection (3) insert—
- “(3A) The Lord Chief Justice must appoint the persons referred to in paragraphs (a) to (d) of subsection (3), after consulting the Lord Chancellor.
- (3B) The Lord Chancellor must appoint the persons referred to in paragraphs (e) to (g) of subsection (3), after consulting the Lord Chief Justice.”
- (4) After subsection (4) insert—
- “(5) 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.”
- 191 (1) Section 420 (insolvent partnerships) is amended as follows.
- (2) In subsection (1) after “Secretary of State” insert “ and the Lord Chief Justice ”.
- (3) In subsection (2) after “Lord Chancellor” insert “ and the Lord Chief Justice ”.
- (4) After subsection (3) insert—

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“(4) 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.”

192 (1) Section 421 (insolvent estates of deceased persons) is amended as follows.

(2) In subsection (1) after “Secretary of State” insert “ and the Lord Chief Justice ”.

(3) In subsection (2) after “Lord Chancellor” insert “ and the Lord Chief Justice ”.

(4) After subsection (4) insert—

“(5) 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.”

*Coroners Act 1988 (c. 13)*

193 The Coroners Act 1988 is amended as follows.

194 (1) Section 3 (terms on which coroners hold office) is amended as follows.

(2) For subsection (4) substitute—

“(4) The Lord Chancellor may, with the agreement of the Lord Chief Justice, remove any coroner from office for inability or misbehaviour.”

(3) In subsection (5) for “, wilful neglect of his duty or misbehaviour in the discharge of his duty” substitute “ or wilful neglect of his duty ”.

195 In section 33 (savings), in subsection (2)(a) omit “the Lord Chancellor or”.

*Criminal Justice Act 1988 (c. 33)*

196 In Schedule 12 to the Criminal Justice Act 1988 (assessors of compensation for miscarriages of justice), for paragraph 6 (power of removal) substitute—

“6 (1) The exercise of the power conferred by paragraph 5 is subject to the following provisions of this paragraph.

(2) In the case of a person who qualifies for appointment under—

(a) paragraph (1)(a), or

(b) paragraph (1)(d) by virtue of holding or having held judicial office in England and Wales,

that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of England and Wales.

(3) In the case of a person who qualifies for appointment under—

(a) paragraph (1)(b), or

(b) paragraph (1)(d) by virtue of holding or having held judicial office in Scotland,

that power shall only be exercisable with the consent of the Lord President of the Court of Session.

(4) In the case of a person who qualifies for appointment under—

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- (a) paragraph (1)(c), or
- (b) paragraph (1)(d) by virtue of holding or having held judicial office in Northern Ireland,

that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of Northern Ireland.”

*Finance Act 1988 (c. 39)*

197 In section 134 (General Commissioners for Northern Ireland), omit subsection (4).

*Copyright, Designs and Patents Act 1988 (c. 48)*

198 The Copyright, Designs and Patents Act 1988 is amended as follows.

199 (1) Section 146 (membership of the copyright tribunal) is amended as follows.

(2) After subsection (6) insert—

“(7) The Lord Chancellor may exercise his powers to remove a person under subsection (3) or to appoint a person under subsection (4) only with the concurrence of the appropriate senior judge.

(8) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the person to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.

(9) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4).

(10) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4).

(11) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (7) in relation to the appointment of a person under subsection (4)—

- (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).”

200 (1) Section 287 (patents county courts: special jurisdiction) is amended as follows.

(2) In subsection (1) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice,”.

(3) After subsection (5) insert—

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“(6) The Lord Chief Justice of England and Wales 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.”

201 (1) Section 291 (proceedings in patents county court) is amended as follows.

(2) In subsection (1) for “Lord Chancellor shall” substitute “ Lord Chief Justice shall, after consulting the Lord Chancellor, ”.

(3) After subsection (5) insert—

“(6) 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 subsection (1).”

202 (1) Section 292 (rights and duties of registered patent agents in relation to proceedings in patents courts) is amended as follows.

(2) After subsection (2) insert—

“(2A) The Lord Chancellor may make regulations under subsection (2) only with the concurrence of the Lord Chief Justice.”

(3) After subsection (6) insert—

“(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.”

*Children Act 1989 (c. 41)*

203 The Children Act 1989 is amended as follows.

204 (1) Section 7 (welfare reports) is amended as follows.

(2) In subsection (2) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.

(3) After subsection (5) insert—

“(6) 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 subsection (2).”

205 (1) Section 92 (jurisdiction of the courts) is amended as follows.

(2) In subsection (9) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.

(3) In subsection (10) after “Lord Chancellor thinks expedient” insert “ , after consulting the Lord Chief Justice, ”.

(4) After subsection (10) insert—

“(10A) 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 subsection (9) or (10).”

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- 206 (1) Section 94 (appeals) is amended as follows.
- (2) In subsection (10) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.
- (3) After subsection (11) insert—
- “(12) 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 subsection (10).”
- 207 In section 96 (evidence given by, or with respect to, children), in subsection (3) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice,”.
- 208 (1) In section 97 (privacy for children involved in certain proceedings).
- (2) In subsection (4) after “requires it” insert “ and, in the case of the Lord Chancellor, if the Lord Chief Justice agrees ”.
- (3) After subsection (8) insert—
- “(9) 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 subsection (4).”
- 209 (1) In Schedule 1 (financial provision for children), paragraph 5 (maximum lump sum payable for maintenance of child by order of magistrates court) is amended as follows.
- (2) In sub-paragraph (2) after “Lord Chancellor may” substitute “, after consulting the Lord Chief Justice,”.
- (3) After sub-paragraph (6) insert—
- “(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 paragraph.”
- 210 (1) Schedule 11 (jurisdiction) is amended as follows.
- (2) In paragraph 1 (commencement of proceedings) after “Lord Chancellor may” in each place insert “, after consulting the Lord Chief Justice,”.
- (3) In paragraph 2 (transfer of proceedings)—
- (a) in sub-paragraph (1) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”;
- (b) in sub-paragraph (5) after “Lord Chancellor thinks appropriate” insert “, after consulting the Lord Chief Justice,”.
- (4) In paragraph 3 (hearings by a single justice), in sub-paragraph (1) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.
- (5) In paragraph 4 (general)—
- (a) in sub-paragraph 5(a) after “Lord Chancellor considers expedient” insert “, after consulting the Lord Chief Justice,”.
- (b) after sub-paragraph (5) insert—

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“(6) 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 Part of this Schedule.”

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

211 The Courts and Legal Services Act 1990 is amended as follows.

212 (1) Section 1 (allocation of business between High Court and county courts) is amended as follows.

(2) After subsection (1) insert—

“(1A) An order under subsection (1)(a) or (b) may be made only with the concurrence of the Lord Chief Justice.”

(3) In subsection (9) for “the President of the Family Division, the Vice-Chancellor” substitute “ the President of the Queen's Bench Division, the President of the Family Division, the Chancellor of the High Court ”.

(4) After subsection (12) insert—

“(13) 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.”

**Commencement Information**

**123** Sch. 4 para. 212 wholly in force at 3.4.2006; Sch. 4 para. 212 not in force at Royal Assent see s. 148; Sch. 4 para. 212(3) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 212 in force at 3.4.2006 in so far already not in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(s)

213 In section 9 (allocation of family proceedings which are within the jurisdiction of the county courts), in subsection (1) for the words from the beginning to “Family Division,” substitute “ The President of the Family Division may, after consulting the Lord Chancellor, ”.

214 (1) Section 11 (representation in certain county court cases) is amended as follows.

(2) In subsection (1) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

(3) Omit subsection (10).

(4) After subsection (11) insert—

“(12) 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 subsection (1) or (2).”

215 (1) Section 73 (delegation of certain administrative functions of Master of the Rolls) is amended as follows.

(2) In subsection (3)—

(a) for “Lord Chancellor may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”;

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(b) for “Lord Chancellor considers” substitute “ Lord Chief Justice and Lord Chancellor consider ”.

(3) After subsection (5) insert—

“(6) 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 subsection (3).”

216 In section 119 (interpretation), in subsection (1) in the definition of “designated judge” for “the President of the Family Division or the Vice-Chancellor” substitute “ the President of the Queen's Bench Division, the President of the Family Division or the Chancellor of the High Court ”.

*Armed Forces Act 1991 (c. 62)*

217 In Schedule 1 to the Armed Forces Act 1991 (assessors of compensation for miscarriages of justice) for paragraph 6 (power of removal) substitute—

“6 (1) The exercise of the power conferred by paragraph 5 is subject to the following provisions of this paragraph.

(2) In the case of a person who qualifies for appointment under—

(a) paragraph (1)(a), or

(b) paragraph (1)(d) by virtue of holding or having held judicial office in England and Wales,

that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of England and Wales.

(3) In the case of a person who qualifies for appointment under—

(a) paragraph (1)(b), or

(b) paragraph (1)(d) by virtue of holding or having held judicial office in Scotland,

that power shall only be exercisable with the consent of the Lord President of the Court of Session.

(4) In the case of a person who qualifies for appointment under—

(a) paragraph (1)(c), or

(b) paragraph (1)(d) by virtue of holding or having held judicial office in Northern Ireland,

that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of Northern Ireland.”

*Child Support Act 1991 (c. 48)*

218 The Child Support Act 1991 is amended as follows.

219 (1) Section 8 (role of the courts with respect to maintenance of children) is amended as follows.

(2) After subsection (5) insert—



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“(5A) The Lord Chancellor may make an order under subsection (5) only with the concurrence of the Lord Chief Justice.”

(3) After subsection (11) insert—

“(12) 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.”

220 In section 45 (jurisdiction of courts in certain proceedings under the Act), after subsection (7) insert—

“(8) The functions of the Lord Chancellor under this section may be exercised only after consultation with the Lord Chief Justice.

(9) 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.”

221 (1) Schedule 4 (Child Support Commissioners) is amended as follows.

(2) In paragraph 1 (tenure of office), after sub-paragraph (3) insert—

“(3A) The Lord Chancellor may remove a Child Support Commissioner under sub-paragraph (3) only with the concurrence of the appropriate senior judge.

(3B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the Commissioner exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.”

(3) In paragraph 8 (application of Schedule to Northern Ireland), before sub-paragraph (b) insert—

“(ab) paragraph 1(3A) and (3B) were omitted;”.

*Land Drainage Act 1991 (c. 59)*

222 (1) Section 31 of the Land Drainage Act 1991 (composition and incidental powers of the Agricultural Land Tribunal) is amended as follows.

(2) After subsection (1) insert—

“(1A) Before drawing up, or revising, a panel under subsection (1), the Lord Chancellor must consult the Lord Chief Justice.”

(3) After subsection (5) insert—

“(6) 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.”

*Tribunals and Inquiries Act 1992 (c. 53)*

223 The Tribunal and Inquiries Act 1992 is amended as follows.

224 In section 6 (appointment of chairmen of certain tribunals), omit subsection (9).

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- 225 (1) In section 7 (concurrency required for removal of members of certain tribunals), subsection (1) is amended as follows.
- (2) Omit “, other than the Lord Chancellor,”.
- (3) In paragraphs (a) to (c) after “Lord Chancellor” in each place insert “ (unless he is the Minister terminating the person's membership), the Lord Chief Justice of England and Wales, ”.
- (4) In paragraph (d) after “Lord Chancellor” insert “ (unless he is the Minister terminating the person's membership) and the Lord Chief Justice of England and Wales ”.

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

- 226 The Judicial Pensions and Retirement Act 1993 is amended as follows.
- 227 (1) Section 2 (the judicial officer's entitlement to a pension) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) Where the appropriate minister is the Lord Chancellor, he must, before satisfying himself as mentioned in subsection (3)(b)—
- (a) consult the Lord Chief of Justice of England and Wales, if the person in question holds office in England and Wales;
- (b) consult the Lord Chief of Justice of Northern Ireland, if the person in question holds office in Northern Ireland.”
- (3) After subsection (8) insert—
- “(9) The Lord Chief Justice of England and Wales 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.
- (10) 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).”
- 228 (1) Section 26 (retirement date for holders of certain judicial offices) is amended as follows.
- (2) For “appropriate minister” in subsections (5) and (6) substitute “ appropriate person ”.
- (3) In subsection (7)—
- (a) in paragraph (a) omit “, unless he is the Lord Chancellor”;
- (b) in paragraph (b) omit “, unless he is the Lord Chancellor”.
- (4) In subsection (12), after the definition of “appointed day” insert—
- ““the appropriate person” means—
- (a) the appropriate Minister in a case which falls within paragraph (a) of the definition of the expression in section 30;

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- (b) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to England and Wales, the Lord Chief Justice of England and Wales;
- (c) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Northern Ireland, the Lord Chief Justice of Northern Ireland.”

(5) After subsection (12) insert—

“(13) Where the Lord Chief Justice of England or Wales or the Lord Chief Justice of Northern Ireland is the appropriate person, he must obtain the concurrence of the Lord Chancellor before exercising any functions under this section.

(14) The Lord Chief Justice of England or Wales 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.

(15) 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).”

229 In Schedule 1 (offices which may be qualifying judicial offices) in Part 1 (judges) for the entries “President of the Family Division” and “Vice-Chancellor” substitute — “President of the Queen's Bench Division President of the Family Division Chancellor of the High Court ”.

230 In Schedule 5 (retirement provisions: the relevant offices), in the second entry omit “, other than the Lord Chancellor”.

*Bail (Amendment) Act 1993 (c. 26)*

231 In section 1 of the Bail (Amendment) Act 1993 (prosecution right of appeal), in subsection (12) in the definition of “magistrates' court” and “court” for “designated” to the end substitute “ designated in accordance with section 67 or section 139 of the Extradition Act 2003 ”.

*Welsh Language Act 1993 (c. 38)*

232 (1) Section 23 of the Welsh Language Act 1993 (oaths and affirmations) is amended as follows.

(2) That section becomes subsection (1) of section 23.

(3) In that subsection after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice of England and Wales, ”.

(4) After that subsection insert—

“(2) 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.”

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

233 (1) Section 55 of the Local Government (Wales) Act 1994 (magistrates' courts, justices of the peace etc) is amended as follows.

(2) In subsection (1)—

- (a) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”;
- (b) for “he thinks necessary or expedient” substitute “ the Lord Chancellor thinks necessary or expedient, after consulting the Lord Chief Justice,”.

(3) In subsection (3)—

- (a) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”;
- (b) for “appears to him expedient” substitute “ appears to the Lord Chancellor to be expedient, after consulting the Lord Chief Justice,”.

234 After subsection (5) insert—

“(6) 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.”

*Value Added Tax Act 1994 (c. 23)*

235 The Value Added Tax Act 1994 is amended as follows.

236 In section 86 (appeals to the Court of Appeal), after subsection (2) insert—

“(2A) Before making an order under this section that relates to England and Wales, the Lord Chancellor must consult the Lord Chief Justice of England and Wales.

(2B) Before making an order under this section that relates to Northern Ireland, the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland.

(2C) The Lord Chief Justice of England and Wales 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.

(2D) 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).”

237 (1) Schedule 12 (constitution and procedure of VAT tribunals) is amended as follows.

(2) In paragraph 3 (tenure of office of President)—

(a) after sub-paragraph (5) insert—

“(5A) The Lord Chancellor may remove a person from office under sub-paragraph (4), or nominate a person under sub-paragraph (5), only with the concurrence of all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;

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- (c) the Lord Chief Justice of Northern Ireland.”;
- (b) after sub-paragraph (8) insert—
- “(9) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under sub-paragraph (5A) in relation to the nomination of a person under sub-paragraph (5).
- (10) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under sub-paragraph (5A) in relation to the nomination of a person under sub-paragraph (5).
- (11) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (5A) in relation to the nomination of a person under sub-paragraph (5)—
- (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).”
- (3) In paragraph 4—
- (a) that paragraph becomes sub-paragraph (1) of paragraph 4;
- (b) after that sub-paragraph insert—
- “(2) The powers of the Lord Chancellor under sub-paragraph (1) may be exercised—
- (a) in relation to England and Wales only after consulting the Lord Chief Justice of England and Wales;
- (b) in relation to Northern Ireland only after consulting the Lord Chief Justice of Northern Ireland.
- (3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (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).”
- (4) In paragraph 7 (membership of panels)—
- (a) in sub-paragraph (3)(c) for “Lord Chief Justice of Northern Ireland” substitute “ Lord Chancellor ”;
- (b) for sub-paragraph (7) substitute—
- “(7A) The Lord Chancellor may, with the concurrence of the Lord Chief Justice of England and Wales, remove from office on the ground of

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incapacity or misbehaviour a chairman of VAT Tribunals appointed under sub-paragraph (3)(a).

(7B) The Lord President of the Court of Session may remove from office on the ground of incapacity or misbehaviour a chairman of VAT Tribunals appointed under sub-paragraph (3)(b).”

*Trade Marks Act 1994 (c. 26)*

238 In section 77 of the Trade Marks Act 1994 (persons appointed to hear and determine appeals), after subsection (4) insert—

“(5) The Lord Chancellor may remove a person from office under subsection (3) (c) only with the concurrence of the appropriate senior judge.

(6) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the person to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

*Merchant Shipping Act 1995 (c. 21)*

239 In section 297 of the Merchant Shipping Act 1995 (wreck commissioners), after subsection (3) insert—

“(3A) The Lord Chancellor may remove a wreck commissioner from office only with the concurrence of—

- (a) the Lord Chief Justice of England and Wales, or
- (b) if the commissioner was appointed to act in Northern Ireland, the Lord Chief Justice of Northern Ireland.”

*Reserve Forces Act 1996 (c. 14)*

240 The Reserve Forces Act 1996 is amended as follows.

241 In section 90 (appointment of panel of chairmen), after subsection (1) insert—

“(1A) The Lord Chancellor may not appoint a member of the panel unless the appropriate senior judge concurs.”

242 In section 91 (appointment of panel of ordinary members), after subsection (2) insert—

“(2A) The Lord Chancellor may not appoint a member of the panel unless the appropriate senior judge concurs.”

243 (1) Section 92 (membership of tribunals etc) is amended as follows.

(2) In subsection (1) for “by the Lord Chancellor” substitute “ in accordance with subsection (2) ”.

(3) For subsections (2) and (3) substitute—

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- “(2) The chairman and other members are to be selected as follows—
- (a) in the case of an appeal tribunal which is to sit in England and Wales, by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor;
  - (b) in the case of an appeal tribunal which is to sit in Scotland, by the Lord President of the Court of Session;
  - (c) in the case of an appeal tribunal which is to sit in Northern Ireland, by the Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor.
- (3) Where a tribunal which is hearing an appeal in respect of a determination of an application under regulations under section 78 or 79 requests it, a serving or retired officer of any regular service or reserve force may be appointed in accordance with subsection (4) to advise the tribunal on any relevant service matters.
- (4) The officer is to be appointed as follows—
- (a) in the case of an appeal tribunal which is sitting in England and Wales, by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor;
  - (b) in the case of an appeal tribunal which is sitting in Scotland, by the Lord President of the Court of Session;
  - (c) in the case of an appeal tribunal which is sitting in Northern Ireland, the Lord Chancellor with the concurrence of the Lord Chief Justice of Northern Ireland.”

244 After section 92 insert—

**“92A Sections 90 to 92: supplementary**

- (1) In sections 90 and 91 “appropriate senior judge”, in relation to the appointment of a person to be a member of a panel, means—
- (a) if the person is to be appointed to exercise functions wholly or mainly in relation to England and Wales, the Lord Chief Justice of England and Wales;
  - (b) if the person is to be appointed to exercise functions wholly or mainly in relation to Scotland, the Lord President of the Court of Session;
  - (c) if the person is to be appointed to exercise functions wholly or mainly in relation to Northern Ireland, the Lord Chief Justice of Northern Ireland.
- (2) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise any of his functions under sections 90 to 92.
- (3) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise any of his functions under sections 90 to 92.
- (4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise any of his functions under sections 90 to 92—

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- (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).”

*Employment Tribunals Act 1996 (c. 17)*

245 The Employment Tribunals Act 1996 is amended as follows.

246 (1) Section 22 (membership of appeal tribunal) is amended as follows.

(2) In subsection (1)(a)—

- (a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice, after consulting the Lord Chancellor, ”;
- (b) omit “(other than the Lord Chancellor)”.

(3) In subsection (3) for “Lord Chancellor shall, after consultation with the Lord President of the Court of Session,” substitute “ Lord Chief Justice shall ”.

(4) After subsection (3) insert—

“(3A) The Lord Chief Justice must not make an appointment under subsection (3) unless—

- (a) he has consulted the Lord Chancellor, and
- (b) the Lord President of the Court of Session agrees.”

(5) After subsection (4) insert—

“(5) 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.

(6) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (3A)(b).”

247 (1) Section 23 (temporary membership) is amended as follows.

(2) In subsection (1) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(3) In subsection (2)(a) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(4) After subsection (5) insert—

“(6) The functions conferred on the Lord Chief Justice by the preceding provisions of this section may be exercised only after consulting the Lord Chancellor.

(7) The functions conferred on the Lord Chancellor by subsection (3) may be exercised only after consultation with the Lord Chief Justice.

(8) 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.”

248 (1) Section 24 (temporary additional judicial membership) is amended as follows.

(2) For subsection (1) substitute—



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- “(1) This section applies if both of the following conditions are met—
- (a) the Lord Chancellor thinks that it is expedient, after consulting the Lord Chief Justice, for a qualified person to be appointed to be a temporary additional judge of the Appeal Tribunal in order to facilitate in England and Wales the disposal of business in the Appeal Tribunal;
  - (b) the Lord Chancellor requests the Lord Chief Justice to make such an appointment.

(1A) The Lord Chief Justice may, after consulting the Lord Chancellor, appoint a qualified person as mentioned in subsection (1)(a).

(1B) An appointment under this section is—

- (a) for such period, or
- (b) on such occasions,

as the Lord Chief Justice determines, after consulting the Lord Chancellor.”

(3) In subsection (2) for “subsection (1)” substitute “ this section ”.

(4) After subsection (3) insert—

“(4) 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.”

249 In section 25 (tenure of appointed members) after subsection (4) insert—

“(5) The Lord Chancellor may declare an appointed member's office vacant under subsection (4) only with the concurrence of the appropriate senior judge.

(6) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the member whose office is to be declared vacant exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.”

*Arbitration Act 1996 (c. 23)*

250 In section 105 of the Arbitration Act 1996 (jurisdiction of High Court and county court), after subsection (3) insert—

“(3A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales or the Lord Chief Justice of Northern Ireland (as the case may be) before making an order under this section.

(3B) The Lord Chief Justice of England and Wales 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.

(3C) 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).”

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

- 251 In section 19 of the Criminal Procedure and Investigations Act 1996 (rules of court), in subsection (3) for the words from “with any modifications” to the end substitute “ or such provision with modifications ”.

*Family Law Act 1996 (c. 27)*

- 252 The Family Law Act 1996 is amended as follows.
- 253 (1) Section 57 (jurisdiction of the courts) is amended as follows.
- (2) In subsections (3), (4) and (5) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (3) In subsection (7) after “Lord Chancellor thinks appropriate” insert “ , after consulting the Lord Chief Justice ”.
- (4) In subsection (9) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (5) In subsection (10) after “Lord Chancellor thinks expedient” insert “ , after consulting the Lord Chief Justice, ”.
- (6) After subsection (11) insert—
- “(12) 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.”
- 254 (1) Section 61 (appeals) is amended as follows.
- (2) In subsection (5) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (3) After subsection (6) insert—
- “(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.”

*Defamation Act 1996 (c. 31)*

- 255 In section 9 of the Defamation Act 1996 (meaning of summary relief), after subsection (2) insert—
- “(2A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before making any order under subsection (1)(c) in relation to England and Wales.
- (2B) The Lord Chancellor must consult the Lord Chief Justice of Northern Ireland before making any order under subsection (1)(c) in relation to Northern Ireland.
- (2C) 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.

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(2D) 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).”

*Housing Act 1996 (c. 52)*

256 The Housing Act 1996 is amended as follows.

257 In section 138 (introductory tenancies: jurisdiction of county court), omit subsections (4) to (6) (rules and directions).

258 In section 143N (demoted tenancies: jurisdiction of county court), omit subsections (5) to (7) (rules and directions).

*Education Act 1996 (c. 56)*

259 In section 334 of the Education Act 1996 (Special Educational Needs Tribunal: President and members), in subsection (3)—

- (a) after “Lord Chancellor” in the first place insert “ and of the Lord Chief Justice ”;
- (b) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

*Deregulation (Model Appeal Provisions) Order 1996 (S.I. 1996/1678)*

260 In the Schedule (model rules for appeals) to the Deregulation (Model Appeal Provisions) Order 1996, after paragraph 6(3) insert—

“(3A) The Lord Chancellor may exercise his power under sub-paragraph (3) to remove a person appointed to the panel of chairmen for England and Wales only with the concurrence of the Lord Chief Justice.”

*Civil Procedure Act 1997 (c. 12)*

261 The Civil Procedure Act 1997 is amended as follows.

262 In section 1 (civil procedure rules), in subsection (3) (as amended by section 82 of the Courts Act 2003) omit “or alter”.

263 (1) Section 2 (Civil Procedure Rule Committee) is amended as follows.

(2) For subsection (1) substitute—

“(1) Civil Procedure Rules are to be made by a committee known as the Civil Procedure Rule Committee, which is to consist of the following persons—

- (a) the Head of Civil Justice;
- (b) the Deputy Head of Civil Justice (if there is one);
- (c) the persons currently appointed in accordance with subsections (1A) and (1B).

(1A) The Lord Chief Justice must appoint the persons falling within paragraphs (a) to (d) of subsection (2).

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- (1B) The Lord Chancellor must appoint the persons falling within paragraphs (e) to (g) of subsection (2).”
- (3) In subsection (2) for “The Lord Chancellor must appoint” substitute “ The persons to be appointed in accordance with subsections (1A) and (1B) are ”.
- (4) For subsection (3) substitute—
- “(3) Before appointing a person in accordance with subsection (1A), the Lord Chief Justice must consult the Lord Chancellor.”
- (5) In subsection (4) for “under paragraph (e) or (f) of subsection (2), the Lord Chancellor must consult” substitute “ in accordance with subsection (1B), the Lord Chancellor must consult the Lord Chief Justice and, if the person falls within paragraph (e) or (f) of subsection (2), must also consult ”.
- (6) After subsection (8) insert—
- “(9) 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.”
- 264 (1) Section 2A (power to change certain requirements relating to Committee) is amended as follows.
- (2) In subsection (1) for paragraph (a) substitute—
- “(a) amend section 2(2), (3) or (4), and”.
- (3) For subsection (2) substitute—
- “(2) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.
- (2A) Before making an order under this section the Lord Chancellor must consult the following persons—
- (a) the Head of Civil Justice;
- (b) the Deputy Head of Civil Justice (if there is one).
- (2B) 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.”
- 265 (1) Section 3 (process for making Civil Procedure rules) (as amended by section 85 of the Courts Act 2003 (c. 39)) is amended as follows.
- (2) For subsections (3) and (4) substitute—
- “(3) The Lord Chancellor may allow or disallow Rules so made.
- (4) If the Lord Chancellor disallows Rules, he must give the Committee written reasons for doing so.”
- (3) In subsection (5) for “, as allowed or altered” substitute “ and allowed ”.
- (4) In subsection (6) omit “Subject to subsection (7),”.
- (5) Omit subsection (7).
- 266 After section 3 insert—

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### “3A Rules to be made if required by Lord Chancellor

- (1) This section applies if the Lord Chancellor gives the Civil Procedure Rules Committee written notice that he thinks it is expedient for Civil Procedure Rules to include provision that would achieve a purpose specified in the notice.
  - (2) The Committee must make such Rules as it considers necessary to achieve the specified purpose.
  - (3) Those rules must be—
    - (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
    - (b) made in accordance with section 3.”
- 267 (1) Section 4 (power to make consequential amendments) (as amended by section 85 of the Courts Act 2003 (c. 39)) is amended as follows.
- (2) In subsections (1) and (2) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.
  - (3) After subsection (5) insert—
 

“(6) 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 subsection (1) or (2).”
- 268 (1) Section 6 (Civil Justice Council) is amended as follows.
- (2) After subsection (2) insert—
 

“(2A) The Lord Chancellor must decide the following questions, after consulting the Lord Chief Justice—

    - (a) how many members of the Council are to be drawn from each of the groups mentioned in subsection (2);
    - (b) how many other members the Council is to have.

(2B) It is for—

    - (a) the Lord Chief Justice to appoint members of the judiciary to the Council, after consulting the Lord Chancellor;
    - (b) the Lord Chancellor to appoint other persons to the Council.”
    - (3) After subsection (4) insert—
 

“(5) 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.”

### *Plant Varieties Act 1997 (c. 66)*

- 269 (1) Schedule 3 to the Plant Varieties Act 1997 (Plant Varieties and Seeds Tribunal) is amended as follows.

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- (2) In paragraph 4 (chairman of the Tribunal for proceedings in Northern Ireland), in sub-paragraph (1) for “Lord Chief Justice of Northern Ireland” substitute “ Lord Chancellor ”.
- (3) In paragraph 5 (duration of appointment)—
  - (a) in sub-paragraph (5) for “paragraph 2, 3 or 4” substitute “ paragraph 2 or 3 ”;
  - (b) after sub-paragraph (5) insert—
 

“(5A) Where the appointing authority is the Lord Chancellor, the power conferred by sub-paragraph (5) may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.”
- (4) In paragraph 7 (the panels), in sub-paragraph (2) for the words in brackets substitute “ (which makes it necessary to obtain the concurrence of the Lord Chancellor and certain judicial office holders to dismissals in certain cases) ”.
- (5) In paragraph 16 (interpretation), in paragraph (c) of the definition of “appointing authority” for “Lord Chief Justice of Northern Ireland” substitute “ Lord Chancellor ”.

*Reserve Forces Appeal Tribunals Rules 1997 (S.I. 1997/798)*

- 270 (1) Rule 7 of the Reserve Forces Appeal Tribunals Rules 1997 (acknowledgement and registration of appeal and request to select tribunal) is amended as follows.
- (2) In sub-paragraph (c), for the words from “Lord Chancellor” to “Northern Ireland” substitute “ person who under section 92(2) of the Act is authorised to do so, ”.

*Social Security Act 1998 (c. 14)*

- 271 The Social Security Act 1998 is amended as follows.
- 272 (1) Section 6 (panel for appointment to appeal tribunals) is amended as follows.
- (2) In subsection (2) for the words from “such” to the end substitute “ persons appointed by the Lord Chancellor ”.
  - (3) After subsection (3) insert—
 

“(3A) As part of the selection process for the appointment of a medical practitioner as a member of the panel, the Judicial Appointments Commission shall consult the Chief Medical Officer.”
  - (4) In subsection (5) after “misbehaviour” insert “ ; but the Lord Chancellor may remove such a person only with the concurrence of the appropriate senior judge ”.
  - (5) After subsection (5) insert—
 

“(5A) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.”
- 273 In Schedule 1 (Appeal Tribunals: supplementary provisions), in paragraph 1(3) (tenure of office) after “by the Lord Chancellor” insert “ , with the concurrence of the Lord Chief Justice and the Lord President of the Court of Session, ”.

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274 In Schedule 4 (Social Security Commissioners), in paragraph 5 (removal) after sub-paragraph (1) insert—

“(1A) The Lord Chancellor may remove a person under sub-paragraph (1) only with the concurrence of the appropriate senior judge.

(1B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the person exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.”

*Data Protection Act 1998 (c. 29)*

275 (1) Schedule 6 to the Data Protection Act 1998 (appeal proceedings) (as amended by paragraph 2 of Schedule 4 to the Freedom of Information Act 2000 (c. 36)) is amended as follows.

(2) In paragraph 2 (designation of persons to hear appeals in national security cases), after sub-paragraph (2) insert—

“(3) The Lord Chancellor may make, or revoke, a designation under this paragraph only with the concurrence of all of the following—

- (a) the Lord Chief Justice;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(4) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under sub-paragraph (3) so far as they relate to a designation under this paragraph.

(5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under sub-paragraph (3) so far as they relate to a designation under this paragraph.

(6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (3) so far as they relate to a designation under this paragraph—

- (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).”

(3) In paragraph 3 (constitution of Tribunal in national security cases) (as substituted by paragraph 2 of Schedule 4 to the Freedom of Information Act 2000)—

- (a) that paragraph becomes sub-paragraph (1) of paragraph 3;
- (b) after that sub-paragraph insert—

“(2) The Lord Chancellor may designate a person to preside under this paragraph only with the concurrence of all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

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- (3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (4) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (5) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
  - (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).”

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

276 The Crime and Disorder Act 1998 (powers of magistrates' courts exercisable by single justice etc) is amended as follows.

277 (1) Section 10 (appeals against parenting orders) is amended as follows.

(2) In subsection (6) after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice, ”.

(3) After subsection (7) insert—

“(8) 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.”

*Human Rights Act 1998 (c. 42)*

278 In section 18 of the Human Rights Act 1998 (appointment to ECHR), after subsection (7) insert—

“(7A) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(a)—

- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of England and Wales;
- (b) before making the order, that person must consult the Lord Chief Justice of England and Wales.

(7B) The following paragraphs apply to the making of an order under subsection (7) in relation to any holder of a judicial office listed in subsection (1)(c)—

- (a) before deciding what transitional provision it is appropriate to make, the person making the order must consult the Lord Chief Justice of Northern Ireland;



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(b) before making the order, that person must consult the Lord Chief Justice of Northern Ireland.

(7C) The Lord Chief Justice of England and Wales may nominate a judicial office holder (within the meaning of section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.

(7D) 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).”

*Access to Justice Act 1999 (c. 22)*

279 The Access to Justice Act 1999 is amended as follows.

280 (1) Section 56 (power to prescribe alternative destination of appeals) is amended as follows.

(2) In subsection (4) for paragraphs (c) and (d) substitute—

- “(c) the President of the Queen's Bench Division,
- (d) the President of the Family Division, and
- (e) the Chancellor of the High Court.”

(3) After subsection (7) insert—

“(8) 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.”

**Commencement Information**

**I24** Sch. 4 para. 280 wholly in force at 3.4.2006; Sch. 4 para. 280 not in force at Royal Assent see s. 148; Sch. 4 para. 280(2) in force at 1.10.2005 by S.I. 2005/2505, art. 2; Sch. 4 para. 280 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014 {art. 2(a)}, Sch. 1 para. 11(w)

281 (1) Section 68 (judges holding office in European or international courts) is amended as follows.

(2) In subsection (2), in the definition of “relevant international court” for “for the purposes of this section by the Lord Chancellor or the Secretary of State” substitute “in relation to the holder of a United Kingdom judicial office by the appropriate Minister”.

(3) In subsection (6) for “subsection (5)” substitute “this section”.

(4) After subsection (7) insert—

“(8) The Lord Chancellor may exercise functions under this section in relation to the holder of a United Kingdom judicial office specified in paragraph (a) of the definition in subsection (2) only after consulting the Lord Chief Justice of England and Wales.

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- (9) The Lord Chancellor may exercise functions under this section in relation to the holder of a United Kingdom judicial office specified in paragraph (c) of the definition in subsection (2) only after consulting the Lord Chief Justice of Northern Ireland.
- (10) The Lord Chief Justice of England and Wales may nominate a judicial office holder (within the meaning of section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (8).
- (11) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (9)—
- (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).”
- 282 (1) Section 69 (Vice-President of Queen's Bench division) is amended as follows.
- (2) In subsection (1) for “Lord Chancellor may” substitute “ Lord Chief Justice may, after consulting the Lord Chancellor, ”.
- (3) After subsection (1) insert—
- “(1A) 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 subsection (1).”
- Immigration and Asylum Act 1999 (c. 33)*
- 283 The Immigration and Asylum Act 1999 is amended as follows.
- 284 (1) Section 53 (applications for bail in immigration cases) is amended as follows.
- (2) After subsection (6) insert—
- “(6A) In so far as regulations under this section relate to England and Wales, the Lord Chancellor must consult the Lord Chief Justice of England and Wales before giving his approval.
- (6B) In so far as regulations under this section relate to Northern Ireland, the Lord Chancellor must consult the Lord Chief Justice of Northern Ireland before giving his approval.”
- (3) After subsection (7) insert—
- “(8) The Lord Chief Justice of England and Wales 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.
- (9) 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).”
- 285 In Schedule 7 (Immigration Services Tribunal), in paragraph 3 (terms and conditions of appointment of members) after sub-paragraph (4) insert—

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“(5) The Lord Chancellor may dismiss a person under sub-paragraph (4) only with the concurrence of the appropriate senior judge.

(6) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the person to be dismissed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) that person exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

*Financial Services and Markets Act 2000 (c. 8)*

286 (1) Schedule 13 (Financial Services and Markets Tribunal) of the Financial Services and Markets Act 2000 is amended as follows.

(2) In paragraph 2 (president of the tribunal), after sub-paragraph (7) insert—

“(8) The Lord Chancellor may appoint a person under sub-paragraph (7)(b) only after consulting the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(9) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.

(10) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.

(11) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

- (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).”

(3) In paragraph 4 (terms of office), after sub-paragraph (2) insert—

“(2A) The Lord Chancellor may remove a person under sub-paragraph (2) only with the concurrence of the appropriate senior judge.

(2B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—

- (a) the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the person to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

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- (4) In paragraph 8 (sittings) after “Lord Chancellor may” insert “, after consulting the President of the Financial Services and Markets Tribunal,”.

*Terrorism Act 2000 (c. 11)*

287 The Terrorism Act 2000 is amended as follows.

288 (1) Section 74 (court for trial) is amended as follows.

(2) In subsection (1)—

- (a) after “unless” insert “ the Lord Chief Justice of Northern Ireland directs that ”;
- (b) in paragraph (a) omit from “the Lord Chancellor” to “directs that”;
- (c) in paragraph (b) omit “the Lord Chief Justice of Northern Ireland directs that”.

(3) After subsection (1) insert—

“(1A) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (1)—

- (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).”

289 (1) In Schedule 3 (Proscribed Organisations Appeal Commission), paragraph 4 (sittings) is amended as follows.

(2) In sub-paragraph (1) after “direct” insert “after consulting the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland”.

(3) After sub-paragraph (3) insert—

“(4) 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 paragraph.

(5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.

(6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).”

290 (1) Schedule 8 (detention) is amended as follows.

(2) In paragraph 29 (warrants of further detention)—

- (a) in sub-paragraph (4)(a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”;
- (b) in sub-paragraph (4)(c) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor ”;

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(c) after sub-paragraph (4) insert—

“(5) 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 sub-paragraph (4)(a).

(6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (4)(c)—

- (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).”

*Local Government Act 2000 (c. 22)*

291 (1) Section 76 of the Local Government Act 2000 (case tribunals and interim case tribunals) is amended as follows.

(2) In subsection (9) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(3) After subsection (9) insert—

“(9A) The Lord Chief Justice must consult the Lord Chancellor before specifying a member of the Panel in accordance with subsection (9).”

(4) In subsection (12) after “Lord Chancellor must” insert “ consult the Lord Chief Justice and ”.

(5) After subsection (14) insert—

“(15) 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.”

*Postal Services Act 2000 (c. 26)*

292 (1) Schedule 3 to the Postal Services Act 2000 (transfer to the Post Office Company: supplementary provisions) is amended as follows.

(2) In paragraph 6 (third party rights relating to land), in sub-paragraph (5)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.

(3) In paragraph 7 (other third party property rights), in sub-paragraph (3)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.

*Transport Act 2000 (c. 38)*

293 The Transport Act 2000 is amended as follows.

294 In section 61 (special provisions about land), in subsection (6)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.

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- 295 In section 93 (control in time of hostilities etc), in subsection (10)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.
- 296 In section 94 (orders for possessions of aerodromes etc), in subsection (8)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.
- 297 (1) Schedule 6 (transfer schemes) is amended as follows.
- (2) In paragraph 20 (compensation for third parties), in sub-paragraph (6)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.

*Criminal Justice and Court Services Act 2000 (c. 43)*

- 298 (1) Schedule 1 of the Criminal Justice and Court Services Act 2000 (local probation boards) is amended as follows.
- (2) In paragraph 2 (membership)—
- (a) in sub-paragraph (2) for “Lord Chancellor” substitute “ Lord Chief Justice, after consulting the Lord Chancellor ”;
- (b) after sub-paragraph (7) insert—
- “(8) 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 sub-paragraph (2).”
- (3) In paragraph 3 (tenure of members), after sub-paragraph (3) insert—
- “(3A) The power conferred by sub-paragraph (3) may be exercised by the Lord Chancellor to remove a person appointed by him by virtue of paragraph 2(2) only with the concurrence of the Lord Chief Justice.”

*International Criminal Court Act 2001 (c. 17)*

- 299 Section 26 of the International Criminal Court Act 2001 (definitions) is amended as follows—
- (a) that section becomes subsection (1) of section 26;
- (b) in that subsection for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”;
- (c) after that subsection insert—
- “(2) 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.”

*Anti-terrorism, Crime and Security Act 2001 (c. 24)*

- 300 (1) In Schedule 6 to the Anti-terrorism, Crime and Security Act 2001 (Pathogens Access Appeal Commission), paragraph 4 (sittings) is amended as follows.
- (2) In sub-paragraph (1) after “direct” insert “after consulting the following—
- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;

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(c) the Lord Chief Justice of Northern Ireland.”

(3) After sub-paragraph (3) insert—

“(4) 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 sub-paragraph (1).

(5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under sub-paragraph (1).

(6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (1)—

(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).”

*Land Registration Act 2002 (c. 9)*

301 The Land Registration Act 2002 is amended as follows.

302 (1) Section 127 (exercise of powers) is amended as follows.

(2) In subsection (2)(a) for “Lord Chancellor” substitute “ Lord Chief Justice, or a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) nominated by him, after consulting the Lord Chancellor ”.

(3) In subsection (2)(h) after “consumer affairs” insert “ nominated by the Lord Chancellor ”.

303 In Schedule 9 (the Adjudicator), in paragraph 1 (holding of office), in sub-paragraph (2) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

*Enterprise Act 2002 (c. 40)*

304 The Enterprise Act 2002 is amended as follows.

305 (1) Section 268 (disqualification from office: general) is amended as follows.

(2) In subsection (7)—

(a) omit “made with the concurrence of the Lord Chancellor”;

(b) after “tribunal” insert “; but any such order must—

(a) if it relates to England and Wales, be made with the concurrence of the Lord Chief Justice of England and Wales;

(b) if it relates to Northern Ireland, be made with the concurrence of the Lord Chief Justice of Northern Ireland”.

(3) After subsection (15) insert—

“(16) 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 subsection (7).

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- (17) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (7)—
- (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).”
- 306 In paragraph 2 of Schedule 2 (tenure of members of Competition Appeal Tribunal), after sub-paragraph (4) insert—
- “(5) The Lord Chancellor may remove a person from office as President under sub-paragraph (4) only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland.
- (6) The Lord Chancellor may remove a person from office as chairman under sub-paragraph (4) only with the concurrence of the appropriate senior judge.
- (7) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—
- (a) the person to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
  - (b) the person to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”

*Finance Act 2003 (c. 14)*

- 307 (1) Schedule 17 to the Finance Act 2003 (stamp duty land tax: General and Special Commissioners, appeals and other proceedings) is amended as follows.
- (2) In paragraph 2 (regulations about determination of disputes), after sub-paragraph (1) insert—
- “(1A) The Lord Chancellor may make regulations under this paragraph only after consulting all of the following—
- (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland.
- (1B) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (1C) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (1D) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—



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- (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).”
- (3) In paragraph 3 (regulations about jurisdiction of General or Special Commissioners), after sub-paragraph (3) insert—
- “(4) The Lord Chancellor may make regulations under this paragraph only after consulting all of the following—
- (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland.
- (5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (6) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (7) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (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).”
- (4) In paragraph 5 (regulations about quorum)—
- (a) that paragraph becomes sub-paragraph (1) of paragraph 5;
  - (b) after that sub-paragraph—
- “(2) The Lord Chancellor may make regulations under this paragraph only after consulting all of the following—
- (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland.
- (3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (4) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (5) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (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).”

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- (5) In paragraph 11 (regulations), for sub-paragraph (1) substitute—
- “(1) Any power to make regulations under this Schedule is exercisable—
- (a) only with the consent of the Scottish Ministers;
- (b) subject to any other provision of this Schedule.”
- Courts Act 2003 (c. 39)*
- 308 The Courts Act 2003 is amended as follows.
- 309 (1) In section 2 (Court officers, staff and services), in subsection (7) for paragraphs (c) and (d) substitute—
- “(c) the President of the Queen's Bench Division,
- (d) the President of the Family Division, and
- (e) the Chancellor of the High Court.”
- 310 (1) Section 4 (establishment of courts boards) is amended as follows.
- (2) After subsection (5) insert—
- “(5A) Before making any order under subsection (2) or (4), the Lord Chancellor must consult the Lord Chief Justice.”
- (3) After subsection (7) insert—
- “(7A) 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.”
- 311 (1) Section 5 (functions of courts boards) is amended as follows.
- (2) In subsection (5) after “Lord Chancellor must” insert “, after consulting the Lord Chief Justice, ”.
- (3) In subsection (7) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice, ”.
- (4) After subsection (8) insert—
- “(9) 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.”
- 312 (1) Section 8 (local justice areas) is amended as follows.
- (2) After subsection (5) insert—
- “(5A) Before making any order under subsection (2) or (4), the Lord Chancellor must consult the Lord Chief Justice.”
- (3) After subsection (7) insert—
- “(8) 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.”
- 313 (1) Section 10 (appointment of lay justices etc) is amended as follows.

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- (2) In subsection (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) In subsection (3) for “or on behalf of the Lord Chancellor” substitute “ Lord Chief Justice ”.
- (4) After subsection (5) insert—
- “(6) The functions conferred on the Lord Chief Justice by subsections (2) and (3) may be exercised only after consulting the Lord Chancellor.
- (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 subsection (2) or (3).”
- 314 In section 11 (resignation and removal of lay justices), in subsection (2)—
- (a) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”;
- (b) in paragraph (b) after “Lord Chancellor” insert “ with the concurrence of the Lord Chief Justice ”.
- 315 (1) Section 13 (entry of names in the supplemental list) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”.
- (3) In subsection (5) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.
- (4) After subsection (5) insert—
- “(6) 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 subsection (3).”
- 316 In section 14 (removal of names from the supplemental list), in subsection (2)(b) after “Lord Chancellor” insert “ , with the concurrence of the Lord Chief Justice, ”.
- 317 (1) Section 15 (lay justices' allowances) is amended as follows.
- (2) In subsection (7) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) After subsection (8) insert—
- “(9) 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 subsection (7).”
- 318 In section 16 (records of lay justices), after subsection (3) insert—
- “(4) The Lord Chancellor must consult the Lord Chief Justice before—
- (a) appointing a person under subsection (1), or
- (b) giving a direction under subsection (2).
- (5) 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.”
- 319 (1) Section 17 (chairman and deputy chairmen) is amended as follows.

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- (2) In subsection (3) for “Lord Chancellor, or a person acting on his behalf, may” substitute “ Lord Chief Justice may, with the concurrence of the Lord Chancellor, ”.
- (3) After subsection (5) insert—
- “(6) 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.”
- 320 (1) Section 19 (training, development and appraisal of lay justices) is amended as follows.
- (2) In subsection (2) for “Lord Chancellor” in each place substitute “ Lord Chief Justice ”.
- (3) In subsection (3)—
- (a) for “Lord Chancellor” substitute “ Lord Chief Justice ”;
- (b) for “appropriate training and training materials” substitute “ training and training materials that appear to him, after consulting the Lord Chancellor, to be appropriate ”.
- (4) After subsection (3) insert—
- “(4) 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.”
- 321 (1) Section 20 (rules) is amended as follows.
- (2) In subsection (1) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) In subsection (2)—
- (a) for “Lord Chancellor” substitute “ Lord Chief Justice ”;
- (b) before paragraph (a) insert—
- “(za) the Lord Chancellor,”.
- (4) After subsection (2) insert—
- “(3) 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 of making the rules referred to in this section.”
- 322 (1) Section 21 (duty to consult lay justices on matters affecting them etc) is amended as follows.
- (2) That section becomes subsection (1) of section 21.
- (3) In that subsection after “Lord Chancellor” insert “ and the Lord Chief Justice ”.
- (4) After that subsection insert—
- “(2) 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.”
- 323 In section 22 (appointment of District Judges (Magistrates' Courts)), in subsection (5) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

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- 324 In section 24 (Deputy District Judges (Magistrates' Courts)), in subsection (4) after  
“Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice,”.
- 325 (1) Section 25 (District Judges (Magistrates' Courts) as justices of the peace) is amended  
as follows.
- (2) In subsection (2), leave out “or on behalf of the Lord Chancellor” and insert “ the  
Lord Chief Justice, after consulting the Lord Chancellor ”.
- (3) After subsection (2) insert—
- “(3) 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 subsection (2).”
- 326 (1) Section 27 (justices' clerks and assistant clerks) is amended as follows.
- (2) In subsection (1)(b) after “Lord Chancellor” insert “, after consulting the Lord Chief  
Justice,”.
- (3) In subsection (3)—
- (a) in paragraph (a) after “must” insert “, after consulting the Lord Chief Justice,  
”;
- (b) in paragraph (b) for “subsection (4)” substitute “ subsections (4A) to (4C) ”.
- (4) For subsection (4) substitute—
- “(4A) The Lord Chancellor may change an assignment of a justices' clerk so that  
he is no longer assigned to a local justice area (“the relevant area”) only if  
the conditions in subsections (4B) and (4C) are met.
- (4B) Before changing the assignment, the Lord Chancellor must consult—
- (a) the chairman of the lay justices assigned to the relevant area, or
- (b) if that is not possible or not practicable, the deputy chairman or such  
of the lay justices assigned to or acting in the relevant area as it  
appears to the Lord Chancellor appropriate to consult.
- (4C) The Lord Chief Justice must agree to the change.”
- (5) After subsection (6) insert—
- “(6A) 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.”
- 327 (1) Section 28 (functions) is amended as follows.
- (2) In subsection (8) after “Lord Chancellor” insert “ with the concurrence of the Lord  
Chief Justice ”.
- (3) After subsection (9) insert—
- “(10) The Lord Chief Justice may nominate a judicial office holder (as defined  
in section 109(4) of the Constitutional Reform Act 2005) to exercise his  
functions under this section.”
- 328 (1) Section 30 (places, dates and times of sittings) is amended as follows.

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- (2) In subsection (1) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.
- (3) In subsection (7) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.
- (4) After subsection (8) insert—
- “(9) 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 subsection (1) or (7).”
- 329 (1) Section 34 (costs in legal proceedings) is amended as follows.
- (2) In subsection (5) after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.
- (3) After subsection (5) insert—
- “(6) 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.”
- 330 For section 62 substitute—

**“62 Head and Deputy Head of Civil Justice**

- (1) There is to be a Head of Civil Justice.
- (2) The Head of Civil Justice is—
- (a) the Master of the Rolls, or
  - (b) if the Lord Chief Justice appoints another person, that person.
- (3) The Lord Chief Justice may appoint a person to be Deputy Head of Civil Justice.
- (4) The Lord Chief Justice must not appoint a person under subsection (2)(b) or (3) unless these conditions are met—
- (a) the Lord Chief Justice has consulted the Lord Chancellor;
  - (b) the person to be appointed is one of the following—
    - (i) the Chancellor of the High Court;
    - (ii) an ordinary judge of the Court of Appeal.
- (5) A person appointed under subsection (2)(b) or (3) holds the office to which he is appointed in accordance with the terms of his appointment.
- (6) 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.”
- 331 (1) Section 64 (power to alter judicial titles) is amended as follows.
- (2) In subsection (2)—
- (a) omit “Vice-Chancellor”;
  - (b) insert at the appropriate place—
    - (i) “Chancellor of the High Court”;

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- (ii) “ Deputy Head of Civil Justice ”;
- (iii) “ Deputy Head of Criminal Justice ”;
- (iv) “ Deputy Head of Family Justice ”;
- (v) “ Head of Civil Justice ”;
- (vi) “ Head of Criminal Justice ”;
- (vii) “ Head of Family Justice ”;
- (viii) “ President of the Courts of England and Wales ”;
- (ix) “ President of the Queen's Bench Division ”.

(3) After subsection (3) insert—

“(3A) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.”

(4) In subsection (4)—

- (a) omit paragraph (a);
- (b) for paragraphs (c) and (d) substitute—
  - “(ba) the President of the Queen's Bench Division,
  - (c) the President of the Family Division, and
  - (d) the Chancellor of the High Court.”

(5) After subsection (6) insert—

“(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.”

#### Commencement Information

**I25** Sch. 4 para. 331 partly in force; Sch. 4 para. 331 not in force at Royal Assent see s. 148; Sch. 4 para. 331(1)(2)(a)(b)(i)(ii)(v)-(ix)(3)-(5) in force at 3.4.2006 by S.I 2006/1014 {art. 2(a)}, Sch. 1 para. 11(z)

332 In section 69 (Criminal Procedure Rules), in subsection (4) omit “or alter”.

333 (1) Section 70 (Criminal Procedure Rule Committee) is amended as follows.

(2) In subsection (1) for paragraph (b) substitute—

“(b) the persons currently appointed in accordance with subsections (1A) and (1B).”

(3) After subsection (1) insert—

“(1A) The Lord Chief Justice must appoint the persons falling within paragraphs (a) to (e) of subsection (2).

(1B) The Lord Chancellor must appoint the persons falling within paragraphs (f) to (k) of subsection (2).”

(4) In subsection (2) for “The Lord Chancellor must appoint” substitute “ The persons to be appointed in accordance with subsections (1A) and (1B) are ”.

(5) For subsection (3) substitute—

“(3) Before appointing a person in accordance with subsection (1A), the Lord Chief Justice must consult the Lord Chancellor.

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(3A) Before appointing a person in accordance with subsection (1B), the Lord Chancellor must consult the Lord Chief Justice.”

(6) After subsection (5) insert—

“(5A) 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.”

334 (1) Section 71 (power to change certain requirements relating to Committee) is amended as follows.

(2) In subsection (1) for paragraph (a) substitute—

“(a) amend section 70(2) or (3A), and”.

(3) For subsection (2) substitute—

“(2) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.

(3) 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.”

335 (1) Section 72 (process for making Criminal Procedure Rules) is amended as follows.

(2) For subsections (3) and (4) substitute—

“(3) The Lord Chancellor may, with the concurrence of the Secretary of State, allow or disallow rules so made.

(4) If the Lord Chancellor disallows rules, he must give the Committee written reasons for doing so.”

(3) In subsection (5) for “, as allowed or altered” substitute “ and allowed ”.

336 After section 72 insert—

**“72A Rules to be made if required by Lord Chancellor**

(1) This section applies if the Lord Chancellor gives the Criminal Procedure Rules Committee written notice that he thinks it is expedient for Criminal Procedure Rules to include provision that would achieve a purpose specified in the notice.

(2) The Committee must make such rules as it considers necessary to achieve the specified purpose.

(3) Those rules must be—

(a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;

(b) made in accordance with section 72.

(4) The Lord Chancellor may not give notice under subsection (1) unless the Secretary of State agrees.”

337 (1) Section 73 (power to amend legislation in connection with Criminal Procedure Rules) is amended as follows.



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- (2) That section becomes subsection (1) of section 73.
- (3) In that subsection after “Secretary of State” insert “ and after consulting the Lord Chief Justice ”.
- (4) After that subsection insert—
- “(2) 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.”
- 338 In section 75 (Family Procedure Rules), in subsection (5) omit “or alter”.
- 339 (1) Section 77 (Family Procedure Rule Committee) is amended as follows.
- (2) In subsection (1) for paragraph (b) substitute—
- “(b) the persons currently appointed in accordance with subsections (1A) and (1B).”
- (3) After subsection (1) insert—
- “(1A) The Lord Chief Justice must appoint the persons falling within paragraphs (a) to (f) of subsection (2).
- (1B) The Lord Chancellor must appoint the persons falling within paragraphs (g) to (o) of subsection (2).”
- (4) In subsection (2) for “The Lord Chancellor must appoint” substitute “ The persons to be appointed in accordance with subsections (1A) and (1B) are ”.
- (5) In subsection (3) for “under subsection (2), Lord Chancellor must consult” substitute “ in accordance with subsection (1A), the Lord Chief Justice must consult the Lord Chancellor and ”.
- (6) Omit subsection (4).
- (7) In subsection (5) for “under subsection (2)(h) to (m), the Lord Chancellor must consult” substitute “ in accordance with subsection (1B), the Lord Chancellor must consult the Lord Chief Justice and, if the person falls within any of paragraphs (h) to (m) of subsection (2), must also consult ”.
- (8) After section (6) insert—
- “(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.”
- 340 (1) Section 78 (power to change certain requirements relating to Committee) is amended as follows.
- (2) In subsection (1)(a) after “Lord Chancellor” insert “ or Lord Chief Justice ”.
- (3) After subsection (1) insert—
- “(1A) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.”
- (4) After subsection (2) insert—

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“(3) 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.”

341 (1) Section 79 (process for making Family Procedure Rules) is amended as follows.

(2) For subsections (3) and (4) substitute—

“(3) The Lord Chancellor may allow or disallow rules so made.

(4) If the Lord Chancellor disallows rules, he must give the Committee written reasons for doing so.”

(3) In subsection (5) for “, as allowed or altered” substitute “ and allowed ”.

342 After section 79 insert—

**“79A Rules to be made if required by Lord Chancellor**

(1) This section applies if the Lord Chancellor gives the Family Procedure Rules Committee written notice that he thinks it is expedient for Family Procedure Rules to include provision that would achieve a purpose specified in the notice.

(2) The Committee must make such rules as it considers necessary to achieve the specified purpose.

(3) Those rules must be—

(a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;

(b) made in accordance with section 79.”

343 (1) Section 80 (power to amend legislation in connection with the rules) is amended as follows.

(2) That section becomes subsection (1) of section 80.

(3) In that subsection after “Lord Chancellor may” insert “, after consulting the Lord Chief Justice,”.

(4) After that subsection insert—

“(2) 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.”

344 (1) Section 81 (practice directions relating to family proceedings) is amended as follows.

(2) In subsection (1), before paragraph (a) insert—

“(za) the civil division of the Court of Appeal,

(zb) the High Court,”.

(3) After subsection (2) insert—

“(2A) Directions as to the practice and procedure of any relevant court in family proceedings (whether given under subsection (1) or otherwise) may provide for any matter which, by virtue of paragraph 3 of Schedule 1 to the Civil Procedure Act 1997, may be provided for by Civil Procedure Rules.”

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- (4) In subsection (3) for “magistrates' courts and county courts (or any of them)” substitute “any relevant court”.
- (5) After subsection (4) (inserted by paragraph 9(5) of Schedule 2 to this Act) insert—
- “(5) In this section—
- “Civil Procedure Rules” has the same meaning as in the Civil Procedure Act 1997;
- “relevant court” means a court listed in subsection (1).”
- 345 In section 92 (fees), in subsection (5) for paragraphs (c) and (d) substitute—
- “(ba) the President of the Queen's Bench Division;
- (c) the President of the Family Division;
- (d) the Chancellor of the High Court;”.
- 346 (1) Section 102 (power to alter judicial titles: Northern Ireland) is amended as follows.
- (2) Omit subsection (4).
- (3) After subsection (6) insert—
- “(6A) The Lord Chancellor may make an order under this section only with the concurrence of the Lord Chief Justice.
- (6B) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (6A)—
- (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).”
- 347 In section 107 (interpretation), in subsection (6) omit “by the Lord Chancellor”.
- 348 In section 108 (rules, regulations and orders), in subsections (1) and (6) after “Lord Chancellor” insert “ or Lord Chief Justice ”.
- 349 (1) Section 109 (minor and consequential amendments etc) is amended as follows.
- (2) After subsection (4) insert—
- “(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.”
- (3) After subsection (6) insert—

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- “(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).”
- 350 (1) Schedule 1 (constitution and procedure of courts boards) is amended as follows.
- (2) For paragraph 1 substitute—
- “1 (1) The members of each courts board are to be appointed by the Lord Chancellor.
- (2) The Lord Chancellor may appoint a member of a description mentioned in paragraph 2(a) only with the concurrence of the Lord Chief Justice.”
- (3) In paragraph 8 (meaning of regulations) after “Lord Chancellor” insert “ after consulting the Lord Chief Justice ”.
- (4) After paragraph 8 insert—
- “9 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 Schedule.”
- 351 In Schedule 7 (High Court writs of execution), in paragraph 12(4) (regulations) for paragraphs (c) and (d) substitute—
- “(ba) the President of the Queen's Bench Division,
  - (c) the President of the Family Division,
  - (d) the Chancellor of the High Court, and”.

*Extradition Act 2003 (c. 41)*

- 352 The Extradition Act 2003 is amended as follows.
- 353 (1) Section 67 (the appropriate judge) is amended as follows.
- (2) In subsection (1)(a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”.
- (3) In subsection (1)(c) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor ”.
- (4) After subsection (4) insert—
- “(5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (1)(a).
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (1)(c)—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

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- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).”
- 354 (1) Section 139 (the appropriate judge) is amended as follows.
- (2) In subsection (1)(a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor ”.
- (3) In subsection (1)(c) for “Lord Chancellor” substitute “ Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor ”.
- (4) After subsection (4) insert—
- “(5) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (1)(a).
- (6) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (1)(c)—
- (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).”
- 355 In section 185 (free legal aid: supplementary), in subsection (6) (meaning of appropriate judge)—
- (a) in paragraph (a) for “by the Lord Chancellor” substitute “ under section 67 ”.
- (b) in paragraph (b) for “by the Lord Chancellor” substitute “ under section 139 ”.

*Criminal Justice Act 2003 (c. 44)*

- 356 The Criminal Justice Act 2003 is amended as follows.
- 357 (1) Section 167 (Sentencing Guidelines Council) is amended as follows.
- (2) In subsection (1)(b)—
- (a) for “Lord Chancellor” substitute “ Lord Chief Justice ”;
- (b) for “Lord Chief Justice” substitute “ Lord Chancellor ”.
- (3) After subsection (9) insert—
- “(10) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.”
- 358 (1) Section 168 (Sentencing Guidelines Council: supplementary) is amended as follows.
- (2) In subsection (1) for paragraphs (b) and (c) substitute—
- “(b) enabling the Lord Chancellor to remove a judicial member from office, with the concurrence of the Lord Chief Justice, on the grounds of incapacity or misbehaviour, and
- (c) enabling the Secretary of State to remove a non-judicial member from office on the grounds of incapacity or misbehaviour.”
- (3) For subsection (2) substitute—
- “(1A) The following provisions apply to an order under subsection (1)—

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- (a) if the order includes provision falling within subsection (1)(a), the Lord Chancellor must consult the Lord Chief Justice about that provision before making the order;
- (b) if the order includes provision falling within subsection (1)(b), the order may not be made unless the Lord Chief Justice agrees to the inclusion of that provision.

(1B) The Lord Chief Justice may, with the concurrence of the Lord Chancellor, by order make provision as to the proceedings of the Council.”

(4) After subsection (5) insert—

“(6) 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 subsection (1B).”

359 (1) Section 330 (orders and rules) is amended as follows.

(2) In subsection (1)(b) after “Lord Chancellor” insert “ or the Lord Chief Justice ”.

(3) After subsection (2) insert—

“(2A) Where a statutory instrument is made by the Lord Chief Justice in the exercise of the power referred to in subsection (1)(b), the Statutory Instruments Act 1946 applies to the instrument as if it contained an order made by a Minister of the Crown.”

*Employment Tribunals (Constitution and Rules  
of Procedure) Regulations 2004 (S.I. 2004/ 1861)*

360 In regulation 4 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (President of Employment Tribunals), after paragraph (5) insert—

“(5A) Where the Lord Chancellor is the appointing office holder, he may revoke an appointment in accordance with paragraph (5) only with the concurrence of the Lord Chief Justice.”

## PART 2

### AMENDMENTS OF OR RELATING TO ENACTMENTS REPEALED OR AMENDED OTHERWISE THAN BY THIS ACT

#### *Introduction*

- 361 (1) This Part of this Schedule contains amendments of or relating to enactments that have already been amended or repealed by provisions of other Acts.
- (2) In each case the amending or repealing provision is specified, in relation to the enactment referred to, as the “original amending provision”.
- (3) An amendment contained in any provision of this Part of this Schedule has effect only until the original amending provision comes fully into force in relation to the enactment referred to in that provision of this Part of this Schedule.

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*Promissory Oaths Act 1871 (c. 48)*

- 362 (1) Section 2 of the Promissory Oaths Act 1871 (persons before whom oaths to be taken) is amended as follows.
- (2) In the paragraph beginning “In England” for “Lord High Chancellor of Great Britain” substitute “ Lord Chief Justice of England and Wales ”.
- (3) After that paragraph insert— “ 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 the preceding paragraph. ”
- (4) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 51 of Schedule 8 to the Courts Act 2003 (c. 39).

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

- 363 (1) Schedule 2 to the Children and Young Persons Act 1933 (constitution of youth courts) is amended as follows.
- (2) In paragraph 6—
- (a) in paragraph (a)—
- (i) after “he may” insert “ after consulting the Lord Chief Justice ”;
- (ii) after “thinks fit” insert “ after consulting the Lord Chief Justice ”;
- (b) in paragraph (b)—
- (i) after “may” insert “ , after consulting the Lord Chief Justice, ”;
- (ii) after “thinks fit” insert “ , after consulting the Lord Chief Justice, ”.
- (3) In paragraph 14 after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (4) In paragraph 15(b)—
- (a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice, after consulting the Lord Chancellor, ”;
- (b) for “order of the Lord Chancellor” substitute “ order made by the Lord Chief Justice after consulting the Lord Chancellor ”.
- (5) In paragraph 16 for “consent of the Lord Chancellor,” substitute “ consent of the Lord Chief Justice, given after consulting the Lord Chancellor, ”.
- (6) In paragraph 18—
- (a) for “Lord Chancellor” in the first place substitute “ Lord Chief Justice ”;
- (b) for “Lord Chancellor” in the second place substitute “ Lord Chief Justice, after consulting the Lord Chancellor ”.
- (7) After paragraph 21 insert—
- “22 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 Schedule.”
- (8) In relation to the enactments referred to in this paragraph, the original amending provision is Schedule 10 to the Courts Act 2003.

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*Pensions Appeal Tribunals Act 1943 (c. 39)*

- 364 (1) Section 6 of the Pensions Appeal Tribunal Act 1943 (constitution, jurisdiction and procedure of Pensions Appeal Tribunals) is amended as follows.
- (2) In subsection (2)—
- (a) for “a judge of the High Court nominated for the purpose by the Lord Chancellor” substitute “ the relevant judicial authority ”;
  - (b) for “judge so nominated” substitute “ relevant judicial authority ”;
  - (c) for “that judge” substitute “ that authority ”.
- (3) After subsection (2) insert—
- “(2ZA) In subsection (2) “relevant judicial authority” means—
- (a) in relation to England and Wales, a judge of the High Court in England and Wales nominated for the purposes of subsection (2) by the Lord Chief Justice of England and Wales after consulting the Lord Chancellor;
  - (b) in relation to Scotland, the Court of Session;
  - (c) in relation to Northern Ireland, the Court of Appeal in Northern Ireland.
- (2ZB) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (2ZA)(a).”
- (4) After subsection (4) insert—
- “(5) In the application of subsection (2) in relation to Northern Ireland, “rules of court” means rules of court made under section 55 of the Judicature (Northern Ireland) Act 1978.”
- (5) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 3(2) of Schedule 1 to the Armed Forces (Pensions and Compensation) Act 2004 (c. 32).

*Maintenance Orders Act 1950 (c. 37)*

- 365 (1) In section 25(1) of the Maintenance Orders Act 1950 (power to make rules about procedure under section 144 of the Magistrates' Court Act 1980), for “Lord Chancellor” substitute “ Lord Chief Justice of England and Wales ”.
- (2) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 91(2) of Schedule 8 to the Courts Act 2003.

*Courts Act 1971 (c. 23)*

- 366 (1) In section 27 of the Courts Act 1971, in the definition of “the senior judges” in subsection (9) for “the Vice-Chancellor and the President of the Family Division” substitute “ the President of the Queen's Bench Division, the President of the Family Division and the Chancellor of the High Court ”.
- (2) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 139(a) of Schedule 8 to the Courts Act 2003.



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*Restrictive Practices Court Act 1976 (c. 33)*

367 The Restrictive Practices Court Act 1976 is amended as follows.

368 (1) In section 1 (the Court), after subsection (3) insert—

“(3A) The Lord Chancellor may select a person under subsection (3) only with the concurrence of all of the following—

- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.

(3B) The Lord Chief Justice of England and Wales 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.

(3C) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.

(3D) 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).”

(2) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998 (c. 41).

369 (1) Section 2 (judges of the Court) is amended as follows.

(2) In subsections (1)(a) and (3) for “Lord Chancellor” substitute “ Lord Chief Justice of England and Wales ”.

(3) After subsection (4) insert—

“(5) The functions conferred on the Lord Chief Justice of England and Wales or on the Lord Chief Justice of Northern Ireland by this section may be exercised only after consulting the Lord Chancellor.

(6) The functions conferred on the Lord Chief Justice of Northern Ireland by this section may be exercised only after consulting the Lord Chancellor.

(7) The Lord Chief Justice of England and Wales 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 President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.

(9) 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).”

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- (4) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998 (c. 41).
- 370 (1) Section 3 (non-judicial members) is amended as follows.
- (2) After subsection (3) insert—
- “(4) The Lord Chancellor may exercise his functions under subsection (2)(b) only with the concurrence of the appropriate senior judge.
- (5) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless—
- (a) the member to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or
- (b) the member to be removed exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.”
- (3) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998.
- 371 (1) Section 4 (provision for additional judges or members) is amended as follows.
- (2) In subsection (1), in paragraph (a) after “consultation with” insert “ the Lord Chief Justice of England and Wales, ”.
- (3) After subsection (2) insert—
- “(3) The Lord Chief Justice of England and Wales 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.
- (4) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.
- (5) 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).”
- (4) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998.
- 372 (1) Section 6 (administration) is amended as follows.
- (2) In subsection (5) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice of England and Wales, ”.
- (3) After subsection (6) insert—
- “(7) The Lord Chief Justice of England and Wales 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.”

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- (4) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998.
- 373 (1) In section 9 (procedure), in subsection (1) for “Lord Chancellor” substitute “ president of the Court with the concurrence of the Lord Chancellor ”.
- (2) In relation to the enactment referred to in this paragraph, the original amending provision is section 1 of the Competition Act 1998 (c. 41).

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

- 374 The Magistrates' Courts Act 1980 is amended as follows.
- 375 (1) Section 67 (family proceedings courts and panels) is amended as follows.
- (2) In subsection (2)(a) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice, after consulting the Lord Chancellor, ”.
- (3) In subsection (5) for “on the Lord Chancellor” substitute “ , exercisable by the Lord Chancellor with the concurrence of the Lord Chief Justice, ”.
- (4) After subsection (8) insert—
- “(9) 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 subsection (2)(a).”
- (5) In relation to the enactment referred to in this paragraph, the original amending provision is section 49(1) of the Courts Act 2003.
- 376 (1) Section 68 (combined family panels) is amended as follows.
- (2) In subsection (2), after “thinks fit” insert “ after consulting the Lord Chief Justice ”.
- (3) After subsection (6) insert—
- “(6A) 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.”
- (4) In relation to the enactment referred to in this paragraph, the original amending provision is section 49(2) of the Courts Act 2003 (c. 39).
- 377 (1) In section 146 (rules relating to youth court panels and composition of youth court), in subsection (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (2) After subsection (5) insert—
- “(6) 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 powers under rules made under this section.”
- (3) In relation to the enactment referred to in this paragraph, the original amending provision is section 50(3) of the Courts Act 2003.

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*Supreme Court Act 1981 (c. 54)*

- 378 (1) Section 130 of the Supreme Court Act 1981 (fees to be taken in Supreme Court) is amended as follows.
- (2) In subsection (2)(a) for “President of the Family Division and the Vice-Chancellor” substitute “ President of the Queen’s Bench Division, President of the Family Division and the Chancellor of the High Court ”.
- (3) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 263 of Schedule 8 to the Courts Act 2003 (c. 39).

*Matrimonial and Family Proceedings Act 1984 (c. 42)*

- 379 The Matrimonial and Family Proceedings Act 1984 is amended as follows.
- 380 (1) Section 40 (family proceedings rules) is amended as follows.
- (2) In subsection (1) for “by the Lord Chancellor together with any four or more of the following persons, namely—” substitute “ by a committee known as the Family Proceedings Rule Committee, which is to consist of the following persons— ”.
- (3) For subsection (3) substitute—
- “(3) The members of the Family Proceedings Rule Committee, other than those eligible to act by virtue of their office, are appointed under subsection (3ZA) or (3ZB).
- (3ZA) The Lord Chief Justice must appoint the persons referred to in paragraphs (b), (c) (d) and (e) of subsection (1), after consulting the Lord Chancellor.
- (3ZB) The Lord Chancellor must appoint the persons referred to in paragraphs (f) and (g) of subsection (1), after consulting the Lord Chief Justice.
- (3ZC) A person is to be appointed under subsection (3ZA) or (3ZB) for such period as the Lord Chancellor determines after consulting the Lord Chief Justice.”
- (4) Omit subsection (5).
- (5) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 278(a) of Schedule 8 to the Courts Act 2003.
- 381 (1) After section 40 insert—

**“40A Process for making rules of court under section 40**

- (1) Family proceedings rules must be—
- (a) signed by a majority of the members of the Family Proceedings Rule Committee, and
- (b) submitted to the Lord Chancellor.
- (2) The Lord Chancellor may allow or disallow rules so made.
- (3) If the Lord Chancellor disallows rules, he must give the Committee written reasons for doing so.
- (4) Rules so made and allowed by the Lord Chancellor—
- (a) come into force on such day as the Lord Chancellor directs, and

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- (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by a Minister of the Crown.
- (5) A statutory instrument containing Family Proceedings rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section and section 40B “Family Proceedings rules” means rules of court made under section 40.

#### **40B Rules to be made if required by Lord Chancellor**

- (1) This section applies if the Lord Chancellor gives the Family Proceedings Rule Committee written notice that he thinks it is expedient for Family Proceedings rules to include provision that would achieve a purpose specified in the notice.
- (2) The Committee must make such Family Proceedings rules as it considers necessary to achieve the specified purpose.
- (3) Those rules must be—
  - (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
  - (b) made in accordance with section 40A.”
- (2) The enactment referred to in this paragraph, for the purposes of paragraph 361(3), is section 40 of the Matrimonial and Family Proceedings Act 1984 (c. 42), and in relation to that enactment the original amending provision is paragraph 278(a) of Schedule 8 to the Courts Act 2003 (c. 39).

#### *Railways Act 1993 (c. 43)*

382 The Railways Act 1993 is amended as follows.

- 383 (1) In section 91 (transfer schemes: general), in subsection (7)(c) for “Lord Chancellor” substitute “ Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland ”.
- (2) In relation to the enactment referred to in this paragraph, the original amending provision is section 274 of, and Schedule 31 to, the Transport Act 2000 (c. 38).

384 (1) Schedule 8 (transfers by transfer scheme) is amended as follows.

- (2) In paragraph 14 (third parties affected by vesting provisions), in sub-paragraph (5) (c) for “Lord Chancellor” substitute “ Chairman for the time being of the Royal Institution of Chartered Surveyors in Northern Ireland ”.
- (3) In relation to the enactment referred to in this paragraph, the original amending provision is section 274 of, and Schedule 31 to, the Transport Act 2000.

#### *Civil Procedure Act 1997 (c. 12)*

385 (1) Section 2 of the Civil Procedure Act 1997 (Civil Procedure Rule Committee) is amended as follows.

- (2) After subsection (8) insert—

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“(9) If the Lord Chancellor disallows rules under subsection (8), he must give the Civil Procedure Rule Committee written reasons for doing so.”

(3) In relation to the enactment referred to in this paragraph, the original amending provision is section 85(1) of the Courts Act 2003 (c. 39).

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

386 (1) The Justices of the Peace Act 1997 is amended as follows.

(2) In relation to the enactments in that Act referred to below, the original amending provision is section 6(4) of the Courts Act 2003.

387 (1) Section 1 (Commission areas) is amended as follows.

(2) In subsection (2) for “by the Lord Chancellor by order made by statutory instrument” substitute “ by order made by the Lord Chancellor, after consulting the Lord Chief Justice, by statutory instrument ”.

(3) After subsection (3) insert—

“(4) 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.”

388 (1) Section 4 (petty sessions areas) is amended as follows.

(2) In subsection (2) for “by the Lord Chancellor by order made by statutory instrument” substitute “ by order made by the Lord Chancellor, after consulting the Lord Chief Justice, by statutory instrument ”.

(3) After subsection (3) insert—

“(4) 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.”

389 In section 5 (appointment and removal of justices of the peace), in subsection (1) for “in like manner” substitute “ by the Lord Chancellor with the concurrence of the Lord Chief Justice ”.

390 (1) Section 6 (residence qualification) is amended as follows.

(2) In subsection (3) for “Lord Chancellor is” substitute “ Lord Chancellor and the Lord Chief Justice are both ”.

(3) After subsection (4) insert—

“(5) 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.”

391 In section 7 (supplemental list for England and Wales), in subsection (4)—

(a) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”;

(b) for “Lord Chancellor is” substitute “ Lord Chancellor and the Lord Chief Justice are both ”.

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- 392 In section 8 (removal of name from supplemental list), in subsection (1) after “Lord Chancellor” insert “, with the concurrence of the Lord Chief Justice,”.
- 393 (1) Section 9 (effect of entry of name in supplemental list) is amended as follows.
- (2) In subsection (3) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice”.
- (3) After subsection (4) insert—
- “(5) The Lord Chief Justice may not give an authorisation under subsection (3) unless the Lord Chancellor concurs.
- (6) 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 subsection (3).”
- 394 In section 10A (appointment and tenure), in subsection (3) after “Lord Chancellor” insert “, with the concurrence of the Lord Chief Justice,”.
- 395 In section 10B (deputies), in subsection (2) after “Lord Chancellor” insert “, with the concurrence of the Lord Chief Justice,”.
- 396 (1) Section 10C (status) is amended as follows.
- (2) In subsection (3) for “given by the Lord Chancellor from time to time” substitute “ given by the Lord Chief Justice from time to time after consulting the Lord Chancellor”.
- (3) After subsection (4) insert—
- “(5) 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.”
- 397 (1) Section 24 (rules as to chairmanship and size of bench) is amended as follows.
- (2) In subsection (5) omit “by the Lord Chancellor”.
- (3) After subsection (5) insert—
- “(6) Rules under this section that relate to the matters referred to in any of paragraphs (c) to (e) of subsection (2) are to be made by the Lord Chief Justice after consulting the Lord Chancellor.
- (7) Any other rules under this section are to be made by the Lord Chancellor after consulting the Lord Chief Justice.
- (8) 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.”
- 398 In section 25 (records of justices of the peace) after subsection (4) insert—
- “(5) The Lord Chancellor must consult the Lord Chief Justice before—
- (a) designating a justice under subsection (1), or
- (b) giving a direction under subsection (2).

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- (6) 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.”
- 399 (1) Section 26 (Greater Manchester, Merseyside and Lancashire) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a) after “Lord Chancellor” insert “ or the Lord Chief Justice ”;
- (b) in paragraph (b)—
- (i) after “Lord Chancellor” in the first place insert “ or the Lord Chief Justice ”;
- (ii) for “the Lord Chancellor” in the second place substitute “ that person, or those persons, ”.
- (3) In subsection (3)—
- (a) in paragraph (a) after “Lord Chancellor” insert “ or the Lord Chief Justice ”;
- (b) in paragraph (b)—
- (i) after “Lord Chancellor” in the first place insert “ or the Lord Chief Justice ”;
- (ii) for “the Lord Chancellor” in the second place substitute “ that person, or those persons, ”.
- (4) After subsection (3) insert—
- “(4) 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.”
- 400 (1) Section 27A (magistrates' courts committees) is amended as follows.
- (2) In subsection (2) for “by the Lord Chancellor by order made by statutory instrument” substitute “ by order made by the Lord Chancellor, after consulting the Lord Chief Justice, by statutory instrument ”.
- (3) After subsection (3) insert—
- “(4) 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.”
- 401 (1) Section 27B (alteration of committee areas) is amended as follows.
- (2) In subsection (4) before paragraph (a) insert—
- “(za) the Lord Chief Justice;”.
- (3) After subsection (10) insert—
- “(11) 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.”
- 402 (1) Section 33 (alteration of petty sessions areas) is amended as follows.
- (2) In subsection (2) after “Lord Chancellor” in the first place insert “ after he has consulted the Lord Chief Justice ”.
- (3) In subsection (3)—



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- (a) in paragraph (a) after “Lord Chancellor thinks fit” insert “ after consulting the Lord Chief Justice ”;
  - (b) for paragraph (b) substitute—
    - “(b) a magistrates' court committee fail to comply within six months with a direction under subsection (2);
    - (bb) the Lord Chancellor is, after consulting the Lord Chief Justice, dissatisfied with the draft order or report submitted in pursuance of such a direction; or”.
- (4) After subsection (3) insert—
- “(3A) The Lord Chancellor may only make an order to which subsection (3) applies after consulting the Lord Chief Justice.”
- (5) In subsection (4) after “appear to the Lord Chancellor” insert “ , after consulting the Lord Chief Justice, ”.
- (6) After subsection (5) insert—
- “(6) 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.”
- 403 (1) Section 53A (costs in legal proceedings) is amended as follows.
- (2) In subsection (4) after “Lord Chancellor may” insert “ , after consulting the Lord Chief Justice, ”.
- (3) After subsection (6) insert—
- “(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.”
- 404 (1) Section 54 (indemnification of justices and justices' clerks) is amended as follows.
- (2) In subsection (6) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice after consulting the Lord Chancellor ”.
- (3) After subsection (9) insert—
- “(10) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (6).”
- 405 (1) Section 64 (training courses) is amended as follows.
- (2) In subsection (1) for “by the Lord Chancellor” substitute “ by the Lord Chief Justice after consulting the Lord Chancellor ”.
- (3) After subsection (3) insert—
- “(4) 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 subsection (1).”

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*Data Protection Act 1998 (c. 29)*

- 406 (1) Paragraph 3 of Schedule 6 to the Data Protection Act 1998 (constitution of Tribunal in national security cases) is amended as follows.
- (2) That paragraph becomes sub-paragraph (1) of paragraph 3.
- (3) After that sub-paragraph insert—
- “(2) The Lord Chancellor may designate a person to preside under this paragraph only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
- (b) the Lord President of the Court of Session;
- (c) the Lord Chief Justice of Northern Ireland.
- (3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (4) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (5) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—
- (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).”
- (4) In relation to the enactment referred to in this paragraph, the original amending provision is paragraph 2 of Schedule 4 to the Freedom of Information Act 2000 (c. 36).

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

- 407 (1) In Schedule 5 to the Nationality, Immigration and Asylum Act 2002 (Immigration Appeal Tribunal), paragraph 3 (appointment of President) is amended as follows.
- (2) That paragraph becomes sub-paragraph (1) of paragraph 3.
- (3) In that sub-paragraph, after “Lord Chancellor shall” insert “, with the concurrence of the Lord Chief Justice of England and Wales, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland, ”.
- (4) After that sub-paragraph insert—
- “(2) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this paragraph.
- (3) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this paragraph.
- (4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this paragraph—

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- (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).”
- (5) In relation to the enactment referred to in this paragraph, the original amending provision is section 26(5)(b) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19).

## SCHEDULE 5

Section 15

### FUNCTIONS UNDER LEGISLATION RELATING TO NORTHERN IRELAND

#### PART 1

##### AMENDMENTS

###### *Land Law (Ireland) Act 1896 (c. 47)*

- 1 (1) Section 24 of the Land Law (Ireland) Act 1896 (power to nominate judge to act as additional land judge) is amended as follows.
- (2) For “Lord Chancellor” in each place substitute “ Lord Chief Justice ”.
- (3) At the end of the section insert—
- “The Lord Chief Justice 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).”

###### *Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.))*

- 2 The Coroners Act (Northern Ireland) 1959 is amended as follows.
- 3 In section 2 (appointment of coroners), after subsection (1) insert—
- “(1A) The Lord Chief Justice must also be consulted before any determination is made under subsection (1) as to numbers of coroners or deputy coroners.
- (1B) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (1A)—
- (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).”
- 4 (1) Section 3 (power to amalgamate districts) is amended as follows.
- (2) That section becomes subsection (1) of section 3.
- (3) After that subsection insert—

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- “(2) The Lord Chief Justice must be consulted before any date is appointed and before any order is made under subsection (1).
- (3) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (2)—
- (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).”
- 5 (1) Section 6 (coroner to hold inquests in district in which he is appointed) is amended as follows.
- (2) In subsection (2) for “Lord Chancellor may” in each place substitute “ Lord Chief Justice may, after consultation with the Lord Chancellor, ”.
- (3) After subsection (2) insert—
- “(3) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (2)—
- (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).”
- 6 (1) Section 36 is amended as follows.
- (2) In subsection (1)—
- (a) for “The Lord Chancellor may by rules” substitute “ Rules under this section may ”;
  - (b) in paragraph (a) omit “made after consultation with the Treasury, ”;
  - (c) in paragraph (b) omit “made after consultation with the Lord Chief Justice”.
- (3) After subsection (1) insert—
- “(1A) It is for the Lord Chancellor to make rules under subsection (1)(a), after consultation with the Treasury.
- (1B) It is for the Lord Chief Justice to make rules under subsection (1)(b), in accordance with subsections (1C) to (1G).
- (1C) The Lord Chief Justice may make rules under subsection (1)(b) only with the agreement of the Lord Chancellor.
- (1D) If the Lord Chancellor does not agree such rules made by the Lord Chief Justice, the Lord Chancellor must give the Lord Chief Justice written reasons why he does not agree the rules.
- (1E) Subsection (1F) applies if the Lord Chancellor gives the Lord Chief Justice written notice that he thinks it is expedient for rules under subsection (1)(b) to include provision that would achieve a purpose specified in the notice.
- (1F) The Lord Chief Justice must make such rules under subsection (1)(b) as he considers necessary to achieve the specified purpose.
- (1G) Those rules must be—
- (a) made within a reasonable period after the Lord Chancellor gives notice under subsection (1E);

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(b) made in accordance with the relevant provisions of this section.

(1H) The Lord Chief Justice may nominate any of the following to exercise his functions under subsections (1B), (1C) and (1F)—

- (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).”

*County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.))*

7 The County Courts Act (Northern Ireland) 1959 is amended as follows.

8 In section 102 (appointment and assignment of judges), in subsections (2) and (4) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

9 In section 105 (tenure and oaths of office and retirement of judges), in subsection (4) omit “Lord Chancellor's”.

10 In section 107 (deputy judges), in subsection (4) omit “Lord Chancellor's”.

11 In section 116 (pensions of judges), after subsection (5) insert—

“(5A) The Lord Chancellor must consult the Lord Chief Justice before—

- (a) making a recommendation in a case that falls within subsection (1) (b), or
- (b) requiring a person to resume the duties of judge in accordance with subsection (4).

(5B) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (5A)—

- (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).”

*Resident Magistrates' Pensions Act (Northern Ireland) 1960 (c. 2 (N.I.))*

12 The Resident Magistrates' Pensions Act (Northern Ireland) 1960 is amended as follows.

13 In section 1 (retiring age of resident magistrates), omit “Lord Chancellor's”.

14 In section 2 (pensions of resident magistrates), after subsection (6) insert—

“(7) The Lord Chancellor must consult the Lord Chief Justice before—

- (a) satisfying himself as mentioned in subsection (3)(c), or
- (b) requiring a person to resume the duties of resident magistrate in accordance with subsection (4).

(8) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (7)—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).”

15 Omit section 11 (resident magistrates already serving).

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*Magistrates' Courts Act (Northern Ireland) 1964 (c. 21 (N.I.))*

- 16 In section 9 of the Magistrates' Courts Act (Northern Ireland) 1964 (appointment and assignment of resident magistrates), in subsections (3) and (5) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

*Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c. 29 (N.I.))*

- 17 In section 2 of the Lands Tribunal and Compensation Act (Northern Ireland) 1964 (terms of appointment of members of Lands Tribunal), in subsection (1)(b) omit “Lord Chancellor's”.

*Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.))*

- 18 (1) Schedule 2 to the Children and Young Persons Act (Northern Ireland) 1968 (constitution of juvenile courts) is amended as follows.
- (2) In paragraph 8 (regulations), after “Lord Chancellor” insert “ after consultation with the Lord Chief Justice ”.

*Land Registration Act (Northern Ireland) 1970 (c. 18 (N.I.))*

- 19 In section 85 of the Land Registration Act (Northern Ireland) 1970, after subsection (2) insert—
- “(2A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (2)(a)—
- (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).”

*Misuse of Drugs Tribunal (Northern Ireland) Rules 1974 (S.R. 1974/256)*

- 20 (1) Rule 2 of the Misuse of Drugs Tribunal (Northern Ireland) Rules 1974 (interpretation) is amended as follows.
- (2) In paragraph (1), in the definition of “the chairman” for “by the Lord Chief Justice of Northern Ireland” substitute “ in accordance with paragraph 1(1)(a) of Schedule 3 to the Act ”.

*Social Security (Northern Ireland) Act 1975 (c. 15)*

- 21 (1) Schedule 10 to the Social Security (Northern Ireland) Act 1975 (supplementary provision as to Local Tribunals, Commissioners etc) is amended as follows.
- (2) In paragraph 6 (Commissioners' pensions), after sub-paragraph (1) insert—
- “(1ZA) The Lord Chancellor must consult the Lord Chief Justice before satisfying himself as mentioned in sub-paragraph (1)(c).
- (1ZB) The Lord Chief Justice may nominate any of the following to exercise his functions under sub-paragraph (1ZA)—
- (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).”

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(3) In paragraph 7 (Commissioners' pensions: supplementary), after sub-paragraph (5) insert—

“(5A) The Lord Chancellor must consult the Lord Chief Justice before requiring a person to resume the duties of Commissioner in accordance with sub-paragraph (5).

(5B) The Lord Chief Justice may nominate any of the following to exercise his functions under sub-paragraph (5A)—

- (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).”

*Judicature (Northern Ireland) Act 1978 (c. 23)*

22 The Judicature (Northern Ireland) Act 1978 is amended as follows.

23 (1) Section 7 (further assistance for transaction of judicial business) is amended as follows.

(2) In subsections (1) and (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(3) After subsection (4) insert—

“(5) The Lord Chief Justice 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).”

24 (1) Section 47 (exercise of jurisdiction by Crown Court) is amended as follows.

(2) In subsection (2)—

- (a) for “Lord Chancellor” in the first place substitute “ Lord Chief Justice ”;
- (b) for “Lord Chancellor after consultation with the Lord Chief Justice” substitute “ Lord Chief Justice ”.

(3) In subsection (3) for “Lord Chancellor after consultation with the Lord Chief Justice” substitute “ Lord Chief Justice ”.

(4) In subsection (5) after “Lord Chancellor” insert “ after consultation with the Lord Chief Justice ”.

(5) After subsection (6) insert—

“(7) The Lord Chief Justice 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).”

25 In section 48 (committal for trial on indictment), in subsection (1)(c) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

26 In section 52 (Crown Court rules), in subsection (1) for the words from the beginning to “prescribing—” substitute—

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- “(1) Subject to any statutory provision, Crown Court rules may be made in accordance with section 53A for the purpose of regulating and prescribing—”.
- 27 (1) Section 53 (membership of the Crown Court Rules Committee) is amended as follows.
- (2) In subsection (1)(c) and (d) for “Lord Chancellor after consultation with the Lord Chief Justice” substitute “ Lord Chief Justice ”.
- (3) After subsection (1) insert—
- “(1A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (1)(c) or (d)—
- (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).”
- 28 After section 53 insert—

**“53A Making of Crown Court rules**

- (1) It is for the Crown Court Rules Committee to make Crown Court rules.
- (2) After making Crown Court rules the Committee must submit them to the Lord Chancellor.
- (3) The Lord Chancellor must allow or disallow Crown Court rules submitted to him.
- (4) Crown Court rules have effect only if allowed by the Lord Chancellor.
- (5) If the Lord Chancellor disallows Crown Court rules, the Lord Chancellor must give the Committee written reasons why he has disallowed them.
- (6) Subsection (7) applies if the Lord Chancellor gives the Committee written notice that he thinks it is expedient for Crown Court rules to include provision that would achieve a purpose specified in the notice.
- (7) The Committee must make such Crown Court rules as it considers necessary to achieve the specified purpose.
- (8) Those Crown Court rules must be—
- (a) made within a reasonable period after the Lord Chancellor gives notice under subsection (6);
- (b) made in accordance with this section.”
- 29 (1) Section 55 (rules of court) is amended as follows.
- (2) In subsection (1) for the words from the beginning to “with respect to—” substitute—
- “(1) Subject to any statutory provision, rules may be made in accordance with section 55A with respect to—”.
- (3) In subsection (2) for the words from the beginning to “make rules—” substitute—
- “(2) Subject to any statutory provision, rules may be made in accordance with section 55A—”.



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(4) In subsection (3) for “made by the Rules Committee” substitute “ made under this section ”.

30 After section 55 insert—

**“55A Making of rules of Court**

- (1) It is for the Rules Committee to make rules under section 55(1) or (2).
- (2) After making such rules the Rule Committee must submit them to the Lord Chancellor.
- (3) The Lord Chancellor must allow or disallow rules submitted to him.
- (4) Rules submitted to the Lord Chancellor have effect only if allowed by him.
- (5) If the Lord Chancellor disallows rules submitted to him, he must give the Committee written reasons why he has disallowed them.
- (6) Subsection (7) applies if the Lord Chancellor gives the Rules Committee written notice that he thinks it is expedient for rules under section 55(1) or (2) to include provision that would achieve a purpose specified in the notice.
- (7) The Rules Committee must make such rules as it considers necessary to achieve the specified purpose.
- (8) Those rules must be—
  - (a) made within a reasonable period after the Lord Chancellor gives notice under subsection (6);
  - (b) made in accordance with this section.”

31 (1) Section 58 (sittings of High Court and Court of Appeal) is amended as follows.

(2) In subsection (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(3) After subsection (3) insert—

“(4) The Lord Chief Justice 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).”

32 (1) Section 60 (taxation of costs) is amended as follows.

(2) In subsection (1) for “Lord Chancellor after consultation with the Lord Chief Justice” substitute “ Lord Chief Justice ”.

(3) After subsection (2) insert—

“(3) The Lord Chief Justice 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).”

33 (1) Section 68 (departments of the Supreme Court) is amended as follows.

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- (2) In subsection (2)(b) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) In subsection (4) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (4) After subsection (6) insert—
- “(7) The Lord Chief Justice 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).”
- 34 In section 71 (tenure of office of statutory officers), in subsection (3) omit “Lord Chancellor's”.
- 35 (1) Section 75 (Official Solicitor) is amended as follows.
- (2) In subsection (2)(b) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) After subsection (2) insert—
- “(2A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (2)(b)—
- (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).”
- 36 (1) Section 103 (appointment of justices of the peace) is amended as follows.
- (2) In subsection (6) after “Lord Chancellor” insert “ , after consultation with the Lord Chief Justice, ”.
- (3) In subsection (7) after “Lord Chancellor may direct” insert “ , after consultation with the Lord Chief Justice, ”.
- 37 Omit section 104 (under-sheriffs).
- 38 (1) Section 112 (oaths and affidavits) is amended as follows.
- (2) In subsection (3) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) After subsection (7) insert—
- “(8) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (3)—
- (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).”
- 39 In section 119 (making and control of subordinate legislation), in subsection (5) omit “on the Lord Chancellor”.
- 40 (1) Schedule 6 (transitional provisions) is amended as follows.
- (2) Omit paragraph 6(a).
- (3) In paragraph 9(b) after “Lord Chancellor” insert “ after consultation with the Lord Chief Justice ”.

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(4) After paragraph 9 insert—

“9A The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph 9—

- (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).”

(5) Omit paragraphs 11(3), 14 and 17.

*Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15))*

41 (1) Article 48 (the court) is amended as follows.

(2) In paragraph (1)—

- (a) for “by the Lord Chancellor” substitute “ in accordance with paragraph (1A) ”;
- (b) omit the words after sub-paragraph (b).

(3) After paragraph (1) insert—

“(1A) It is for the Lord Chancellor, with the concurrence of the Lord Chief Justice, to make an order such as is mentioned in paragraph (1)(b).”

(1B) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under paragraph (1A)—

- (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).”

*Reserve and Auxiliary Forces (Protection of Civil Interests) (Northern Ireland) Order 1979 (S.I. 1979/291)*

42 (1) Article 7 of the Reserve and Auxiliary Forces (Protection of Civil Interests) (Northern Ireland) Order 1979 (modifications of section 5 of Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 in application to Northern Ireland) is amended as follows.

(2) After paragraph (1) insert—

“(1A) In subsection (2) for “Rules may be made in accordance with Part 1 of Schedule 1 to the Constitutional Reform Act 2005” substitute “ The Lord Chief Justice of Northern Ireland may, with the concurrence of the Lord Chancellor, make rules ”.

(1B) For subsections (5A) and (5B) substitute—

“(5A) The Lord Chancellor must consult the Lord Chief Justice of Northern Ireland before making rules under subsection (1) that relate to Northern Ireland.”.

(3) In paragraph (2), in subsections (6) and (7) substituted for subsection (6) of the 1951 Act, for “this section” substitute “ subsection (1) ”.

(4) After paragraph (2) insert—

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“(3) At the end of that section insert—

“(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).”

*Administration of Estates (Northern Ireland) Order 1979 (S.I. 1979/1575 (N.I. 14))*

43 The Administration of Estates (Northern Ireland) Order 1979 is amended as follows.

44 (1) Article 20 (inheritance tax accounts) is amended as follows.

(2) In paragraph (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(3) After paragraph (2) insert—

“(2A) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under paragraph (2)—

- (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).”

45 (1) Article 23 (keeping and inspection of wills and other documents) is amended as follows.

(2) In paragraph (1) for “Lord Chancellor” in the second place substitute “ Lord Chief Justice ”.

(3) In paragraph (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(4) After paragraph (4) insert—

“(5) The Lord Chief Justice may nominate any of the following to exercise his functions under this Article—

- (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).”

46 (1) Article 24 (records of grants) is amended as follows.

(2) In paragraph (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(3) After paragraph (2) insert—

“(3) The Lord Chief Justice may nominate any of the following to exercise his functions under this Article—

- (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).”

47 (1) Article 26 (copies of wills etc to be delivered to Inland Revenue Commissioners).

(2) In paragraph (1) for “Lord Chancellor” in each place substitute “ Lord Chief Justice ”.

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(3) After paragraph (1) insert—

“(1A) The Lord Chief Justice may nominate any of the following to exercise his functions under this Article—

- (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).”

*County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3))*

- 48 The County Courts (Northern Ireland) Order 1980 is amended as follows.
- 49 In Article 2 (interpretation), in paragraph (5) omit “on the Lord Chancellor”.
- 50 In Article 3 (county courts to be held for divisions), in paragraph (1) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice,”.
- 51 In Article 4 (directions as to holding of courts), for “Lord Chancellor” in each place substitute “ Lord Chief Justice ”.
- 52 In Article 5 (directions for courts to sit otherwise in courthouses), for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- 53 (1) Article 6 (appointment of days for holding of ordinary sittings) is amended as follows.
- (2) In paragraph (1) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) In paragraph (2) for “Lord Chancellor shall consult the Lord Chief Justice and” substitute “ Lord Chief Justice shall consult ”.
- 54 In Article 7 (additional and extraordinary sittings), in paragraphs (1) and (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- 55 In Article 22 (power to increase civil jurisdiction of county courts), after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice,”.
- 56 In Article 46 (as amended by section 73(2) of the Justice (Northern Ireland) Act 2002), in paragraph (1)(a) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- 57 In Article 47 (making of county court rules) for paragraphs (2) and (3) substitute—
- “(2) County court rules must be certified under the hand of the members of the Rule Committee, or any three or more of them.
- (3) After making and certifying county court rules the Rules Committee must submit them to the Lord Chancellor.
- (4) The Lord Chancellor must, after consultation with the Lord Chief Justice, allow or disallow county court rules submitted to him.
- (5) County court rules have effect only if the Lord Chancellor allows them.
- (6) If the Lord Chancellor disallows county court rules, the Lord Chancellor must give the Rules Committee written reasons why he has disallowed them.
- (7) County court rules allowed by the Lord Chancellor shall come into operation on such day as the Lord Chancellor shall direct.

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(8) Paragraph (9) applies if the Lord Chancellor gives the Rules Committee written notice that he thinks it is expedient for county court rules to include provision that would achieve a purpose specified in the notice.

(9) The Rules Committee must make such county court rules as it considers necessary to achieve the specified purpose.

(10) Those rules must be—

(a) made within a reasonable period after the Lord Chancellor gives notice under paragraph (8);

(b) made in accordance with this Article.”

58 In Article 56 (swearing of affidavits before designated court officer), in subsection (1) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

59 In Article 58 (furnishing of information by certain officers), at the end insert “ and furnish to the Lord Chief Justice such information as may be prescribed or required by the Lord Chief Justice. ”

*Domestic Proceedings (Northern Ireland) Order 1980 (S.I. 1980/563 (N.I. 5))*

60 (1) Article 4 of the Domestic Proceedings (Northern Ireland) Order 1980 (powers of court to make provision for domestic proceedings) is amended as follows.

(2) In paragraph (3) after “may” insert “ , after consultation with the Lord Chief Justice, ”.

(3) After paragraph (3) insert—

“(3A) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (3)—

(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).”

(4) In paragraph (4) for the words from the beginning to “under” substitute “ Any order made under ”.

*Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))*

61 The Magistrates' Courts (Northern Ireland) Order 1981 is amended as follows.

62 (1) Article 6A (costs in legal proceedings) is amended as follows.

(2) In paragraph (4) after “Lord Chancellor may” insert “ , after consultation with the Lord Chief Justice, ”.

(3) After paragraph (4) insert—

“(4A) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under paragraph (4)—

(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).”

63 (1) Article 11 (petty sessions and petty sessions districts) is amended as follows.

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- (2) In paragraph (2) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice,”.
- (3) In paragraph (3) for “Lord Chancellor” in each place substitute “ Lord Chief Justice ”.
- 64 In Article 12 (holding of petty sessions in courthouse), in paragraph (a) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- 65 (1) Article 13 (magistrates' courts rules) is amended as follows.
- (2) In paragraph (1) omit the words from “or as” to “Article 14”.
- (3) In paragraph (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (4) For paragraph (3) substitute—
- “ (3) It is for the Rules Committee to make such rules as are referred to in paragraph (1) (which may be known as “magistrates' courts rules”).
- (3A) The Rules Committee may make magistrates' courts rules only—
- (a) after consultation with the Lord Chancellor, and
- (b) with the agreement of the Lord Chief Justice.
- (3B) Paragraph (3C) applies if the Lord Chancellor gives the Rules Committee written notice that he thinks it is expedient for magistrates' courts rules to include provision that would achieve a purpose specified in the notice.
- (3C) The Rules Committee must make such magistrates' courts rules as it considers necessary to achieve the specified purpose.
- (3D) Those rules must be—
- (a) made within a reasonable period after the Lord Chancellor gives notice under paragraph (3B);
- (b) made in accordance with this Article.”
- (5) In paragraph (5), after “member of the committee” insert “ as the Lord Chief Justice shall designate ”.
- 66 Omit Article 14 (recommendations by Rules Committee to Lord Chancellor).
- 67 In Article 15 (rules under or for the purpose of particular enactments), in paragraph (2) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- 68 In Article 37 (discharge or committal for trial), in paragraph (5) omit “Without prejudice to Article 14,”.
- 69 In Article 168 (directions), omit “on the Lord Chancellor”.

*Pensions Appeal Tribunals (Northern Ireland) Rules 1981 (S.R. 1981/231)*

- 70 The Pensions Tribunals (Northern Ireland) Rules 1981 is amended as follows.
- 71 In rule 2 (interpretation), in paragraph (1)—
- (a) for the definition of “the Chairman” substitute—
- ““the Chairman” means the person who is chairman of a Tribunal in accordance with the Schedule to the Act (including any directions under paragraph 3A of that Schedule)”;

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- (b) in the definition of “the Deputy President” omit “by the Lord Chief Justice of Northern Ireland”;
  - (c) in the definition of “the President” omit “by the Lord Chief Justice of Northern Ireland”.
- 72 In rule 2A (functions of the President), in paragraph (2) after “Lord Chief Justice of Northern Ireland” insert “ after consultation with the Lord Chancellor ”.

*Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4))*

- 73 The Mental Health (Northern Ireland) Order 1986 is amended as follows.
- 74 (1) Article 83 (procedure of tribunal) is amended as follows.
- (2) In paragraph (1) after “Lord Chancellor may” insert “ , after consultation with the Lord Chief Justice, ”.
  - (3) After paragraph (1) insert—
    - “(1A) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (1)—
      - (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).”
- 75 (1) Schedule 3 (Mental Health Review Tribunal for Northern Ireland) is amended as follows.
- (2) In paragraph 1—
    - (a) in sub-paragraph (a) after “suitable” insert “ after consultation with the Lord Chief Justice ”;
    - (b) In sub-paragraph (b) and (c) omit “after consultation with the Head of the Department”.
  - (3) After paragraph 1 insert—
    - “1A (1) The Lord Chief Justice may nominate any of the following to exercise his functions under sub-paragraph 1(a)—
      - (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).
    - (2) As part of the selection process for an appointment under paragraph 1(b) or (c) the Northern Ireland Judicial Appointments Commission shall consult the Head of the Department.”
- 76 In Schedule 6 to the Mental Health (Northern Ireland) Order 1986 (transitional provisions), omit paragraph 19.

*Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))*

- 77 The Police and Criminal Evidence (Northern Ireland) Order 1989 is amended as follows.
- 78 In Article 80A (evidence through live links), in paragraph (6) after “Lord Chancellor” insert “ , after consultation with the Lord Chief Justice, ”.



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79 In Article 81 (evidence through television links), in paragraph (8) after “Lord Chancellor” insert “, after consultation with the Lord Chief Justice,”.

*Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))*

80 The Insolvency (Northern Ireland) Order 1989 is amended as follows.

81 In Article 359 (insolvency rules), after paragraph (1) insert—

“(1A) Rules that affect court procedure may be made under paragraph (1) only with the concurrence of the Lord Chief Justice.

(1B) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (1A)—

- (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).”

82 (1) Article 360 (committee to review insolvency rules) is amended as follows.

(2) In paragraph (1) for “continue to be a committee appointed by the Lord Chancellor” substitute “ be a committee appointed by the Lord Chief Justice ”.

(3) In paragraph (2)(f) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(4) After paragraph (2) insert—

“(3) The Lord Chief Justice may nominate any of the following to exercise his functions under this Article—

- (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).”

83 (1) Article 364 (insolvent partnerships) is amended as follows.

(2) In paragraph (1) after “concurrence of” insert “ the Lord Chief Justice and ”.

(3) After paragraph (1) insert—

“(1ZA) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under paragraph (1)—

- (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).”

84 (1) Article 365 (insolvent estates of deceased persons) is amended as follows.

(2) In paragraph (1) after “concurrence of” insert “ the Lord Chief Justice and ”.

(3) After paragraph (1) insert—

“(1ZA) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under paragraph (1)—

- (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).”

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*Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23))*

- 85 The Child Support (Northern Ireland) Order 1991 is amended as follows.
- 86 (1) Article 10 (role of the courts with respect to maintenance for children) is amended as follows.
- (2) In paragraph (5), after “Lord Chancellor may” insert “, with the concurrence of the Lord Chief Justice,”.
- (3) After paragraph (5) insert—
- “(5A) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (5)—
- (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).”
- 87 (1) Article 42 (jurisdiction of courts in certain proceedings under this Order) is amended as follows.
- (2) In paragraphs (1) and (3) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice,”.
- (3) In paragraph (4) after “Lord Chancellor considers appropriate” insert “, after consultation with the Lord Chief Justice,”.
- (4) After paragraph (4) insert—
- “(5) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this Article—
- (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).”

PROSPECTIVE

*Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20))*

- 88 (1) In the Registered Homes (Northern Ireland) Order 1992, Article 30 (constitution of panels for chairmen and members of Social Care Tribunals) is amended as follows.
- (2) In paragraph (3) after “suitable” insert “ after consultation with the Lord Chief Justice ”.
- (3) After paragraph (3) insert—
- “(3A) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (3)—
- (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).”

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*Family Law (Northern Ireland) Order 1993 (S.I. 1993/1575 (N.I. 6))*

- 89 The Family Law (Northern Ireland) Order 1993 is amended as follows.
- 90 (1) Article 12 (family proceedings rules) is amended as follows.
- (2) In paragraph (1) for the words from “which” to “court” substitute “ which may make rules of court in accordance with Article 12A ”.
- (3) In paragraph (3) for “rules of court made under this Article” substitute “ family proceedings rules ”.
- (4) In paragraph (4) for “Rules of court made under this Article” substitute “ Family proceedings rules ”.
- (5) In paragraph (5)—
- (a) after “this Article” insert “ and Article 12A ”;
- (b) at the end insert—
- ““family proceedings rules” means rules of court made under this Article.”
- 91 After Article 12 insert—

**Making of family proceedings rules**

- “12A(1) After making family proceedings rules the Committee must submit them to the Lord Chancellor.
- (2) The Lord Chancellor may allow or disallow family proceedings rules submitted to him.
- (3) Family proceedings rules have effect only if allowed by the Lord Chancellor.
- (4) If the Lord Chancellor disallows family proceedings rules, the Lord Chancellor must give the Committee written reasons why he has disallowed them.
- (5) Paragraph (6) applies if the Lord Chancellor gives the Committee written notice that he thinks it is expedient for family proceedings rules to include provision that would achieve a purpose specified in the notice.
- (6) The Committee must make such family proceedings rules as it considers necessary to achieve the specified purpose.
- (7) Those rules must be—
- (a) made within a reasonable period after the Lord Chancellor gives notice under paragraph (5);
- (b) made in accordance with this Article.”
- 92 (1) In Schedule 2 (Northern Ireland Family Proceedings Rules Committee), paragraph 2 is amended as follows.
- (2) That paragraph becomes sub-paragraph (1) of paragraph 2.
- (3) In that sub-paragraph—
- (a) in sub-paragraph (c) for “Lord Chancellor after consultation with the Lord Chief Justice” substitute “ Lord Chief Justice ”;

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(b) in sub-paragraph (f) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

(4) After that sub-paragraph insert—

“(2) The Lord Chief Justice may nominate any of the following to exercise his functions under this paragraph—

- (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).”

*Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))*

93 The Children (Northern Ireland) Order 1995 is amended as follows.

94 In Article 4 (reports on child's welfare), in paragraph (2) after “Lord Chancellor may” insert “ , after consultation with the Lord Chief Justice, ”.

95 In Article 60 (representation of child and his interests in certain proceedings), in paragraph (8) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

96 In Article 166 (appeals), in paragraph (14) after “Lord Chancellor may” insert “ , after consultation with the Lord Chief Justice, ”.

97 In Article 169 (evidence given by, or with respect to, children), in paragraph (5) after “Lord Chancellor may” insert “ , with the concurrence of the Lord Chief Justice, ”.

98 In Article 170 (privacy for children involved in certain proceedings), in paragraph (5) after “requires it” insert “ and if the Lord Chief Justice agrees ”.

99 After Article 181 insert—

**Delegation of functions by Lord Chief Justice**

“181A) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise a delegable function—

- (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).

(2) In paragraph (1) “delegable function” means a function under any of these provisions of this Order—

- (a) Article 4(2);
- (b) Article 166(14);
- (c) Article 169(5);
- (d) Article 170(5);
- (e) in Schedule 1, paragraph 6(2);
- (f) in Schedule 7—
  - (i) paragraph 1(1), (2) and (4);
  - (ii) paragraph 2(1) and (5);
  - (iii) paragraph 3;
  - (iv) paragraph 4(4), (6)(a) and (7).”

100 In paragraph 6 of Schedule 1 (financial provision for children: provisions relating to lump sums), in sub-paragraph (2) after “Lord Chancellor may” insert “ , after consultation with the Lord Chief Justice, ”.

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- 101 (1) Schedule 7 (commencement of proceedings) is amended as follows.
- (2) In paragraph 1 (commencement of certain proceedings in particular court), in sub-paragraphs (1), (2) and (4) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice, ”.
- (3) In paragraph 2 (transfer of proceedings)—
- (a) in sub-paragraph (1) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice, ”;
- (b) in sub-paragraph (5) after “Lord Chancellor thinks appropriate” insert “, after consultation with the Lord Chief Justice, ”.
- (4) In paragraph 3 (emergency protection orders), after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice, ”.
- (5) In paragraph 4 (general)—
- (a) in sub-paragraph (4) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice ”;
- (b) in sub-paragraph (6)(a) after “Lord Chancellor considers expedient” insert “, after consultation with the Lord Chief Justice ”;
- (c) in sub-paragraph (7) after “Lord Chancellor by order otherwise provides” insert “, after consultation with the Lord Chief Justice ”.

*Education (Northern Ireland) Order 1996 (S.I. 1996/274 (N.I. 1))*

- 102 (1) In the Education (Northern Ireland) Order 1996, Article 22 (constitution of Special Educational Needs Tribunal for Northern Ireland) is amended as follows.
- (2) In paragraph (3)(a) after “suitable” insert “ after consultation with the Lord Chief Justice ”.
- (3) After paragraph (3) insert—
- “(3A) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (3)—
- (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).”

*Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997 (S.R. 1997/269)*

- 103 (1) The Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997 is amended as follows.
- (2) In the Schedule, in rule 6 (appointment of tribunal)—
- (a) in paragraph (3)(a) omit “but”;
- (b) omit paragraph (3)(b).

*Northern Ireland Act 1998 (c. 47)*

- 104 The Northern Ireland Act 1998 is amended as follows.
- 105 In section 90 (effect of certificates), in subsection (2) for “made by the Lord Chancellor” substitute “ made under section 91 ”.

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- 106 (1) Section 91 (the National Security Certificates Tribunal) is amended as follows.
- (2) In subsection (2), after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice of Northern Ireland, ”.
- (3) After subsection (2) insert—
- “(2A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (2)—
- (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).”
- 107 (1) Section 92 (appeals from the Tribunal) is amended as follows.
- (2) In subsection (3) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice of Northern Ireland, ”.
- (3) After subsection (3) insert—
- “(3A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (3)—
- (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).”
- 108 (1) In Schedule 11 (tribunal established under section 91 of the Act), paragraph 5 (times and places of sittings in accordance with directions) is amended as follows.
- (2) That paragraph becomes sub-paragraph (1) of paragraph 5.
- (3) In that sub-paragraph, for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (4) After that sub-paragraph insert—
- “(2) The Lord Chief Justice may nominate any of the following to exercise his functions under this paragraph—
- (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).”

*Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6))*

- 109 The Family Homes and Domestic Violence (Northern Ireland) Order 1998 is amended as follows.
- 110 (1) Article 34 (jurisdiction of courts and procedure) is amended as follows.
- (2) In paragraphs (3), (4) and (5) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice, ”.
- (3) In paragraph (7) after “Lord Chancellor thinks appropriate” insert “, after consultation with the Lord Chief Justice, ”.
- (4) In paragraph (9) after “Lord Chancellor” insert “, after consultation with the Lord Chief Justice, ”.

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(5) After paragraph (9) insert—

“(9A) The Lord Chief Justice may nominate any of the following to exercise his functions under this Article—

- (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).”

111 (1) Article 39 (appeals) is amended as follows.

(2) In paragraph (4) after “Lord Chancellor” in each place insert “, after consultation with the Lord Chief Justice, ”.

(3) In paragraph (11) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice, ”.

(4) After paragraph (11) insert—

“(11A) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under paragraph (4) or (11)—

- (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).”

*Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))*

112 In Article 27 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (youth courts), in paragraph (3) for “Lord Chancellor” substitute “ Lord Chief Justice ”.

*Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))*

113 (1) In the Social Security (Northern Ireland) Order 1998, Article 7 (qualifications for membership of appeal panels) is amended as follows.

(2) In paragraph (2) for the words from “such” to the end substitute “ persons appointed by the Lord Chancellor ”.

(3) In paragraph (3) at the end insert “ ; and such concurrence may be given only after consultation with the Lord Chief Justice ”.

(4) After paragraph (3) insert—

“(3A) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (3)—

- (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).”

(3B) As part of the selection process for the appointment of a medical practitioner as a member of the panel, the Northern Ireland Judicial Appointments Commission shall consult the Chief Medical Officer of the Department.”

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*Criminal Evidence (Northern Ireland) Order 1999 (S.I. 1999/2789 (N.I. 8))*

- 114 In Article 12 of the Criminal Evidence (Northern Ireland) Order 1999 (evidence by live link), in paragraph (5) after “Lord Chancellor” insert “, after consultation with the Lord Chief Justice, ”.

*Justice (Northern Ireland) Act 2002 (c. 26)*

- 115 (1) The Justice (Northern Ireland) Act 2002 is amended as follows.
- (2) Where the amendment to section 8(7), 24(5) or 43(6) of that Act made by this Schedule comes into force before section 23 of this Act, the reference in that section (as amended by this Schedule) to the President of the Supreme Court has effect, until section 23 comes into force, as a reference to the senior Lord of Appeal in Ordinary.

**Commencement Information**

**I26** Sch. 5 para. 115 partly in force; Sch. 5 para. 115 not in force at Royal Assent see s. 148; Sch. 5 para. 115(1) in force at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(c)

PROSPECTIVE

F19 116 .....

**Textual Amendments**

**F19** Sch. 5 para. 116 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 5 para. 6(3); S.I. 2010/812, art. 2

- 117 (1) Section 9 (appointment of lay magistrates) is amended as follows.
- (2) In paragraph (a) of subsection (2) for the words from “approved by” to the end of the paragraph substitute “ approved by the Lord Chief Justice after consultation with the Lord Chancellor, or ”.
- (3) In subsection (3) for the words from “such longer period” to the end substitute “ such longer period as the Lord Chief Justice may, after consulting the Lord Chancellor, allow. ”
- (4) In subsection (4) after “may” insert “, after consultation with the Lord Chief Justice, ”.
- (5) In subsection (5) after “unless” insert “, after consultation with the Lord Chief Justice, ”.
- 118 In section 10 (transfer of functions of justices of the peace), in subsection (4) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice, ”.
- 119 In section 12 (role of the Lord Chief Justice), omit subsections (2) and (3).



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VALID FROM 12/04/2010

- 120 (1) In section 24 (removal of Attorney General), in subsection (5) after “Lord Chancellor” insert “after consultation with all of the following—
- (a) the President of the Supreme Court;
  - (b) the Lord Chief Justice of England and Wales;
  - (c) the Lord President of the Court of Session;
  - (d) the Lord Chief Justice of Northern Ireland”.

VALID FROM 12/04/2010

- 121 In section 43 (appointment and removal of Director of Public Prosecutions), in subsection (6) after “Lord Chancellor” insert “after consultation with all of the following—
- (a) the President of the Supreme Court;
  - (b) the Lord Chief Justice of England and Wales;
  - (c) the Lord President of the Court of Session;
  - (d) the Lord Chief Justice of Northern Ireland”.

- 122 (1) Schedule 1 (listed judicial offices) is amended as follows.
- (2) After the entry “Member of the legal panel of persons available to act as chairmen of Social Care Tribunals in Northern Ireland” insert—  
“Chairman of an Appeal Tribunal for the purposes of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))”.
- (3) For the entry “Member of the legal panel of persons available to act as chairmen of Social Care Tribunals in Northern Ireland” and the entry inserted by subparagraph (2) above substitute—  
“Member of the panel of persons who may serve as chairmen of the Care Tribunal established by Article 44 of the Health and Personal Social Services (Quality, Improvements and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9))”.
- (4) Before the entry “Member of the panel of chairmen of the Fair Employment Tribunal” insert—  
“Member of the panel of chairmen of the Industrial Tribunals”.
- (5) At the end of the Schedule insert—  
“Member of the panel of persons who may serve as chairmen of a tribunal established for the purposes of the Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997 (S.R. 1997/269)  
Chairman of a Tribunal appointed under paragraph 1(1)(a) of Schedule 3 to the Misuse of Drugs Act 1971 in its application to Northern Ireland  
Member of a Tribunal appointed under paragraph 2(1) of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland  
President or Deputy President of Pensions Appeal Tribunals appointed under paragraph 2B of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland

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Chairman of the Plant Varieties and Seeds Tribunal for the purpose of proceedings brought before it in Northern Ireland

Member of the panel of persons to act as chairmen of Reinstatement Committees sitting in Northern Ireland (appointed under paragraph 2(1)(a) of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985)

Member of the panel of persons appointed under section 6(1) of the Tribunals and Inquiries Act 1992 to act as chairmen of tribunals that sit in Northern Ireland

Member of the panel of chairmen of VAT tribunals for Northern Ireland

General Commissioner for a division in Northern Ireland (appointed under section 2 of the Taxes Management Act 1970)".

#### Commencement Information

- I27** Sch. 5 para. 122 partly in force; Sch. 5 para. 122 not in force at Royal Assent see s. 148; Sch. 5 para. 122(4) in force for specified purposes at 31.8.2005 by S.I. 2005/2284, art. 2; Sch. 5 para. 122(1)-(3)(5) in force for specified purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(e); Sch. 5 para. 122(5) in force for specified further purposes at 15.6.2006 by S.I. 2006/1537, art. 2

PROSPECTIVE

F20 123

#### Textual Amendments

- F20** Sch. 5 para. 123 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 5 para. 6(3); S.I. 2010/812, art. 2

- 124 (1) Schedule 4 (functions of justices of the peace) is amended as follows.
- (2) In paragraph 4 (amendment of Schedule by order), after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice,”.
- (3) In paragraph 5 (consequential amendments by order) after “Lord Chancellor may” insert “, after consultation with the Lord Chief Justice,”.
- (4) After paragraph 5 insert—
- “5A The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph 4 or 5—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).”
- 125 Omit Schedule 5 (transfer of functions to Lord Chief Justice).
- 126 (1) Schedule 6 (office-holders required to take judicial oath) is amended as follows.
- (2) After the entry “Member of the legal panel of persons available to act as chairmen of Social Care Tribunals in Northern Ireland” insert— “ Chairman of an Appeal Tribunal for the purposes of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)) ”.

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- (3) For the entry “Member of the legal panel of persons available to act as chairmen of Social Care Tribunals in Northern Ireland” and the entry inserted by subparagraph (2) above substitute— “Member of the panel of persons who may serve as chairmen of the Care Tribunal established by Article 44 of the Health and Personal Social Services (Quality, Improvements and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9))”.
- (4) Before the entry “Member of the panel of chairmen of the Fair Employment Tribunal” insert— “Member of the panel of chairmen of the Industrial Tribunals”.
- (5) At the end of the Schedule insert— “Member of the panel of persons who may serve as chairmen of a tribunal established for the purposes of the Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997 (S.R. 1997/269). Chairman of a Tribunal appointed under paragraph 1(1)(a) of Schedule 3 to the Misuse of Drugs Act 1971 in its application to Northern Ireland Member of a Tribunal appointed under paragraph 2(1) of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland President or Deputy President of Pensions Appeal Tribunals appointed under paragraph 2B of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland Chairman of the Plant Varieties and Seeds Tribunal for the purpose of proceedings brought before it in Northern Ireland Member of the panel of persons to act as chairmen of Reinstatement Committees sitting in Northern Ireland (appointed under paragraph 2(1)(a) of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985) Member of the panel of persons appointed under section 6(1) of the Tribunals and Inquiries Act 1992 to act as chairmen of tribunals that sit in Northern Ireland Member of the panel of chairmen of VAT tribunals for Northern Ireland General Commissioner for a division in Northern Ireland (appointed under section 2 of the Taxes Management Act 1970)”.

#### Commencement Information

**128** Sch. 5 para. 126 partly in force; Sch. 5 not in force at Royal Assent see s. 148; Sch. 5 para. 126(4) in force at 31.8.2005 by S.I. 2005/2284, art. 2; Sch. 5 para. 126(1)(2)(5) in force for specified purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(g)

VALID FROM 12/04/2010

127 In Schedule 12 (minor and consequential amendments), after paragraph 81 insert—

#### “Constitutional Reform Act 2005

82 Omit sections 133 to 136 of the Constitutional Reform Act 2005 (judicial removals: Northern Ireland).”

128 (1) Schedule 13 (repeals and revocations) is amended as follows.

(2) Omit—

- (a) the entry relating to the County Courts (Northern Ireland) Order 1980 (1980/397 (N.I. 3));

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(b) the entry relating to Article 168 of the Magistrates' Courts (Northern Ireland) Order 1981.

(3) After the entries relating to the Justice (Northern Ireland) Act 2002 insert—

“Constitutional Reform Act 2005

Sections 133 to 136.”

**Commencement Information**

**I29** Sch. 5 para. 128 partly in force; Sch. 5 para. 128 not in force at Royal Assent see s. 148; Sch. 5 para. 128(1)(2) in force at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(h)

*Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9))*

129 (1) In Schedule 2 to the Health and Personal Social Services (Quality, Improvements and Regulation) (Northern Ireland) Order 2003 (the Care Tribunal), paragraph (1) (composition of Care Tribunal) is amended as follows.

(2) For sub-paragraph (2)(a) substitute—

“(a) a chairman nominated from the chairmen's panel by the Lord Chief Justice after consultation with the First Minister and deputy First Minister; and”.

(3) After sub-paragraph (2) insert—

“(2A) The Lord Chief Justice may nominate any of the following to exercise his functions under this paragraph—

(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).”

(4) In paragraph (3) (tenure of office), omit sub-paragraph (3).

PROSPECTIVE

*Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2004 (S.R. 2004/165)*

130 (1) Regulation 5 of the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2004 (panels of chairmen and members of tribunals) is amended as follows.

(2) In paragraph (1)(a), for “the Department” substitute “ the Lord Chancellor ”.

(3) In paragraph (2), for “to the Department” substitute “ to the Lord Chancellor, in the case of a member of the panel of chairmen, or to the Department, in any other case, ”.

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## PART 2

### AMENDMENTS RELATING TO ENACTMENTS REPEALED OR AMENDED OTHERWISE THAN BY THIS ACT

#### *Introduction*

- 131 (1) This Part of this Schedule contains amendments of or relating to enactments that have already been amended or repealed by provisions of other Acts.
- (2) In each case the amending or repealing provision is specified, in relation to the enactment referred to, as the “original amending provision”.
- (3) An amendment contained in any provision of this Part of this Schedule has effect only until the original amending provision comes fully into force in relation to the enactment referred to in that provision of this Part of this Schedule.

PROSPECTIVE

#### *Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.))*

- 132 (1) Schedule 2 to the Children and Young Persons Act (Northern Ireland) 1968 (constitution of juvenile courts) is amended as follows.
- (2) In paragraph 1 (juvenile court panels)—
- (a) in sub-paragraph (3) for “Lord Chancellor” in each place substitute “ Lord Chief Justice ”;
- (b) after sub-paragraph (3) insert—
- “(3A) The Lord Chief Justice may approve a course of training, or allow a longer period for completion of a course, only after consultation with the Lord Chancellor.”
- (3) In relation to the enactment referred to in this paragraph, the original amending provision is section 86 of, and Schedule 13 to, the Justice (Northern Ireland) Act 2002 (c. 26).

#### *Administration of Estates (Northern Ireland) Order 1979 (S.I. 1979/1575 (N.I. 14))*

- 133 (1) Article 27 of the Administration of Estates (Northern Ireland) Order 1979 (depositories of wills of living persons) is amended as follows.
- (2) That Article becomes paragraph (1) of Article 27.
- (3) In that paragraph, for “the directions of the Lord Chancellor” substitute “ directions given by the Lord Chief Justice with the concurrence of the Lord Chancellor ”.
- (4) After that paragraph insert—
- “(2) The Lord Chief Justice may nominate any of the following to exercise his functions under this Article—
- (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).”

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- (5) In relation to the enactment referred to in this paragraph, the original amending provision is section 75 of, and Part 2 of Schedule 9 to, the Administration of Justice Act 1982 (c. 53).
- County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 14))*
- 134 (1) Article 46 of the County Courts (Northern Ireland) Order 1980 (county court rules committee) is amended as follows.
- (2) In paragraph (1) for “Lord Chancellor” substitute “ Lord Chief Justice ”.
- (3) After paragraph (1) insert—
- “(1A) The Lord Chief Justice must consult the Lord Chancellor before making an appointment under paragraph (1)(b), (c), (e) or (f).”
- (4) In relation to the enactment referred to in this paragraph, the original amending provision is section 73(2) of the Justice (Northern Ireland) Act 2002 (c. 26).

## SCHEDULE 6

Section 18

## SPEAKERSHIP OF THE HOUSE OF LORDS

*Clerk of the Parliaments Act 1824 (c. 82)*

- 1 (1) For the title to section 3 of the Clerk of the Parliaments Act 1824 substitute “ Appointment of other clerks officiating at the table ”.
- (2) In section 3 for “the lord chancellor or speaker of the House of Lords for the time being” substitute “ the Speaker of the House of Lords ”.

*Parliamentary Papers Act 1840 (c. 9)*

- 2 In section 1 of the Parliamentary Papers Act 1840 (proceedings against persons for publication of Parliamentary papers) for the words from “the lord high chancellor” to “the time being” substitute “ the Speaker of the House of Lords ”.

*Church of England Assembly (Powers) Act 1919 (c. 76)*

- 3 In section 2(2) of the Church of England Assembly (Powers) Act 1919 (members of Ecclesiastical Committee of both Houses of Parliament), for “the Lord Chancellor” in both places substitute “ the Speaker of the House of Lords ”.

*Statutory Instruments Act 1946 (c. 36)*

- 4 (1) The Statutory Instruments Act is amended as follows.
- (2) In section 4(1) (statutory instruments required to be laid before Parliament) for “to the Lord Chancellor and to the Speaker of the House of Commons” substitute “ to the Speaker of the House of Commons and the Speaker of the House of Lords ”.

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- (3) In section 8(1) (regulations for the purposes of the Act) for “the Lord Chancellor and the Speaker of the House of Commons” in each place substitute “ the Speaker of the House of Commons and the Speaker of the House of Lords ”.

*Laying of Documents Before Parliament (Interpretation) Act 1948 (c. 59)*

- 5 (1) For the title to section 2 of the Laying of Documents Before Parliament (Interpretation) Act 1948 substitute “ Statutory Instruments Act 1946, s.4: notification during vacancy of office of Speaker of either House ”.
- (2) In section 2—
- (a) for “to the Lord Chancellor and to the Speaker of the House of Commons” substitute “ to the Speaker of the House of Commons and the Speaker of the House of Lords ”;
  - (b) for “of the Lord Chancellor or of the Speaker” substitute “ of the Speaker of the House of Commons or the Speaker of the House of Lords ”.

*Consolidation of Enactments (Procedure) Act 1949 (c. 33)*

- 6 (1) Section 1 of the Consolidation of Enactments (Procedure) Act 1949 (procedure for making corrections and minor improvements) is amended as follows.
- (2) In subsection (3) for “the Lord Chancellor and the Speaker of the House of Commons” substitute “ the Speaker of the House of Commons and the Speaker of the House of Lords ”.
- (3) In subsection (4)—
- (a) for “the Lord Chancellor and the Speaker” substitute “ the Speaker of the House of Commons and the Speaker of the House of Lords ”;
  - (b) for “of the Lord Chancellor and of the Speaker” substitute “ of the Speaker of the House of Commons and the Speaker of the House of Lords ”.
- (4) In subsection (5) for “the Lord Chancellor nor the Speaker” substitute “ the Speaker of the House of Commons nor the Speaker of the House of Lords ”.
- (5) In subsections (6) and (7) for “of the Lord Chancellor and of the Speaker” substitute “ of the Speaker of the House of Commons and the Speaker of the House of Lords ”.

*Exchequer and Audit Departments Act 1957 (c. 45)*

- 7 In section 2 of the Exchequer and Audit Departments Act 1957 (performance of Comptroller's functions by authorised officer), for subsection (3)(a) substitute—
- “(a) shall extend only to accounts in respect of which (as the case may be)—
    - (i) the Speaker of the House of Commons has certified to the House of Commons, or
    - (ii) the Speaker of the House of Commons has certified to the House of Commons and the Speaker of the House of Lords has certified to the House of Lords,  - that the Comptroller is unable to do so himself; and”.

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*Ministerial and other Salaries Act 1975 (c. 27)*

- 8 In section 2(3) of the Ministerial and other Salaries Act 1975 (question as to who is Leader of the Opposition in the House of Lords) for “the Lord Chancellor” substitute “ the Speaker of the House of Lords ”.

SCHEDULE 7

Section 19

PROTECTED FUNCTIONS OF THE LORD CHANCELLOR

- 1 Any function of the Lord Chancellor that relates to the custody or use of the Great Seal of the United Kingdom.
- 2 Any function of the Lord Chancellor under this Act.
- 3 Any function of the Lord Chancellor under another enactment, if the function is conferred or modified by an amendment made by this Act.
- [<sup>F21</sup>3A Any function of the Lord Chancellor under the Legal Services Act 2007.]

**Textual Amendments**

- F21** Sch. 7 para. 3A inserted (7.3.2008) by [Legal Services Act 2007 \(c. 29\)](#), ss. **199(2)**, 211; S.I. 2008/222, art. 2(g)

- 4 Any function of the Lord Chancellor under these provisions—

*A: GENERAL*

*Sheriffs Act 1887 (c. 55)*

Section 20

*Law of Distress Amendment Act 1888 (c. 21)*

Section 8

*Stamp Act 1891 (c. 39)*

Section 13A

*War Pensions (Administrative Provisions) Act 1919 (c. 53)*

The Schedule, paragraphs 1, 2, 3, 8 and 9

*Administration of Justice Act 1925 (c. 28)*

Section 22(4)

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

Schedule 2, paragraphs 4, 5, 11, 12 and 20

*Compensation (Defence) Act 1939 (c. 75)*

Section 8

*London Building Acts (Amendment) Act 1939 (c. xcvi)*

Section 109(2)

*Pensions Appeal Tribunals Act 1943 (c. 39)*

The Schedule, paragraphs 2(1), 2A, 2B, 3C and 5

*Coal Industry Nationalisation Act 1946 (c. 59)*

Section 61(1)



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Section 64(10)  
*Agriculture Act 1947 (c. 48)*  
Schedule 9  
*Commonwealth Telegraphs Act 1949 (c. 39)*  
Section 6(4)  
*Lands Tribunal Act 1949 (c. 42)*  
Section 2  
Section 3  
*National Health Service (Amendment) Act 1949 (c. 93)*  
Section 7(6)  
Section 9(4)(a)  
*National Parks and Access to the Countryside Act 1949 (c. 97)*  
Section 18(3)  
*Foreign Compensation Act 1950 (c. 12)*  
Section 1(1)  
Section 4  
*Courts-Martial (Appeals) Act 1951 (c. 46)*  
Section 28  
Section 30  
Section 31(4)  
Section 32  
Section 33  
*Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65)*  
Section 5  
*Agriculture (Miscellaneous Provisions) Act 1954 (c. 39)*  
Section 6(6)  
*Landlord and Tenant Act 1954 (c. 56)*  
Section 63(6)(c)  
*Land Powers (Defence) Act 1958 (c. 30)*  
Schedule 2, paragraphs 4(3) and (4)  
*Land Compensation Act 1961 (c. 33)*  
Section 3  
*Transport Act 1962 (c. 46)*  
Schedule 6, paragraph 3(4)  
*Betting, Gaming and Lotteries Act 1963 (c. 2)*  
Section 29  
*Ecclesiastical Jurisdiction Measure 1963 (1963 No. 1)*  
Section 2(1A)  
Section 3  
*Industrial and Provident Societies Act 1965 (c. 12)*  
Section 69  
*Commons Registration Act 1965 (c. 64)*  
Section 17(1) and (3)  
*Superannuation Act 1965 (c. 74)*  
Section 39A

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*Courts-Martial (Appeals) Act 1968 (c. 20)*

Section 2

Section 5

Section 7(2)

Section 30

*Countryside Act 1968 (c. 41)*

Section 15A(3)

*Hearing Aid Council Act 1968 (c. 50)*

Section 5(3)

Section 6(4)

Section 10(6)

Section 13

*Transport Act 1968 (c. 73)*

Schedule 4, paragraph 13(3)

*Taxes Management Act 1970 (c. 9)*

Section 2

Section 2A

Section 3

Section 3A

Section 4(1), (3) and (6)

Section 4A(1) and (6)

Section 28ZC

Section 46A

Section 56B

*Administration of Justice Act 1970 (c. 31)*

Section 10(3)

*Courts Act 1971 (c. 23)*

Section 16(1)

Section 18

Section 21(2), (4) and (7)

Section 24

Schedule 2, paragraphs 4(3) and 9(2)

*Misuse of Drugs Act 1971 (c. 38)*

Schedule 3, paragraphs 1(1), 3 and 4 and, in the table in paragraph 21, the entry for paragraph 1

*Immigration Act 1971 (c. 77)*

Section 22

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

Sections 9 and 12

*Juries Act 1974 (c. 23)*

Section 2

Section 3(1)

Section 5(1)

Section 8

Section 19

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Section 21  
Section 23(2)  
*Industry Act 1975 (c. 68)*  
Schedule 3, paragraphs 4(1)(a) and 17  
*Armed Forces Act 1976 (c. 52)*  
Section 6(3), (4), (8) and (11)  
*Aircraft and Shipbuilding Industries Act 1977 (c. 3)*  
Section 42  
Schedule 7, paragraph 5(1)  
F22  
.....  
*Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)*  
Section 2(3)  
*Customs and Excise Management Act 1979 (c. 2)*  
Schedule 3, paragraph 17(4)  
*Magistrates' Courts Act 1980 (c. 43)*  
Section 137  
Section 144(2) and (3)  
*Judicial Pensions Act 1981 (c. 20)*  
Section 3  
Section 5  
Section 7  
Section 10  
Section 11  
Section 13  
Section 13A  
Section 14A  
Section 23  
Section 29B  
Section 32A  
Section 33A  
Schedule 1, paragraph 3(3)  
Schedule 1A, paragraphs 2 and 11  
Schedule 2, paragraph 2(2)  
*British Telecommunications Act 1981 (c. 38)*  
Schedule 2, paragraph 12(3)  
*Supreme Court Act 1981 (c. 54)*  
Section 9(8)  
Section 11(7) and (8)  
Section 12  
Section 54(3)  
Section 57(4)(a)  
Section 71(4)(a)  
Section 74  
Section 75  
Section 91(6)

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Section 92(1) and (3A)  
 Section 98  
 Section 102(1)  
 Section 126  
 Section 133  
 Section 140(4)  
*Wildlife and Countryside Act 1981 (c. 69)*  
 Section 28N(3)  
*Transport Act 1982 (c. 49)*  
 Section 66(4)(a)  
*Administration of Justice Act 1982 (c. 53)*  
 Section 25(3)(a) and (c)  
*Mental Health Act 1983 (c. 20)*  
 Section 78  
 Section 143(1)  
 Schedule 2, paragraphs 1, 2 and 3  
*Car Tax Act 1983 (c. 53)*  
 Section 3(5)  
*County Courts Act 1984 (c. 28)*  
 Section 8(1) and (3)  
 Section 12(1)  
 Section 128  
 Section 130  
*Matrimonial and Family Proceedings Act 1984 (c. 42)*  
 Section 37  
*Ordnance Factories and Military Services Act 1984 (c. 59)*  
 Schedule 1, paragraph 2(5)  
*Reserve Forces (Safeguard of Employment) Act 1985 (c. 17)*  
 Schedule 2, paragraph 2(1)(a)  
*Transport Act 1985 (c. 67)*  
 Schedule 4, paragraphs 2(1)(a), 3(4) and (5), 6, 7, 15 and 16  
*Landlord and Tenant Act 1985 (c. 70)*  
 Section 29(4)  
 F23  
 .....  
*Insolvency Act 1986 (c. 45)*  
 Section 117  
 Section 413  
 Section 414  
 Section 415  
 Section 420(1)  
 Section 421(1)  
 Schedule 7, paragraph 1(1)(a)  
*Ecclesiastical Fees Measure 1986 (1986 No. 2)*  
 Section 4(1)(a)  
*Income and Corporation Taxes Act 1988 (c. 1)*

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Section 706(1)  
*Coroners Act 1988 (c. 13)*  
Section 17A  
*Criminal Justice Act 1988 (c. 33)*  
Schedule 12  
*Education Reform Act 1988 (c. 40)*  
Schedule 10, paragraph 9(4)  
*[<sup>F24</sup>Local Government Finance Act 1988*  
Schedule 11, paragraph A7]  
*Copyright, Designs and Patents Act 1988 (c. 48)*  
Section 145(2)  
Section 146(6)  
Section 150  
Section 291(5)  
Section 292  
*Electricity Act 1989 (c. 29)*  
Schedule 10, paragraph 9(2)(a)  
*Children Act 1989 (c. 41)*  
Section 104(1)  
*Broadcasting Act 1990 (c. 42)*  
Schedule 9, paragraph 5(5)(a)  
*Town and Country Planning Act 1990 (c. 8)*  
Section 20(5)  
*Courts and Legal Services Act 1990 (c. 41)*  
Section 1  
Section 72  
*Child Support Act 1991 (c. 48)*  
Section 8  
Section 22  
Section 24  
Section 25  
Section 52(1)  
Schedule 4, paragraphs 1(3), 2(1) and (2), 2A(1), 4(1), 4A(1) and 7  
*Ports Act 1991 (c. 52)*  
Schedule 2, paragraph 11(5)  
*Land Drainage Act 1991 (c. 59)*  
Section 31(1)  
*Armed Forces Act 1991 (c. 62)*  
Schedule 1  
*Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 1)*  
Section 25(2)(a)  
*Social Security Administration Act 1992 (c. 5)*  
Section 24  
Section 41(4)(c)  
Section 43(5)(c)

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Section 50(4)(c)  
Section 51(1)  
Section 52(2)  
Section 58  
Schedule 2, paragraph 6  
*Further and Higher Education Act 1992 (c. 13)*  
Schedule 5, paragraph 7(4)  
*Finance (No. 2) Act 1992 (c. 48)*  
Section 75  
*Tribunals and Inquiries Act 1992 (c. 53)*  
Section 6(2), (8) and (9)  
Section 9  
Section 13  
Section 15  
Section 16(2)  
Schedule 5, paragraph 7(4)  
*Judicial Pensions and Retirement Act 1993 (c. 8)*  
Section 1  
Section 2  
Section 3  
Section 9  
Section 10  
Section 11  
Section 12  
Section 13  
Section 19  
Section 20  
Section 21  
Section 26(5), (6) and (9)  
Section 31  
Schedule 2, paragraphs 2, 11, 12 and 13  
Schedule 2A, paragraphs 1 and 2  
Schedule 5, as it applies in relation to the office of chairman or other member of Rent Assessment Committees  
Schedule 7, paragraph 2  
*Coal Industry Act 1994 (c. 21)*  
Schedule 2, paragraph 8(6)(a)  
*Value Added Tax Act 1994 (c. 23)*  
Schedule 12, paragraphs 2(2) and (3), 3(2), (4), (5), (6) and (8), 4(2), 7(8) and (10), and 9  
*Trade Marks Act 1994 (c. 26)*  
Section 77  
*Merchant Shipping Act 1995 (c. 21)*  
Section 297(1)  
*Atomic Energy Authority Act 1995 (c. 37)*

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Schedule 1, paragraph 10(6)(a)  
*Employment Tribunals Act 1996 (c. 17)*  
Section 3  
Section 22(1)(c) and (2)  
Section 27  
Section 30  
*Reserve Forces Act 1996 (c. 14)*  
Section 90  
Section 91  
*Police Act 1996 (c. 16)*  
Schedule 6, paragraph 1(a)  
*Arbitration Act 1996 (c. 23)*  
Section 91(3)(c)  
Section 105  
*Defamation Act 1996 (c. 31)*  
Section 9(1)(c)  
*Housing Act 1996 (c. 52)*  
Section 119(3)  
*Broadcasting Act 1996 (c. 55)*  
Schedule 5, paragraph 8(6)(a)  
*Education Act 1996 (c. 56)*  
Section 333(3)  
*School Inspections Act 1996 (c. 57)*  
Schedule 2, paragraph 1(1)(a)  
*Civil Procedure Act 1997 (c. 12)*  
Section 3  
Section 6  
*Justices of the Peace Act 1997 (c. 25)*  
Section 10  
Section 10A(1)  
Section 10B(1)  
Section 27B  
Section 29  
Section 30  
Section 30B  
Section 30C  
Section 31  
Section 32A  
Section 34  
*Finance (No. 2) Act 1997 (c. 58)*  
Schedule 2, paragraph 11(2)  
*Plant Varieties Act 1997 (c. 66)*  
Schedule 3, paragraphs 2(1), 13 and 16  
*Special Immigration Appeals Commission Act 1997 (c. 68)*  
Section 5

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Section 8  
Schedule 1, paragraphs 1, 2, 3 and 4  
*Social Security Act 1998 (c. 14)*  
Section 5(1)  
Section 6(1) to (4)  
Section 79  
Schedule 4, paragraphs 1(2), 2, 3, 6 and 8  
*Data Protection Act 1998 (c. 29)*  
Section 6(4)  
*Crime and Disorder Act 1998 (c. 37)*  
Section 51  
Section 51D  
Section 81  
*Human Rights Act 1998 (c. 42)*  
Schedule 4  
*Social Security Contributions (Transfer of Functions, Etc.) Act 1999 (c. 2)*  
Section 13  
*Protection of Children Act 1999 (c. 14)*  
The Schedule, paragraphs 2(1) and (3), and 3  
*Finance Act 1999 (c. 16)*  
Schedule 17, paragraph 11  
*Greater London Authority Act 1999 (c. 29)*  
Section 189(6)  
*Welfare Reform and Pensions Act 1999 (c. 30)*  
Section 43  
*Immigration and Asylum Act 1999 (c. 33)*  
Section 53(6)  
Schedule 7, paragraphs 1 and 2  
[<sup>F25</sup>Schedule 10]  
*Financial Services and Markets Act 2000 (c. 8)*  
Schedule 13, paragraphs 2, 3(1) and (4), 4, 5, 6 and 9  
*Terrorism Act 2000 (c. 11)*  
Schedule 3, paragraphs 1, 2, 3 and 5  
*Child Support, Pensions and Social Security Act 2000 (c. 19)*  
Schedule 7, paragraph 20  
*Local Government Act 2000 (c. 22)*  
Section 75  
Section 76(11)  
*International Criminal Court Act 2001 (c. 17)*  
Schedule 1, paragraph 7  
*Anti-terrorism, Crime and Security Act 2001 (c. 24)*  
Schedule 6, paragraphs 1, 2, 3 and 5  
*Land Registration Act 2002 (c. 9)*  
Section 107(1)  
Schedule 9, paragraphs 2, 5, 6 and 7



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*Commonhold and Leasehold Reform Act 2002 (c. 15)*

Schedule 12, paragraph 5(3)

*Tax Credits Act 2002 (c. 21)*

Section 65

*Proceeds of Crime Act 2002 (c. 29)*

Section 320(3)(b)

*Enterprise Act 2002 (c. 40)*

Section 12(2)(a) and (b)

Section 16

Schedule 2, paragraphs 1 and 3

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

Section 16

Section 81

Section 106

Schedule 4, paragraphs 1, 2, 6 and 7

Schedule 5, paragraphs 1, 2, 3, 4, 5, 9, 10 and 11

*Finance Act 2003 (c. 14)*

Schedule 17, paragraphs 6 to 10

*Communications Act 2003 (c. 21)*

Schedule 2, paragraph 4(7)(a)

*Courts Act 2003 (c. 39)*

Section 1

Section 22(1)

Section 27

Section 35

Section 36

Section 37

Section 51

Section 61

[<sup>F26</sup>Section 70(2)(a)]

Schedule 1, paragraphs 2 and 6

Schedule 5, paragraph 43

Schedule 6, paragraph 1

Schedule 7, paragraphs 2 and 12

*Criminal Justice Act 2003 (c. 44)*

Section 168(4)

Section 169

Section 170

Section 171

Section 173

[<sup>F27</sup>*National Health Service Act 2006*]

[<sup>F28</sup>Schedule 13, paragraphs 1, 2, 4, 6, 15, 16 and 21.]

[<sup>F29</sup>*Income Tax Act 2007*

Section 704(1)]

[<sup>F30</sup>*Tribunals, Courts and Enforcement Act 2007*

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Part 1  
Section 51  
Part 3  
Sections 95 to 102]

**B: LEGISLATION RELATING TO NORTHERN IRELAND**

*Judicial Pensions Act (Northern Ireland) 1951 (c. 20 (N.I.))*

Section 11A

Section 16

Schedule 4, paragraph 3

*Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.))*

Section 1

Section 5A

Section 11(3)

Section 36(1) and (2)

*County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.))*

Section 102(1)

Section 106 (1) and (3)

Section 107(1), (3) and (7)

Section 116(1)

Section 116A(3)(b), (4)(a) and (b), (5) and (6)

Section 127A(1)

Section 132

Section 132A(1), (2) and (4)

Section 134

Schedule 2A, paragraphs 2(1)(a), 11(1), 12(1) and 13(a)

*Resident Magistrates' Pensions Act (Northern Ireland) 1960 (c. 2 (N.I.))*

Section 2(1)

Section 2A(3)(b), (4)(a) and (b), (5) and (6)

Section 9A(1)

Section 16(1), (3) and (4)

Section 21A(1), (2) and (4)

Schedule 2, paragraph 3(3)(a)

Schedule 3, paragraphs 2(a), 11(1), 12(1) and 13

*Magistrates' Courts Act (Northern Ireland) 1964 (c. 21 (N.I.))*

Section 9(1)

Section 10(1)

Section 12(1)

Section 12A(2)

*Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c. 29 (N.I.))*

Section 1(2)

Section 2A(3)(b), (4)(a) and (b), (5) and (6)

Section 3(1) and (2)

*Registration of Deeds Act (Northern Ireland) 1970 (c. 25 (N.I.))*

Section 19(3)

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*Social Security (Northern Ireland) Act 1975 (c. 15)*

Schedule 10, paragraphs 6(1), 7(2), (3) and (4), 7A(3)(b), (4)(a) and (b), (5) and (6)

*Judicature (Northern Ireland) Act 1978 (c. 23)*

Section 7(4)

Section 12

Section 12B

Section 53(1)(f) and (2)

Section 54(1), (5) and (6)

Section 56(4)

Section 68(3), (5) and (6)

Section 70(1), (3), (5) and (6)

Section 71(4)

Section 72(3)

Section 74(1), (3) and (5)

Section 75(1), (7) and (9)

Section 82(1)

Section 103(3)

Section 116(1) and (2)

Section 117A

Section 123(2) and (3)

*Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15))*

Article 33(4C)

*Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12))*

Schedule 1, Part 1

*County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3))*

Article 2(2)

In Article 46(1) as amended by section 73(2) of the Justice (Northern Ireland) Act 2002, paragraphs (d), (e), (f) and (g)

Article 46(4) and (5)

Article 59

*Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))*

Article 6A(3)

Article 10(1)

Article 13(5)

Article 24(7)

*Forfeiture (Northern Ireland) Order 1982 (S.I. 1982/1082 (N.I. 14))*

Article 6(2)

*Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4))*

Article 104(5)

Schedule 3, paragraphs 1, 2 and 3

*Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23))*

Article 25(6)(a) and (7)

Article 26(2)(a), (3)(c) and (5)

Article 48(1)

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Article 51(1)  
Schedule 4, paragraphs 1, 1A, 3A(1) and 4  
*Judicial Pensions (Northern Ireland) Order 1991 (S.I. 1991/2631 (N.I. 24))*  
Article 1(2)  
*Social Security Administration (Northern Ireland) Act 1992 (c. 8)*  
Section 22(6)  
Section 56(6)  
Section 165(2)  
Section 167(1)  
Schedule 2, paragraph 7  
*Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20))*  
Article 30(1)(a)  
Article 31(2)  
*Family Law (Northern Ireland) Order 1993 (S.I. 1993/1576 (N.I. 6))*  
Schedule 2, paragraphs 2(1)(g), 6 and 9  
*Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))*  
Article 164(5)  
Article 181  
Article 183(3)  
*Education (Northern Ireland) Order 1996 (S.I. 1996/274 (N.I. 1))*  
Article 22(2)(a) and (b) and (4)(b)  
*Northern Ireland Act 1998 (c. 47)*  
Section 91(6)  
Schedule 11, paragraphs 2(1) and (3), 3(1) and (4), and 4  
*Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6))*  
Article 36(1)  
Article 40(1) and (2)  
*Road Traffic (New Drivers) (Northern Ireland) Order 1998 (S.I. 1998/1074 (N.I. 7))*  
Article 7(8)  
*Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))*  
Article 6(1)  
Article 7(1) and (4)  
Article 15(12) and (13)  
Article 74(2)  
*Fair Employment and Treatment (Northern Ireland) Order 1998 (S.I. 1998/3162 (N.I. 21))*  
Article 40(7)(b)  
Article 82(1), (3) and (6)  
*Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))*  
Article 40  
Article 73(10) and (11)  
*Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))*

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Schedule 7, paragraph 20(1) and (6)  
*Justice (Northern Ireland) Act 2002 (c. 26)*  
Section 2(2)  
Section 3(2)(b)  
Section 5(3), (4), (5), (6) and (7)  
Section 9(1) and (11)  
Section 12(3)  
Section 19(4)  
Section 50(5)  
Section 51(3)  
Schedule 2, paragraphs 1(2) and (3), 2(3) and (4), 3, 4(1), 5(5) and (6), 6 and 7(2) and (3)  
*Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9))*  
Schedule 2, paragraph 3(2)  
*Justice (Northern Ireland) Act 2004 (c. 4)*  
Schedule 3, paragraph 1(3)(a)

#### Textual Amendments

- F22** Sch. 7 para. 4 entry repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))
- F23** Sch. 7 para. 4 entry repealed (19.10.2006) by [The Regulatory Reform \(Agricultural Tenancies\) \(England and Wales\) Order 2006 \(S.I. 2006/2805\)](#), art. 18, [Sch. 2](#)
- F24** Sch. 7 para. 4 entry inserted (1.4.2008 for certain purposes otherwise 1.10.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 220, 245, [Sch. 16 para. 15\(2\)](#); S.I. 2008/917, [art. 2\(1\)\(dd\)](#); S.I. 2008/3110, [art. 6\(d\)\(iv\)](#)
- F25** Words in Sch. 7 para. 4 inserted (2.4.2007) by [The Transfer of Functions \(Asylum Support Adjudicators\) Order 2007 \(S.I. 2007/275\)](#), [art. 5](#) (with art. 4)
- F26** Sch. 7 para. 4 entry inserted (22.8.2007) by virtue of [The Secretary of State for Justice Order 2007 \(S.I. 2007/2128\)](#), art. 8, [Sch. para. 11](#)
- F27** Sch. 7 para. 4: entry inserted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 273](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))
- F28** Sch. 7 para. 4: entry inserted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 273](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))
- F29** Sch. 7 para. 4 entry inserted (with effect as mentioned in s. 1034(1)) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 490](#) (with transitional provisions and savings in Sch. 2)
- F30** Sch. 7 para. 4 entry inserted (19.9.2007 for specified purposes) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 144(11), 148; S.I. 2007/2709, [art. 2\(f\)](#)

VALID FROM 01/10/2009

## SCHEDULE 8

Section 26

### SUPREME COURT SELECTION COMMISSIONS

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VALID FROM 01/10/2009

## SCHEDULE 9

Section 40

### AMENDMENTS RELATING TO JURISDICTION OF THE SUPREME COURT

.....

VALID FROM 01/10/2009

## SCHEDULE 10

Section 57

### PROCEEDINGS UNDER JURISDICTION TRANSFERRED TO SUPREME COURT

#### *Interpretation*

- 1 (1) In this Schedule “transferred jurisdiction” means any jurisdiction of—
- (a) the House of Lords, or
  - (b) the Judicial Committee of the Privy Council,
- that is transferred to the Supreme Court by virtue of this Act.
- (2) In relation to transferred jurisdiction—
- “original court” means (as appropriate)—
  - (a) the House of Lords, or
  - (b) the Judicial Committee of the Privy Council;
- “transfer day” means the day when the jurisdiction is transferred to the Supreme Court.
- 2 In this Schedule “transferred proceedings” means proceedings which were begun before the transfer day in the original court under transferred jurisdiction.

#### *Proceedings*

- 3 (1) As from the transfer day, transferred proceedings may be continued in the Supreme Court as if they had been begun in that court.
- (2) This paragraph is subject to Supreme Court Rules (whether made before or after the transfer date).
- 4 (1) Anything done in accordance with the rules of the original court in relation to transferred proceedings is, after the transfer day, to be treated as if it had been done in accordance with any Supreme Court Rules applicable to corresponding proceedings in the Supreme Court.
- (2) This paragraph is subject to Supreme Court Rules (whether made before or after the transfer date).

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5 (1) Any act, judgment or order of the original court in the transferred proceedings is to have the same effect after the transfer day as if it had been an act, judgment or order of the Supreme Court in corresponding proceedings in that Court.

(2) Accordingly, after the transfer day, further proceedings may be taken in the Supreme Court in respect of such an act, judgment or order.

#### *Fees*

6 (1) This paragraph applies to any fee due under the rules of the original court in relation to transferred proceedings which was unpaid on the transfer day.

(2) As from the transfer day, the fee is payable as if it were due under the corresponding Supreme Court Rules.

#### *Funds*

7 (1) This paragraph applies to the investments and money which constitute the funds in court of—

- (a) the House of Lords, or
  - (b) the Judicial Committee of the Privy Council,
- that are held in relation to transferred proceedings.

(2) On the transfer day the investments and money are, by virtue of this paragraph and without any transfer or assignment, vested in the accounting officer as funds in the Supreme Court.

(3) In dealing with any investments and money vested in him by virtue of this paragraph, the accounting officer must comply with any directions which the Lord Chancellor may give with a view to securing the transition of the administration of the funds in court referred to in sub-paragraph (1).

8 (1) The transfer of any investments and money under paragraph 7 does not affect the right of any person in or to any thing so transferred.

(2) Any such right may be enforced from the transfer day as if it had always been a right in respect of funds in the Supreme Court.

9 (1) This paragraph applies to a liability of the House of Lords or the Judicial Committee of the Privy Council if the following conditions are met—

- (a) the liability is in respect of sums which at one time formed part of funds in court held in relation to proceedings under transferred jurisdiction but which ceased to do so before the transfer day;
- (b) the liability is outstanding immediately before the transfer day.

(2) On the transfer day the liability is, by virtue of this paragraph and without any transfer or assignment, vested in the accounting officer.

(3) Any amounts required to meet any such liability are to be paid out of the Consolidated Fund to the accounting officer.

10 In paragraphs 7 and 9 “accounting officer” means the person who, in the view of the President of the Supreme Court, carries out duties in relation to that court that correspond as nearly as possible to the duties carried out in relation to the Senior Courts of England and Wales by the Accountant-General of those courts.

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VALID FROM 01/10/2009

## SCHEDULE 11

Section 59

### RENAMING OF THE SUPREME COURTS OF ENGLAND AND WALES AND NORTHERN IRELAND

.....

## SCHEDULE 12

Section 61

### THE JUDICIAL APPOINTMENTS COMMISSION

#### PART 1

#### THE COMMISSIONERS

##### *The Commissioners*

- 1 The Commission consists of—
  - (a) a chairman, and
  - (b) 14 other Commissioners,
 appointed by Her Majesty on the recommendation of the Lord Chancellor.
- 2 (1) The chairman must be a lay member.
- (2) Of the other Commissioners—
  - (a) 5 must be judicial members,
  - (b) 2 must be professional members,
  - (c) 5 must be lay members,
  - (d) 1 other must be the holder of an office listed in Part 3 of Schedule 14 [<sup>F40</sup>or of an office listed in sub-paragraph (2A)] , and
  - (e) 1 other must be a lay justice member.
- [<sup>F41</sup>(2A) The offices referred to in sub-paragraph (2)(d) are—
  - (a) Senior President of Tribunals;
  - (b) judge of the Upper Tribunal appointed under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007;
  - (c) transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of that Act);
  - (d) deputy judge of the Upper Tribunal under section 31(2) of that Act;
  - (e) member of the Employment Appeal Tribunal appointed under section 22(1) of the Employment Tribunals Act 1996.]
- (3) Of the Commissioners appointed as judicial members—
  - (a) 1 must be a Lord Justice of Appeal;



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- (b) 1 must be a puisne judge of the High Court;
  - (c) 1 other must be either a Lord Justice of Appeal or a puisne judge of the High Court;
  - (d) 1 must be a circuit judge;
  - (e) 1 must be a district judge of a county court, a District Judge (Magistrates' Courts) or a person appointed to an office under section 89 of the Supreme Court Act 1981 (c. 54).
- (4) Of the Commissioners appointed as professional members—
- (a) 1 must be a practising barrister in England and Wales;
  - (b) 1 must be a practising solicitor of the Senior Courts of England and Wales.
- (5) A Commissioner is not to be taken into account for the purposes of any paragraph of sub-paragraph (2) unless he was appointed for the purposes of that paragraph.

#### Textual Amendments

- F40** Words in Sch. 12 para. 2(2)(d) inserted (19.9.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(1), 148, Sch. 8 para. 65(2); S.I. 2007/2709, art. 2(c)(i)
- F41** Sch. 12 para. 2(2A) inserted (19.9.2007 for specified purposes and otherwise 3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(1), 148, Sch. 8 para. 65(3); S.I. 2007/2709, art. 2(c)(ii); S.I. 2008/2696, art. 5(c)(iv) (with arts. 3, 4)

- 3 A person must not be appointed as a Commissioner if he is employed in the civil service of the State.
- 4
- (1) A judicial member is a person who holds an office listed in paragraph 2(3) and who is not a practising lawyer.
  - (2) A professional member is a person who is—
    - (a) a practising barrister in England and Wales, or
    - (b) a practising solicitor of the Senior Courts of England and Wales.
  - (3) A lay member is a person resident in England or Wales who has never held a listed judicial office or been a practising lawyer.
  - (4) A lay justice member is a justice of the peace who—
    - (a) holds no other listed judicial office, or no other except that of General Commissioner,
    - (b) is not a practising barrister in England and Wales, and
    - (c) is not a practising solicitor of the Senior Courts of England and Wales.
- 5
- (1) The Lord Chancellor may by order amend any of the following provisions by substituting a number for the number of Commissioners for the time being specified there—
    - (a) paragraph 1(b);
    - (b) any paragraph of paragraph 2(2);
    - (c) any paragraph of paragraph 2(3);
    - (d) any paragraph of paragraph 2(4).
  - (2) That is subject to the following—

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- (a) the total of the numbers in paragraph 2(2) must be the number in paragraph 1(b);
  - (b) the total of the numbers in paragraph 2(3) must be the number in paragraph 2(2)(a);
  - (c) the total of the numbers in paragraph 2(4) must be the number in paragraph 2(2)(b);
  - (d) the number substituted in any provision must not be less than the number specified in that provision as originally enacted.
- (3) The Lord Chancellor may not make an order under this paragraph without the agreement of the Lord Chief Justice.
- 6 (1) In this Schedule—
- “judicial member” has the meaning given by paragraph 4(1);
  - “lay member” has the meaning given by paragraph 4(3);
  - “listed judicial office” means an office listed in Schedule 14;
  - “practising” is to be read in accordance with sub-paragraphs (2) and (3);
  - “practising lawyer” means—
    - (a) a practising barrister in England and Wales;
    - (b) a practising solicitor of the Senior Courts of England and Wales;
    - (c) a practising advocate in Scotland;
    - (d) a practising solicitor in Scotland;
    - (e) a practising member of the Bar of Northern Ireland;
    - (f) a practising solicitor of the Court of Judicature of Northern Ireland;
  - “professional member” has the meaning given by paragraph 4(2);
  - “senior Head of Division” means—
    - (a) the Master of the Rolls;
    - (b) if that office is vacant, the President of the Queen's Bench Division;
    - (c) if both of those offices are vacant, the President of the Family Division;
    - (d) if all of those offices are vacant, the Chancellor of the High Court.
- (2) A barrister in England and Wales, an advocate in Scotland or a member of the Bar of Northern Ireland is practising if he is—
- (a) practising as such,
  - (b) employed to give legal advice, or
  - (c) providing legal advice under a contract for services.
- (3) A solicitor of the Senior Courts of England and Wales, a solicitor in Scotland or a solicitor of the Court of Judicature of Northern Ireland is practising if he is—
- (a) acting as such,
  - (b) employed to give legal advice, or
  - (c) providing legal advice under a contract for services.

#### *Selection of commissioners*

- 7 (1) The Lord Chancellor may recommend a person for appointment as a Commissioner for the purposes of paragraph (a), (b) or (c) of paragraph 2(3) only if—
- (a) he has requested the Judges' Council to select a person to be appointed for the purposes of that paragraph;

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- (b) the person has been selected by the Judges' Council in accordance with that request, and
  - (c) the requirements of sub-paragraph (7) have been complied with.
- (2) The Lord Chancellor may recommend a person for appointment as a Commissioner for the purposes of paragraph 1(a), any other paragraph of paragraph 2(3), any paragraph of paragraph 2(4) or any of paragraphs (c) to (e) of paragraph 2(2) only if—
  - (a) he has requested a panel appointed by him to select a person or (as the panel may determine) more than one person for the purposes of such a recommendation, and
  - (b) the person he recommends is the person or one of the persons selected.
- (3) Subject to sub-paragraph (1), the Lord Chancellor must recommend for appointment any person selected by the Judges' Council.
- (4) A request under this paragraph must specify the provision for the purposes of which the appointment is to be made.
- (5) A request may specify the time within which a person is to be selected.
- (6) The Lord Chancellor may appoint different panels for the purposes of different requests.
- (7) A selection by the Judges' Council must be notified to the Lord Chancellor in a report which gives reasons for the selection.
- (8) In this paragraph references to the Judges' Council are to be read as references to a body designated for the purposes of this Schedule by the Lord Chief Justice.

#### *Panels*

- 8 (1) A panel appointed under paragraph 7(2) must have four members (subject to sub-paragraph (7)).
- (2) The first member must be a person selected by the Lord Chancellor with the agreement of the Lord Chief Justice (or, if the office of Lord Chief Justice is vacant, with the agreement of the senior Head of Division).
- (3) That member is to be chairman of the panel.
- (4) The second member must be the Lord Chief Justice or his nominee, unless the office of Lord Chief Justice is vacant.
- (5) If that office is vacant, the second member must be the senior Head of Division or his nominee.
- (6) The third member must be a person nominated by the first member.
- (7) The chairman of the Commission must also be a member of the panel unless his office is vacant or is the office for which a recommendation is to be made.
- (8) A person must not be a member of the panel if he is employed in the civil service of the State.
- (9) A person must not be the first member if he is one of the following—
  - (a) a Commissioner;

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- (b) a member of the staff of the Commission;
  - (c) a practising lawyer;
  - (d) the holder of a listed judicial office;
  - (e) a member of the House of Commons.
- (10) A person must not be the third member if he is a member of the House of Commons.
- (11) The Lord Chancellor before selecting a person to be appointed as the first member, and the Lord Chief Justice or Head of Division before agreeing to the selection, must consider these questions—
- (a) whether the person has exercised functions that appear to him to be of a judicial nature and such as to make the person inappropriate for the appointment;
  - (b) whether any past service in a capacity listed in sub-paragraph (8) or (9) appears to him to make the person inappropriate for the appointment;
  - (c) whether the extent of any present or past party political activity or affiliations appears to him to make the person inappropriate for the appointment.
- (12) The first member must consider the same questions before nominating a person to be appointed as the third member.
- 9 The Lord Chancellor may pay to a member of a panel appointed under paragraph 7(2) such remuneration, fees or expenses as he may determine.

#### *Selection by a panel*

- 10 (1) This paragraph applies to selection by a panel appointed under paragraph 7(2).
- (2) Before selecting a person the panel must consider—
- (a) in the case of a selection for the purposes of paragraph 2(4)(a), any views expressed by the General Council of the Bar;
  - (b) in the case of a selection for the purposes of paragraph 2(4)(b), any views expressed by the Law Society.
- (3) Before selecting a person for appointment as the chairman or one of the other lay members, the panel must consider—
- (a) whether the person has exercised functions that appear to the panel to be of a judicial nature and such as to make the person inappropriate for the appointment;
  - (b) whether any past service in a capacity listed in paragraph 8(9) or as a person employed in the civil service of the State appears to the panel to make the person inappropriate for the appointment;
  - (c) whether the extent of any present or past party political activity or affiliations appears to the panel to make the person inappropriate for the appointment.
- (4) The panel must select persons for appointment as lay members (including the chairman) with a view to securing, so far as practicable, that the persons so appointed include at any time at least one who appears to the panel to have special knowledge of Wales.

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#### *Vice-chairman*

- 11 (1) The Commissioner who is the most senior of the persons appointed as judicial members is vice-chairman of the Commission.
- (2) For the purposes of sub-paragraph (1)—
- (a) seniority is by office held at the time (first Lord Justice of Appeal, then puisne judge, then circuit judge, then the offices mentioned in paragraph 2(3)(e));
  - (b) between two holders of one of those offices, the person who has served longest in the office (over one or more periods) is the senior.
- (3) In the absence of the chairman, the vice-chairman may exercise the chairman's functions other than under the following provisions—
- (a) paragraph 8(7);
  - (b) section 71;
  - (c) section 80.

#### *Term of office etc. of Commissioners*

- 12 (1) A Commissioner must be appointed for a fixed period.
- (2) But an appointment is subject to paragraphs 13 to 15.
- 13 A person—
- (a) may not be appointed as a Commissioner for more than 5 years at a time, and
  - (b) may not hold office as a Commissioner for periods (whether or not consecutive) totalling more than 10 years.
- 14 (1) A Commissioner—
- (a) in the case of the chairman, ceases to be a Commissioner (and chairman) on ceasing to be a lay member;
  - (b) in the case of a judicial or professional member, ceases to be a Commissioner on the earlier of ceasing to be such a member, and ceasing to fall within the paragraph of paragraph 2(3) or 2(4) for the purposes of which he was appointed;
  - (c) in any other case, ceases to be a Commissioner on ceasing to fall within the paragraph of paragraph 2(2) for the purposes of which he was appointed.
- (2) But if (before or after an event within paragraph (a) or (b) of sub-paragraph (1)) the Lord Chancellor directs in a particular case that that paragraph is to be disregarded for a period specified in the direction, the person continues to be a Commissioner until the end of that period, subject to the terms of his appointment and the other provisions of this Schedule.
- (4) A Commissioner ceases to be a Commissioner if he becomes employed in the civil service of the State.
- 15 (1) A Commissioner may at any time—
- (a) resign his office by notice in writing addressed to Her Majesty;
  - (b) be removed from office by Her Majesty on the recommendation of the Lord Chancellor.

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- (2) The Lord Chancellor may not under sub-paragraph (1) recommend that a Commissioner be removed from office unless he is satisfied that the Commissioner—
- (a) has failed without reasonable excuse to discharge the functions of his office for a continuous period of at least six months,
  - (b) has been convicted of an offence,
  - (c) is an undischarged bankrupt, or
  - (d) is otherwise unfit to hold his office or unable to discharge its functions.
- (3) A recommendation on the ground mentioned in sub-paragraph (2)(a) may not be made more than 3 months after the end of the period mentioned there.

*Salary, allowances and expenses*

- 16 (1) The Commission may—
- (a) pay to each Commissioner such remuneration, fees or expenses as the Lord Chancellor may determine;
  - (b) pay, or make provision for the payment of, such pension, allowance or gratuity as the Lord Chancellor may determine to or in respect of a person who is or has been a Commissioner.
- (2) If—
- (a) a person ceases to hold office as a Commissioner other than on the expiry of his term of appointment, and
  - (b) it appears to the Lord Chancellor that there are special circumstances that would warrant the payment of compensation to him,
- the Lord Chancellor may direct the Commission to make to or in respect of that person a payment of such amount as the Lord Chancellor may determine.

*Code of Conduct*

- 17 The Lord Chancellor may issue and from time to time revise a code of conduct to be observed by the Commissioners.

**PART 2**

THE COMMISSION

*Status of the Commission and its property*

- 18 (1) The Commission is not to be regarded—
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The property of the Commission is not to be regarded as property of, or property held on behalf of, the Crown.

*Powers*

- 19 (1) The Commission may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of its functions.

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- (2) But the Commission may not borrow money except with the agreement of the Lord Chancellor.
- (3) Nothing in this Schedule is to be read as limiting the generality of sub-paragraph (1).

#### *Committees*

- 20 (1) The Commission may establish committees.
- (2) A committee of the Commission may establish sub-committees.
- (3) A person may not be a member of a committee or sub-committee unless he is a Commissioner.
- (4) The Commission may delegate functions to a committee, and a committee may delegate functions (including functions delegated to them) to a sub-committee.
- (5) The function of making a selection under this Part of this Act may be delegated only to a committee or sub-committee whose members include at least one judicial member and one lay member.
- (6) In sub-paragraphs (2) to (5) references to a committee do not include references to a selection panel appointed under section 70 or 79.

#### *Procedure and proceedings*

- 21 (1) The Commission may regulate its own procedure, and the procedure of its committees and sub-committees, including quorum.
- (2) But the quorum of a committee or sub-committee to which the Commission's function of making a selection under this Part of this Act has been delegated must not be less than 3.
- (3) The validity of proceedings of the Commission or a committee or sub-committee is not affected by—
  - (a) a vacancy among the members, or
  - (b) a defect in the appointment of a member.

#### *Staff*

- 22 (1) The Commission—
  - (a) must appoint a chief executive, and
  - (b) may appoint such other staff as it considers necessary to assist in the performance of its functions.
- (2) The Commission must not appoint a person as chief executive unless the Lord Chancellor approves the appointment.
- (3) Staff are to be—
  - (a) appointed on terms and conditions determined by the Commission, and approved by the Lord Chancellor, and
  - (b) paid by the Commission in accordance with provision made by or under the terms of appointment.

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- (4) In determining the terms and conditions the Commission must have regard to the desirability of keeping remuneration and the other terms and conditions broadly in line with those applying to employment in the civil service of the State.
- (5) In Schedule 1 to the Superannuation Act 1972 (c. 11) (kinds of employment to which a scheme under section 1 of the Act may apply), at the end of the list of “Royal Commissions and other Commissions” insert— “ Judicial Appointments Commission. ”
- (6) The Commission must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (5) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.
- (7) Staff of the Commission are not to be regarded as—
  - (a) servants or agents of the Crown, or
  - (b) enjoying any status, immunity or privilege of the Crown.

*Arrangements for assistance*

- 23 (1) The Commission may make arrangements with such persons as it considers appropriate for assistance to be provided to it.
- (2) Arrangements may include the paying of fees to such persons.
- (3) No arrangements may be made under this paragraph unless approved by the Lord Chancellor.

*Appointments and arrangements by the Lord Chancellor*

- 24 (1) The Lord Chancellor may appoint a person to serve as chief executive until the first appointment under paragraph 22(1)(a) takes effect.
- (2) A chief executive serving under sub-paragraph (1) may incur expenditure and do other things (including appointing staff and making arrangements for assistance under paragraph 23) in the name and on behalf of the Commission—
  - (a) before the membership of the Commission is first constituted in accordance with paragraph 1, and
  - (b) thereafter, until the Commission determines otherwise.
- (3) A chief executive's powers under sub-paragraph (2) are exercisable subject to any directions given to him by the Lord Chancellor.
- 25 (1) The Lord Chancellor may—
  - (a) appoint persons to serve as members of the Commission's staff;
  - (b) make arrangements in the name and on behalf of the Commission for other assistance to be provided to the Commission.
- (2) The Lord Chancellor may not exercise his powers under sub-paragraph (1) later than—
  - (a) the end of 3 years after the day on which the Commission is first constituted in accordance with paragraph 1, or
  - (b) such earlier time as the Commission may determine.



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- (3) If there is a chief executive of the Commission the Lord Chancellor may not exercise his powers under sub-paragraph (1) without the agreement of the chief executive.

*Power to transfer staff to employment of the Commission*

- 26 (1) The Lord Chancellor may by regulations provide for the employment of any relevant person to be transferred to the Commission.
- (2) A relevant person is any person who, immediately before the date prescribed in regulations under sub-paragraph (1), is—
- (a) employed in the civil service of the State, and
  - (b) providing assistance to the Commission in pursuance of arrangements made under paragraph 23 or 25.
- (3) But a person is not a relevant person if—
- (a) his employment in the civil service ends on the day immediately before the date referred to in sub-paragraph (2), or
  - (b) he is withdrawn from work with the Commission with effect from that date.
- (4) Before making any regulations under this paragraph the Lord Chancellor must consult such organisations as appear to him to represent the interests of persons likely to be affected by the regulations.
- (5) The Lord Chancellor may only exercise his power under sub-paragraph (1)—
- (a) before the membership of the Commission is first constituted in accordance with paragraph 1, and
  - (b) with the agreement of the Commission, during the period of 3 years beginning with the day on which the Commission is first constituted in accordance with that paragraph.

**Commencement Information**

**I30** Sch. 12 para. 26 partly in force; Sch. 12 para. 26 not in force at Royal Assent see s. 148; Sch. 12 para. 26 in force for specified purposes at 1.10.2005 by S.I. 2005/2505, art. 2(b); Sch. 12 para 26 in force at 3.4.2006 in so far as not already in force by S.I. 2006/1014, art. 2(a), Sch. 1 para. 15

*Delegation*

- 27 (1) The Commission may delegate functions to—
- (a) any of its staff,
  - (b) any person with whom arrangements are made under paragraph 23 or 25, or
  - (c) any person providing assistance to the Commission in pursuance of such arrangements.
- (2) A committee, a sub-committee or the chief executive may delegate functions (including functions delegated to them or him) to any of the persons listed at sub-paragraph (1).
- (3) Sub-paragraphs (1) and (2) do not apply to the functions of the Commission, or of a selection panel appointed under section 70 or 79, of making a selection under this Part of this Act.

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### *Delegation and contracting out of superannuation functions*

- 28 (1) Section 1(2) of the Superannuation Act 1972 (c. 11) (delegation of functions relating to civil service superannuation schemes by Minister for the Civil Service to another officer of the Crown etc.) has effect as if the reference to an officer of the Crown other than a Minister included a reference to the Commission's chief executive.
- (2) Any administration function conferred on the chief executive under section 1(2) of that Act (in accordance with sub-paragraph (1)) may be exercised by, or by employees of, any person authorised by the chief executive.
- (3) “Administration function” means a function of administering schemes—
- (a) made under section 1 of that Act, and
  - (b) from time to time in force.
- (4) The chief executive may, under sub-paragraph (2), authorise a person to exercise administrative functions—
- (a) to their full extent or to a specified extent;
  - (b) in all cases or in specified cases;
  - (c) unconditionally or subject to specified conditions.
- (5) An authorisation under sub-paragraph (2)—
- (a) is to be treated for all purposes as given by virtue of an order under section 69 of the Deregulation and Contracting Out Act 1994 (c. 40) (contracting out of functions of Ministers and office-holders);
  - (b) may be revoked at any time by the Commission or the chief executive.

### *Inspection of documents*

- 29 (1) The Commission must permit any person authorised by the Lord Chancellor to inspect or make copies of accounts or other documents which in the opinion of the Lord Chancellor relate to costs and expenditure of the Commission.
- (2) The Commission must provide such explanation of accounts or documents inspected or copied by any person under this paragraph as that person or the Lord Chancellor may require.

### *Financial provisions and directions*

- 30 (1) The Lord Chancellor must pay to the Commission such sums as he may determine are appropriate for, or in connection with, the exercise by it of its functions.
- (2) The Lord Chancellor may by direction require the Commission—
- (a) not to incur costs and expenditure in excess of a specified amount without his consent;
  - (b) to follow specified procedures in relation to its costs and expenditure.
- (3) A direction under sub-paragraph (2) may relate to all of the Commission's costs and expenditure, or to costs and expenditure of a specified description.

### *Accounts and audit*

- 31 (1) The Commission must keep proper accounts and proper records in relation to them.

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- (2) The Commission must prepare a statement of accounts in respect of each financial year.
- (3) The statement must give a true and fair view of the state of the Commission's affairs at the end of the financial year, and of its income and expenditure and cash flows in the financial year.
- (4) The statement must be in compliance with any directions given by the Lord Chancellor with the Treasury's consent as to the information to be contained in the statement, the manner in which the information is to be presented or the methods and principles according to which the statement is to be prepared.
- (5) The Commission must send the statement to the Lord Chancellor at such time as he may direct.
- (6) The Lord Chancellor must, on or before 31 August in any year, send to the Comptroller and Auditor General the statement prepared by the Commission for the financial year last ended.
- (7) The Comptroller and Auditor General must examine, certify and report on the statement sent to him under sub-paragraph (6) and must lay copies of it and of his report before each House of Parliament.

#### *Reports*

- 32 (1) The Commission must, as soon as practicable after the end of each financial year, provide to the Lord Chancellor a report about the performance of its functions during that year.
- (2) After consulting the Lord Chief Justice, the Lord Chancellor may by direction require the Commission to deal, in reports or a particular report under sub-paragraph (1), with matters specified in the direction.
- (3) The Commission must, as soon as practicable after a direction by the Lord Chancellor under this sub-paragraph, provide to the Lord Chancellor a report about any matter or matters specified in the direction.
- (4) The Lord Chancellor must lay before each House of Parliament a copy of any report provided to him under sub-paragraph (1).
- (5) The Commission must publish any report once copies of it have been laid under sub-paragraph (4).

#### *Documentary evidence*

- 33 The application of the seal of the Commission is to be authenticated by the signature of any Commissioner or member of staff of the Commission who has been authorised (whether generally or specifically) for the purpose.
- 34 Any contract or instrument which, if entered into or executed by an individual, would not need to be under seal, may be entered into or executed on behalf of the Commission by any person who has been authorised (whether generally or specifically) for the purpose.
- 35 A document purporting to be—
  - (a) duly executed under the seal of the Commission, or

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(b) signed on behalf of the Commission,  
 is to be received in evidence and, unless the contrary is proved, taken to be executed or signed in that way.

### *General*

- 36 (1) “Financial year” in this Schedule, means—
- (a) the period beginning with the date on which section 61 comes into force and ending with the following 31 March, and
  - (b) each successive period of twelve months.
- (2) In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified) at the appropriate place insert— “The Judicial Appointments Commission. ”.
- (3) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert— “The Judicial Appointments Commission. ”

## SCHEDULE 13

Section 62

### THE JUDICIAL APPOINTMENTS AND CONDUCT OMBUDSMAN

#### *The Ombudsman*

- 1 (1) The Ombudsman is appointed by Her Majesty on the recommendation of the Lord Chancellor.
- (2) A person must not be appointed as the Ombudsman if he is employed in the civil service of the State or if he has ever been any of these—
- (a) a practising barrister in England and Wales;
  - (b) a practising solicitor of the Senior Courts of England and Wales;
  - (c) a practising advocate in Scotland;
  - (d) a practising solicitor in Scotland;
  - (e) a practising member of the Bar of Northern Ireland;
  - (f) a practising solicitor of the Court of Judicature of Northern Ireland;
  - (g) the holder of an office listed in Schedule 14.
- (3) Before recommending a person for appointment as the Ombudsman the Lord Chancellor must consider—
- (a) whether the person has exercised functions that appear to the Lord Chancellor to be of a judicial nature and such as to make the person inappropriate for the appointment;
  - (b) whether any past service in a capacity mentioned in sub-paragraph (4) appears to the Lord Chancellor to make the person inappropriate for the appointment;
  - (c) whether the extent of any present or past party political activity or affiliations appears to the Lord Chancellor to make the person inappropriate for the appointment.

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- (4) The service referred to in sub-paragraph (3)(b) is service as any of these—
- (a) a Commissioner;
  - (b) a member of the staff of the Commission;
  - (c) a member of the House of Commons;
  - (d) a person employed in the civil service of the State.
- 2 (1) In this Schedule “practising” is to be read in accordance with sub-paragraphs (2) and (3).
- (2) A barrister in England and Wales, an advocate in Scotland or a member of the Bar of Northern Ireland is practising if he is—
- (a) practising as such,
  - (b) employed to give legal advice, or
  - (c) providing legal advice under a contract for services.
- (3) A solicitor of the Senior Courts, a solicitor in Scotland or a solicitor of the Court of Judicature of Northern Ireland is practising if he is—
- (a) acting as such,
  - (b) employed to give legal advice, or
  - (c) providing legal advice under a contract for services.

*Term of office etc. of Ombudsman*

- 3 (1) The Ombudsman must be appointed for a fixed period.
- (2) But an appointment is subject to paragraphs 4 and 5.
- 4 (1) A person—
- (a) may not be appointed as the Ombudsman for more than 5 years at a time, and
  - (b) may not hold office as the Ombudsman for periods (whether or not consecutive) totalling more than 10 years.
- 5 (1) The Ombudsman may at any time—
- (a) resign his office by notice in writing addressed to Her Majesty;
  - (b) be removed from office by the Lord Chancellor.
- (2) The Lord Chancellor may not remove the Ombudsman from office unless he is satisfied that the Ombudsman—
- (a) has become disqualified for appointment under paragraph 1(2),
  - (b) has ceased to be appropriate for the appointment because of considerations listed in paragraph 1(3),
  - (c) has, within the preceding nine months, failed to discharge the functions of his office for a continuous period of at least six months,
  - (d) has been convicted of an offence,
  - (e) is an undischarged bankrupt, or
  - (f) is otherwise unfit to hold his office or unable to discharge its functions.

*Salary, allowances and expenses*

- 6 (1) The Lord Chancellor may—

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- (a) pay to the Ombudsman such remuneration, fees or expenses as the Lord Chancellor may determine;
  - (b) pay, or make provision for the payment of, such pension, allowance or gratuity as the Lord Chancellor may determine to or in respect of a person who is or has been the Ombudsman.
- (2) If—
- (a) the Ombudsman ceases to hold office other than on the expiry of his term of appointment, and
  - (b) it appears to the Lord Chancellor that there are special circumstances that would warrant the payment of compensation to him,
- the Lord Chancellor may make to or in respect of him a payment of such amount as the Lord Chancellor may determine.

#### *Acting Ombudsman*

- 7 (1) The Lord Chancellor may appoint a person to exercise the functions of the Ombudsman if—
- (a) the Ombudsman's office becomes vacant,
  - (b) the Lord Chancellor determines that the Ombudsman is incapable of exercising his functions, or
  - (c) the Ombudsman notifies the Lord Chancellor 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) But a person may be appointed under this paragraph only if he is eligible under paragraph 1(2) to be appointed as Ombudsman.
- (3) The Lord Chancellor may—
- (a) pay to a person appointed under this paragraph such remuneration, fees or expenses as the Lord Chancellor may determine;
  - (b) pay, or make provision for the payment of, such pension, allowance or gratuity as the Lord Chancellor may determine to or in respect of a person who is or has been a person appointed under this paragraph.
- (4) A person appointed under this paragraph is to exercise the functions of the Ombudsman in accordance with the terms of his appointment.
- (5) The Lord Chancellor may end an appointment under this paragraph at any time.
- (6) Otherwise any appointment of a person under this paragraph ends on the earliest of—
- (a) that person's ceasing to be eligible to be appointed as Ombudsman;
  - (b) the expiry of the appointment in accordance with its terms and conditions;
  - (c) the date on which with the agreement of the Lord Chancellor the Ombudsman resumes the exercise of his functions;
  - (d) the appointment of a new Ombudsman;
  - (e) the end of twelve months beginning with the relevant date.
- (7) The relevant date is—
- (a) if the appointment was under sub-paragraph (1)(a), the date when the vacancy arose;

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- (b) if the appointment was under sub-paragraph (1)(b), the date of the Lord Chancellor's determination;
- (c) if the appointment was under sub-paragraph (1)(c), the date of the notification.

#### *Status of the Ombudsman*

- 8 The person for the time being holding the office of the Ombudsman is by the name of that office a corporation sole.

#### *Powers of the Ombudsman*

- 9 (1) The Ombudsman does not have power to do any of the following—
- (a) to borrow money;
  - (b) to hold real property;
  - (c) to appoint staff (except by way of arrangements under paragraph 10).
- (2) Subject to sub-paragraph (1), the Ombudsman may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of his functions.
- (3) Nothing in this Schedule is to be read as limiting the generality of sub-paragraph (2).

#### *Arrangements for assistance*

- 10 (1) The Ombudsman may make arrangements with such persons as he considers appropriate for assistance to be provided to him.
- (2) Arrangements may include the paying of fees to such persons.
- (3) No arrangements may be made under this paragraph unless approved by the Lord Chancellor.

#### *Arrangements by the Lord Chancellor*

- 11 Unless the Ombudsman has made arrangements under paragraph 10, the Lord Chancellor may make arrangements for assistance to be provided to the Ombudsman.

#### *Delegation of functions*

- 12 (1) The Ombudsman may delegate any functions to—
- (a) any person with whom arrangements are made under paragraph 10 or 11, or
  - (b) any person providing assistance to the Ombudsman in pursuance of such arrangements.
- (2) But all recommendations and reports prepared by or on behalf of the Ombudsman must be signed by him.

#### *Financial provisions and directions*

- 13 (1) Expenditure incurred by the Ombudsman in the discharge of his functions is to be met by the Lord Chancellor.
- (2) The Lord Chancellor may by direction require the Ombudsman—

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- (a) not to incur costs and expenditure in excess of a specified amount without his consent;
  - (b) to follow specified procedures in relation to his costs and expenditure.
- (3) A direction under sub-paragraph (2) may relate to all of the Ombudsman's costs and expenditure, or to costs and expenditure of a specified description.

#### *Code of conduct*

- 14 The Lord Chancellor may issue and from time to time revise a code of conduct to be observed by the Ombudsman and any person appointed under paragraph 7 to exercise his functions.

#### *Reports*

- 15 (1) The Ombudsman must, as soon as practicable after the end of each financial year, provide to the Lord Chancellor a report about the performance of his functions during that year.
- (2) The Lord Chancellor may by direction require the Ombudsman to deal, in reports or a particular report under sub-paragraph (1), with matters specified in the direction.
- (3) The Ombudsman must, as soon as practicable after a direction by the Lord Chancellor under this sub-paragraph, provide to the Lord Chancellor a report about any matter or matters specified in the direction.
- (4) The Lord Chancellor must lay before each House of Parliament a copy of any report provided to him under sub-paragraph (1).
- (5) The Ombudsman must publish any report once copies of it have been laid under sub-paragraph (4).

#### *Documentary evidence*

- 16 A document purporting to be an instrument issued by the Ombudsman and to be signed by or on behalf of the Ombudsman is to be received in evidence and, unless the contrary is proved, taken to be such an instrument and signed in that way.

#### *General*

- 17 (1) “Financial year” in this Schedule, means—
- (a) the period beginning with the date on which section 62 comes into force and ending with the following 31 March, and
  - (b) each successive period of twelve months.
- (2) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices) at the appropriate place insert— “ The Judicial Appointments and Conduct Ombudsman. ”
- (3) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert— “ The Judicial Appointments and Conduct Ombudsman. ”



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## SCHEDULE 14

Section 85

## THE JUDICIAL APPOINTMENTS COMMISSION: RELEVANT OFFICES AND ENACTMENTS

**Commencement Information**

**I31** Sch. 14 partly in force at 3.4.2006; Sch. 14 not in force at Royal Assent see s. 148; Sch. 14 in force for specified purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 20 (subject to Sch. 1 para. 20(2)-(4)); Sch. 14 in force for specified purposes at 21.3.2007 by S.I. 2007/967, art. 2

**PART 1**

## APPOINTMENTS BY HER MAJESTY

<i>Office</i>	<i>Enactment</i>
F42	F42
...	...
Judge Advocate General	Section 29 of the Courts-Martial (Appeals) Act 1951 (c. 46)
Common Serjeant	Section 12(1) of the City of London (Courts) Act 1964 (c. iv)
Circuit judge	Section 16(1) of the Courts Act 1971 (c. 23)
Recorder	Section 21(1) of the Courts Act 1971
Non-judicial member of the Restrictive Practices Court	Section 3(1) of the Restrictive Practices Court Act 1976 (c. 33)
Master, Queen's Bench Division Queen's Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals Admiralty Registrar Master, Chancery Division Registrar in Bankruptcy of the High Court Taxing Master of the Senior Courts District judge of the principal registry of the Family Division Master of the Court of Protection	Section 89(1) of the Supreme Court Act 1981
Senior Master of the Queen's Bench Division Chief Chancery Master Chief Taxing Master Chief Bankruptcy Registrar Senior District Judge of the Family Division	Section 89(3) of the Supreme Court Act 1981 (c. 54) (c. 54)
District judge	Section 6(1) of the County Courts Act 1984 (c. 28)
Chief Child Support Commissioner Child Support Commissioner	Section 22(1) of the Child Support Act 1991 (c. 48)

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Member of the Employment Appeal Tribunal	Section 22(1)(c) of the Employment Tribunals Act 1996 (c. 17)
District Judge (Magistrates' Courts)	Section 10A(1) of the Justices of the Peace Act 1997 (c. 25)
Senior District Judge (Chief Magistrate) Deputy Senior District Judge (Chief Magistrate)	Section 10A(2) of the Justices of the Peace Act 1997
Chief Social Security Commissioner Social Security Commissioner	Paragraph 1(1) of Schedule 4 to the Social Security Act 1998 (c. 14)
District Judge (Magistrates' Courts)	Section 22(1) of the Courts Act 2003 (c. 39)
Senior District Judge (Chief Magistrate) Deputy Senior District Judge (Chief Magistrate)	Section 23 of the Courts Act 2003 (c. 39)

#### Textual Amendments

**F42** Sch. 14 Pt. 1 Table 1: entry repealed (1.1.2008) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 17](#); [S.I. 2007/2913](#), [art. 3](#)

## PART 2

### APPOINTMENTS BY THE LORD CHANCELLOR: OFFICES TO WHICH PARAGRAPH 2(2)(D) OF SCHEDULE 12 DOES NOT APPLY

<i>Office</i>	<i>Enactment</i>
Vice Judge Advocate General Assistant Judge Advocate General	Section 30(1) of the Courts-Martial (Appeals) Act 1951 (c. 46)
Person appointed temporarily to assist the Judge Advocate General	Section 30(2) of the Courts-Martial (Appeals) Act 1951
Judge of the Courts-Martial Appeal Court	Section 2(2) of the Courts-Martial (Appeals) Act 1968 (c. 20)
General Commissioner for a division in England and Wales	Section 2 of the Taxes Management Act 1970 (c. 9)
Assistant recorder	Section 24(1) of the Courts Act 1971 (c. 23)
[ <sup>F43</sup> Person appointed by the Lord Chancellor as a deputy for a holder of, or as a temporary additional officer in, an office listed in column 1 of Part 2 of Schedule 2 to the Supreme Court Act 1981	Section 91(1) of the Supreme Court Act 1981, unless subsection (1ZA) of that section applies to the appointment]
Deputy district judge <sup>F44</sup>	Section 102(1) of the Supreme Court Act 1981 (c. 54)

...

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Deputy district judge F44	Section 8(1) of the County Courts Act 1984 (c. 28)
...	
Justice of the peace	Section 5 of the Justices of the Peace Act 1997 (c. 25)
Deputy District Judge (Magistrates' Courts)	Section 10B(1) of the Justices of the Peace Act 1997 (c. 25)
Justice of the peace who is not a District Judge (Magistrates' Courts)	Section 10(1) of the Courts Act 2003 (c. 39)
Deputy District Judge (Magistrates' Courts)	Section 24(1) of the Courts Act 2003

#### Textual Amendments

- F43** Sch. 14 Pt. 2 Table 2: entry inserted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), s. 57\(7\)](#)
- F44** Sch. 14 Pt. 2: words in entries omitted (19.7.2007) by virtue of and repealed (prosp.) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 56, 146, 148, Sch. 11 para. 15, Sch. 23 Pt. 2](#)

### PART 3

#### APPOINTMENTS BY THE LORD CHANCELLOR: OFFICES TO WHICH PARAGRAPH 2(2)(D) OF SCHEDULE 12 APPLIES

<i>Office</i>	<i>Enactment</i>
Member of pensions appeal tribunal	Paragraphs 2 and 3 of the Schedule to the War Pensions (Administrative Provisions) Act 1919 (c. 53)
Member of the Shipping Claims Tribunal President of the Shipping Claims Tribunal	Section 8(1) of the Compensation (Defence) Act 1939 (c. 75)
Member of panel	Section 109(1)(a) of the London Building Acts (Amendment) Act 1939 (c.xcvii)
Deputy member of panel	Section 109(1)(h) of the London Building Acts (Amendment) Act 1939
Member of a Pensions Appeal Tribunal	Paragraph 2(1) of the Schedule to the Pensions Appeal Tribunals Act 1943 (c. 39)
President of Pensions Appeal Tribunals Deputy President of Pensions Appeal Tribunals	Paragraph 2B of the Schedule to the Pensions Appeal Tribunals Act 1943 (c. 39)
Member of panel of persons to act as arbitrators Chairman of panel of persons to act as arbitrators Deputy chairman of panel of persons to act as arbitrators	Section 61(1) of the Coal Industry Nationalisation Act 1946 (c. 59)

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Chairman of an Agricultural Land Tribunal	Paragraph 13(1) of Schedule 9 to the Agriculture Act 1947 (c. 48)
Member of panel of deputy-chairmen of Agricultural Land Tribunal	Paragraph 14(1) of Schedule 9 to the Agriculture Act 1947
Member of panel	Paragraph 15(1) of Schedule 9 to the Agriculture Act 1947 (c. 48)
President of the Lands Tribunal	Section 2(1) of the Lands Tribunal Act 1949 (c. 42)
Member of the Lands Tribunal	
First of the three arbitration committee members	Section 7(6) of the National Health Service (Amendment) Act 1949 (c. 93)
Arbitrator	Section 18(3) of the National Parks and Access to the Countryside Act 1949 (c. 97)
Chairman of the Foreign Compensation Commission	Section 1(1) of the Foreign Compensation Act 1950 (c. 12)
Arbitrator	Paragraph 3(4) of Schedule 6 to the Transport Act 1962 (c. 46)
Chairman of a Levy Appeal Tribunal	Section 29(2)(a) of the Betting, Gaming and Lotteries Act 1963 (c. 2)
Commons Commissioner	Section 17(1) of the Commons Registration Act 1965 (c. 64)
Chief Commons Commissioner	
Substitute Chief Commons Commissioner	Section 17(3) of the Commons Registration Act 1965
Arbitrator	Section 15A(3) of the Countryside Act 1968 (c. 41)
Arbitrator	Paragraph 13(3) of Schedule 4 to the Transport Act 1968 (c. 73)
Arbitrator	Paragraph 10(3) of Schedule 4 to the Transport Act 1968 as set out in Schedule 2 to the Transport Act 1985 (Modifications in Schedule 4 to the Transport Act 1968) Order 1985 (S.I. 1985/1903)
Arbitrator	Paragraph 10(3) of Schedule 4 to the Transport Act 1968 as set out in Schedule 2 to the Airports Act 1986 (Modifications in Schedule 4 to the Transport Act 1968) Order 1986 (S.I. 1986/1801)
Special Commissioner	Section 4(1) of the Taxes Management Act 1970 (c. 9)
Presiding Special Commissioner	
Deputy Special Commissioner	Section 4A(1) of the Taxes Management Act 1970
Chairman of a tribunal	Paragraph 1(1)(a) of Schedule 3 to the Misuse of Drugs Act 1971 (c. 38)

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President of tribunal established by the Secretary of State	Paragraph 4(a) of Schedule 3 to the Industry Act 1975 (c. 68)
President of the Aircraft and Shipbuilding Industries Arbitration Tribunal	Section 42(3)(a) of the Aircraft and Shipbuilding Industries Act 1977 (c. 3)
Member of panel	Paragraph 2(a) of Schedule 10 to the Rent Act 1977 (c. 42)
President of the Family Health Services Appeal Authority	Paragraph 1 of [ <sup>F45</sup> Schedule 13 to the National Health Service Act 2006]
Deputy President of the Family Health Services Appeal Authority	
Member of the Family Health Services Appeal Authority	
Arbitrator	Paragraph 12(3) of Schedule 2 to the British Telecommunications Act 1981 (c. 38)
Arbitrator	Section 28N(3) of the Wildlife and Countryside Act 1981 (c. 69)
Arbitrator	Section 66(4)(a) of the Transport Act 1982 (c. 49)
Member of the Mental Health Review Tribunal	Paragraph 1 of Schedule 2 to the Mental Health Act 1983 (c. 20)
Chairman of the Mental Health Review Tribunal	Paragraph 3 of Schedule 2 to the Mental Health Act 1983
Arbitrator	Paragraph 2(5) of Schedule 1 to the Ordnance Factories and Military Services Act 1984 (c. 59)
Member of panel	Paragraph 2(1)(a) of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985 (c. 17)
President of the Transport Tribunal	Paragraph 2(1)(a) of Schedule 4 to the Transport Act 1985 (c. 67)
Chairman of the Transport Tribunal	
Member of Insolvency Practitioners Tribunal panel	Paragraph 1(1)(a) of Schedule 7 to the Insolvency Act 1986 (c. 45)
<sup>F46</sup>	<sup>F47</sup>
.....	.....
Chairman of section 706 tribunal	Section 706(1) of the Income and Corporation Taxes Act 1988 (c. 1)
Member of section 706 tribunal	
Arbitrator	Paragraph 9(4) of Schedule 10 to the Education Reform Act 1988 (c. 40)
[ <sup>F48</sup> President of the Valuation Tribunal for England	Paragraph A7 of Schedule 11 to the Local Government Finance Act 1988
Vice-President of the Valuation Tribunal for England	Paragraph A7 of Schedule 11 to the Local Government Finance Act 1988

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Member of the panel of chairmen of the Valuation Tribunal for England	Paragraph A7 of Schedule 11 to the Local Government Finance Act 1988
Other member of the Valuation Tribunal for England	Paragraph A7 of Schedule 11 to the Local Government Finance Act 1988]
Chairman of the Copyright Tribunal Deputy chairman of the Copyright Tribunal	Section 145(2) of the Copyright, Designs and Patents Act 1988 (c. 48)
Arbitrator	Paragraph 9(2)(a) of Schedule 10 to the Electricity Act 1989 (c. 29)
Arbitrator	Schedule 9, paragraph 5(5)(a), of the Broadcasting Act 1990 (c. 42)
Deputy Child Support Commissioner	Paragraph 4(1) of Schedule 4 to the Child Support Act 1991 (c. 48)
Arbitrator	Paragraph 11(5) of Schedule 2 to the Ports Act 1991 (c. 52)
Member of panel	Section 31(1) of the Land Drainage Act 1991 (c. 59)
Arbitrator	Paragraph 7(4) of Schedule 5 to the Further and Higher Education Act 1992 (c. 13)
Member of panel	Section 6(1) of the Tribunals and Inquiries Act 1992 (c. 53)
Member of tribunal for the purposes of section 150 of the Mines and Quarries Act 1954 (c. 70) Chairman of tribunal for the purposes of section 150 of the Mines and Quarries Act 1954	Section 6(5) of the Tribunals and Inquiries Act 1992
[ <sup>F49</sup> President of the Charity Tribunal	Paragraph 1(2) of Schedule 1B to the Charities Act 1993 (c. 10).
Legal member of the Charity Tribunal Ordinary member of the Charity Tribunal]	
Arbitrator	Paragraph 8(6)(a) of Schedule 2 to the Coal Industry Act 1994 (c. 21)
President of VAT tribunals	Paragraph 2(2) of Schedule 12 to the Value Added Tax Act 1994 (c. 23)
Member of panel of chairmen	Paragraph 7(3)(a) of Schedule 12 to the Value Added Tax Act 1994
Persons appointed to hear and determine appeals	Section 77(1) of the Trade Marks Act 1994 (c. 26)
Arbitrator	Regulation 32(3)(a) of the Conservation (Natural Habitats, &c) Regulations 1994 (S.I. 1994/2716)
Wreck commissioner	Section 297(1) of the Merchant Shipping Act 1995 (c. 21)

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Arbitrator	Paragraph 10(6)(a) of Schedule 1 to the Atomic Energy Authority Act 1995 (c. 37)
Person nominated for the purpose of Schedule 6 to the Police Act 1996	Paragraph 1(1)(a) of Schedule 6 to the Police Act 1996 (c. 16)
Arbitrator	Paragraph 8(6)(a) of Schedule 5 to the Broadcasting Act 1996 (c. 55)
Chairman of a tribunal	Schedule 2, paragraph 1(1)(a), to the School Inspections Act 1996 (c. 57)
President of the Special Educational Needs and Disability Tribunal	Section 333 of the Education Act 1996 (c. 56)
Member of the chairmen's panel of the Special Educational Needs and Disability Tribunal	
Member of panel of chairmen for England and Wales	Paragraph 6(2)(a) of the Schedule to the Deregulation (Model Appeal Provisions) Order 1996 (S.I. 1996/1678)
Chairman of the Plant Varieties and Seeds Tribunal	Paragraph 2(1) of Schedule 3 to the Plant Varieties Act 1997 (c. 66)
Member of Special Immigration Appeals Commission	Paragraph 1(1) of Schedule 1 to the Special Immigration Appeals Commission Act 1997 (c. 68)
Chairman of Special Immigration Appeals Commission	Paragraph 2 of Schedule 1 to the Special Immigration Appeals Commission Act 1997
President of appeal tribunals	Section 5(1) of the Social Security Act 1998 (c. 14)
Member of panel of persons to act as members of appeal tribunals	Section 6(2) of the Social Security Act 1998
Social Security Commissioner (deputy)	Paragraph 1(2) of Schedule 4 to the Social Security Act 1998
Chairman of the Information Tribunal	Section 6(4) of the Data Protection Act 1998 (c. 29)
Deputy chairman of the Information Tribunal	
President of the Tribunal	Paragraph 2(1) of the Schedule to the Protection of Children Act 1999 (c. 14)
Member of the chairman's panel of the Tribunal	
Member of the lay panel of the Tribunal	Paragraph 2(3) of the Schedule to the Protection of Children Act 1999 (c. 14)
Member of appeal panel	Section 189(6) of the Greater London Authority Act 1999 (c. 29)
Member of the Immigration Services Tribunal	Paragraph 1(2) of Schedule 7 to the Immigration and Asylum Act 1999 (c. 33)
President of the Immigration Services Tribunal	Paragraph 2 of Schedule 7 to the Immigration and Asylum Act 1999

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[ <sup>F50</sup> Adjudicator	Rule 2(1) of the Prison Rules 1999 (S.I. 1999/728)
Person on a list	Regulation 14(1) of the Police (Conduct) (Senior Officers) Regulations 1999 (S.I. 1999/731)]
President of the Financial Services and Markets Tribunal	Paragraph 2(1) of Schedule 13 to the Financial Services and Markets Act 2000 (c. 8)
Deputy President of the Financial Services and Markets Tribunal	Paragraph 2(3) of Schedule 13 to the Financial Services and Markets Act 2000
Member of panel of chairmen of the Financial Services and Markets Tribunal	Paragraph 3(1) of Schedule 13 to the Financial Services and Markets Act 2000
Member of lay panel of the Financial Services and Markets Tribunal	Paragraph 3(4) of Schedule 13 to the Financial Services and Markets Act 2000
Member of the Proscribed Organisations Appeal Commission	Paragraph 1(1) of Schedule 3 to the Terrorism Act 2000 (c. 11)
Chairman of the Proscribed Organisations Appeal Commission	Paragraph 1(2) of Schedule 3 to the Terrorism Act 2000
Member of the Adjudication Panel for England	Section 75(3) of the Local Government Act 2000 (c. 22)
President of the Adjudication Panel for England	Section 75(4) of the Local Government Act 2000
Deputy President of the Adjudication Panel for England	
Member of the panel of tribunal chairmen	Regulation 7(1)(a) of the Health Service Medicines (Price Control Appeals) Regulations 2000 (S.I. 2000/124)
Senior tribunal chairman	Regulation 7(1)(b) of the Health Service Medicines (Price Control Appeals) Regulations 2000 (S.I. 2000/124)
[ <sup>F51</sup> Adjudicator	Rule 2(1) of the Young Offender Institution Rules 2000 (S.I. 2000/3371)]
Member of the Pathogens Access Appeal Commission	Paragraph 1(1) of Schedule 6 to the Anti-terrorism, Crime and Security Act 2001 (c. 24)
Chairman of the Pathogens Access Appeal Commission	Paragraph 1(2) of Schedule 6 to the Anti-terrorism, Crime and Security Act 2001
President of the Employment Tribunals (England and Wales)	Regulation 3(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2001 (S.I. 2001/ 1171)
Member of panel	Regulation 5(1)(a) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2001



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Regional Chairman	Regulation 8(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2001
Road user charging adjudicator	Regulation 3(1) of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001 (S.I. 2001/2313)
Adjudicator to Her Majesty's Land Registry	Section 107(1) of the Land Registration Act 2002 (c. 9)
President of the Competition Appeal Tribunal	Section 12(2)(a) of the Enterprise Act 2002 (c. 40)
Member of panel of chairmen of the Competition Appeal Tribunal	Section 12(2)(b) of the Enterprise Act 2002
Acting President of Competition Appeal Tribunal	Paragraph 3 of Schedule 2 to the Enterprise Act 2002
Member of panel of assessors to assist Special Commissioners	Section 320(3)(b) of the Proceeds of Crime Act 2002 (c. 29)
Adjudicator	Section 81(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41)
Chief Adjudicator	Section 81(3) of the Nationality, Immigration and Asylum Act 2002
Deputy Chief Adjudicator	
Regional Adjudicator	
Deputy Regional Adjudicator	
[ <sup>F52</sup> Legally qualified member of the Asylum and Immigration Tribunal	Paragraphs 2(1)(a) to (d) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002
Member of the Asylum and Immigration Tribunal	Paragraph 2(1)(e) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002
Deputy President of the Asylum and Immigration Tribunal	Paragraph 5(1)(b) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002]
Member of the Immigration Appeal Tribunal	Paragraph 1 of Schedule 5 to the Nationality, Immigration and Asylum Act 2002
Deputy President of the Immigration Appeal Tribunal	Paragraph 4(1) of Schedule 5 to the Nationality, Immigration and Asylum Act 2002
Arbitrator	Paragraph 4(7)(a) of Schedule 2 to the Communications Act 2003 (c. 21)
[ <sup>F53</sup> President of the Gambling Appeals Tribunal	Paragraph 1(1)(a) of Schedule 8 to the Gambling Act 2005
Member of the Gambling Appeals Tribunal	Paragraph 1(1)(b) of Schedule 8 to the Gambling Act 2005]
[ <sup>F54</sup> Chairman of section 704 tribunal	Section 704(1) of the Income Tax Act 2007

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Member of section 704 tribunal

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### Textual Amendments

- F45** Words in Sch. 14 Pt. 3 substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 274** (with Sch. 3 Pt. 1)
- F46** Sch. 14 Pt. 3 Table 1: entry repealed (19.10.2006) by The Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006 (S.I. 2006/2285), art. 18, **Sch. 2** (with art. 10)
- F47** Sch. 14 Pt. 3 Table 1: entry repealed (19.10.2006) by The Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006 (S.I. 2006/2285), art. 18, **Sch. 2** (with art. 10)
- F48** Sch. 14 Pt. 3 Table 1: entries inserted (1.4.2008 for certain purposes otherwise 1.10.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 220, 245, **Sch. 16 para. 16(2)**; S.I. 2008/917, **art. 2(1)(dd)**; S.I. 2008/3110, **art. 6(d)(iv)**
- F49** Sch. 14 Pt. 3: entry inserted (18.3.2008) by Charities Act 2006 (c. 50), ss. 75, 79, **Sch. 8 para. 208**; S.I. 2008/751, **art. 2**, Sch.
- F50** Sch. 14 Pt. 3 Table 1: entry inserted (3.4.2006) by The Judicial Appointments and Discipline (Modification of Offices) Order 2006 (S.I. 2006/678), **art. 2(2)**
- F51** Sch. 14 Pt. 3 Table 1: entry inserted (3.4.2006) by The Judicial Appointments and Discipline (Modification of Offices) Order 2006 (S.I. 2006/678), **art. 2(3)**
- F52** Sch. 14 Pt. 3: entry inserted (3.4.2006) by The Judicial Appointments and Discipline (Modification of Offices) Order 2006 (S.I. 2006/678), **art. 2(4)**
- F53** Sch. 14 Pt. 3: entry inserted (10.7.2006) by The Judicial Appointments and Discipline (Modification of Offices) (No.2) Order 2006 (S.I. 2006/1551), **art. 2**
- F54** Sch. 14 Pt. 3: entries inserted (with effect as mentioned in s. 1034(1)) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 491** (with transitional provisions and savings in Sch. 2)

## SCHEDULE 15

Section 124

### NORTHERN IRELAND JUDICIAL APPOINTMENTS OMBUDSMAN

After Schedule 3 to the Justice (Northern Ireland) Act 2002 (c. 26) insert—

#### “SCHEDULE 3A

### THE NORTHERN IRELAND JUDICIAL APPOINTMENTS OMBUDSMAN

#### *The Ombudsman*

- 1 (1) A person must not be appointed as the Ombudsman if any of these sub-paragraphs applies—
- (a) he is employed in the civil service of the State;
  - (b) he is a member of the House of Commons;
  - (c) he is a member of the Northern Ireland Assembly;
  - (d) he is engaged in political activity as a member of a political party;
  - (e) he has ever been any of these—
    - (i) a practising barrister in England and Wales;
    - (ii) a practising solicitor of the Supreme Court of England and Wales;

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- (iii) a practising advocate in Scotland;
  - (iv) a practising solicitor in Scotland;
  - (v) a practising member of the Bar of Northern Ireland;
  - (vi) a practising solicitor of the Supreme Court of Judicature of Northern Ireland;
  - (vii) the holder of a listed judicial office.
- (2) Before recommending a person for appointment as the Ombudsman the Lord Chancellor must consider—
- (a) whether the person has exercised functions that appear to the Lord Chancellor to be of a judicial nature and such as to make the person inappropriate for the appointment;
  - (b) whether any past service in a capacity mentioned in sub-paragraph (3) appears to the Lord Chancellor to make the person inappropriate for the appointment.
- (3) The service referred to in subsection (2)(b) is service as any of these—
- (a) a Commissioner;
  - (b) a member of staff of the Commission;
  - (c) a person employed in the civil service of the State.
- 2 (1) In this Schedule “practising” is to be read in accordance with sub-paragraphs (2) and (3).
- (2) A barrister in England and Wales, an advocate in Scotland or a member of the Bar of Northern Ireland is practising if he is—
- (a) practising as such,
  - (b) employed to give legal advice, or
  - (c) providing legal advice under a contract for services.
- (3) A solicitor of the Supreme Court, a solicitor in Scotland or a solicitor of the Supreme Court of Judicature of Northern Ireland is practising if he is—
- (a) acting as such,
  - (b) employed to give legal advice, or
  - (c) providing legal advice under a contract for services.

*Term of office etc. of Ombudsman*

- 3 (1) The Ombudsman must be appointed for a fixed period.
- (2) But an appointment is subject to paragraphs 4 and 5.
- 4 A person—
- (a) may not be appointed as the Ombudsman for more than 5 years at a time, and
  - (b) may not hold office as the Ombudsman for periods (whether or not consecutive) totalling more than 10 years.
- 5 (1) The Ombudsman may at any time—
- (a) resign his office by notice in writing addressed to Her Majesty;
  - (b) be removed from office by the Lord Chancellor.
- (2) The Lord Chancellor may not remove the Ombudsman from office unless he is satisfied that the Ombudsman—
- (a) has become disqualified for appointment under paragraph 1(1),

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- (b) has ceased to be appropriate for the appointment because of considerations listed in paragraph 1(2),
- (c) has, within the preceding nine months, failed to discharge the functions of his office for a continuous period of at least six months,
- (d) has been convicted of an offence,
- (e) is an undischarged bankrupt, or
- (f) is otherwise unfit to hold his office or unable to discharge its functions.

*Salary, allowances and expenses*

- 6 (1) The Lord Chancellor may—
- (a) pay to the Ombudsman such remuneration, fees or expenses as the Lord Chancellor may determine;
  - (b) pay, or make provision for the payment of, such pension, allowance or gratuity as the Lord Chancellor may determine to or in respect of a person who is or has been the Ombudsman.
- (2) If—
- (a) the Ombudsman ceases to hold office other than on the expiry of his term of appointment, and
  - (b) it appears to the Lord Chancellor that there are special circumstances that would warrant the payment of compensation to him,
- the Lord Chancellor may make to or in respect of him a payment of such amount as the Lord Chancellor may determine.

*Acting Ombudsman*

- 7 (1) The Lord Chancellor may appoint a person to exercise the functions of the Ombudsman if—
- (a) the Ombudsman's office becomes vacant,
  - (b) the Lord Chancellor determines that the Ombudsman is incapable of exercising his functions, or
  - (c) the Ombudsman notifies the Lord Chancellor 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) But a person may be appointed under this paragraph only if he is eligible under paragraph 1 to be appointed as Ombudsman.
- (3) The Lord Chancellor may—
- (a) pay to a person appointed under this paragraph such remuneration, fees or expenses as the Lord Chancellor may determine;
  - (b) pay, or make provision for the payment of, such pension, allowance or gratuity as the Lord Chancellor may determine to or in respect of a person who is or has been a person appointed under this paragraph.
- (4) A person appointed under this paragraph is to exercise the functions of the Ombudsman in accordance with the terms of his appointment.
- (5) The Lord Chancellor may end an appointment under this paragraph at any time.
- (6) Otherwise any appointment of a person under this paragraph ends on the earliest of—

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- (a) that person's ceasing to be eligible to be appointed as Ombudsman;
  - (b) the expiry of the appointment in accordance with its terms and conditions;
  - (c) the date on which with the agreement of the Lord Chancellor the Ombudsman resumes the exercise of his functions;
  - (d) the appointment of a new Ombudsman;
  - (e) the end of twelve months beginning with the relevant date.
- (7) The relevant date is—
- (a) if the appointment was under sub-paragraph (1)(a), the date when the vacancy arose;
  - (b) if the appointment was under sub-paragraph (1)(b), the date of the Lord Chancellor's determination;
  - (c) if the appointment was under sub-paragraph (1)(c), the date of the notification.

#### *Status of the Ombudsman*

- 8 The person for the time being holding the office of the Ombudsman is by the name of that office a corporation sole.

#### *Powers of the Ombudsman*

- 9 (1) The Ombudsman does not have power to do any of the following—
- (a) to borrow money;
  - (b) to hold real property;
  - (c) to appoint staff (except by way of arrangements under paragraph 10).
- (2) Subject to sub-paragraph (1), the Ombudsman may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of his functions.
- (3) Nothing in this Schedule is to be read as limiting the generality of sub-paragraph (2).

#### *Arrangements for assistance*

- 10 (1) The Ombudsman may make arrangements with such persons as he considers appropriate for assistance to be provided to him.
- (2) Arrangements may include the paying of fees to such persons.
- (3) No arrangements may be made under this paragraph unless approved by the Lord Chancellor.

#### *Arrangements by the Lord Chancellor*

- 11 Unless the Ombudsman has made arrangements under paragraph 10, the Lord Chancellor may make arrangements for assistance to be provided to the Ombudsman.

#### *Delegation of functions*

- 12 (1) The Ombudsman may delegate any functions to—
- (a) any person with whom arrangements are made under paragraph 10 or 11, or
  - (b) any person providing assistance to the Ombudsman in pursuance of such arrangements.

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- (2) But all recommendations and reports prepared by or on behalf of the Ombudsman must be signed by him.

#### *Financial provisions and directions*

- 13 (1) Expenditure incurred by the Ombudsman in the discharge of his functions is to be met by the Lord Chancellor.
- (2) The Lord Chancellor may by direction require the Ombudsman—
- (a) not to incur costs and expenditure in excess of a specified amount without his consent;
  - (b) to follow specified procedures in relation to his costs and expenditure.
- (3) A direction under sub-paragraph (2) may relate to all of the Ombudsman's costs and expenditure, or to costs and expenditure of a specified description.

#### *Code of conduct*

- 14 The Lord Chancellor may issue and from time to time revise a code of conduct to be observed by the Ombudsman and any person appointed under paragraph 7 to exercise his functions.

#### *Reports*

- 15 (1) The Ombudsman must, as soon as practicable after the end of each financial year, provide to the Lord Chancellor a report about the performance of his functions during that year.
- (2) The Lord Chancellor may by direction require the Ombudsman to deal, in reports or a particular report under sub-paragraph (1), with matters specified in the direction.
- (3) The Ombudsman must, as soon as practicable after a direction by the Lord Chancellor under this sub-paragraph, provide to the Lord Chancellor a report about any matter or matters specified in the direction.
- (4) The Lord Chancellor must lay before each House of Parliament a copy of any report provided to him under sub-paragraph (1).
- (5) The Ombudsman must publish any report once copies of it have been laid under sub-paragraph (4).

#### *Documentary evidence*

- 16 A document purporting to be an instrument issued by the Ombudsman and to be signed by or on behalf of the Ombudsman is to be received in evidence and, unless the contrary is proved, taken to be such an instrument and signed in that way.

#### *General*

- 17 (1) Financial year in this Schedule, means—
- (a) the period beginning with the date on which section 9A comes into force and ending with the following 31 March, and
  - (b) each successive period of twelve months.

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- (2) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices) at the appropriate place insert— “ The Northern Ireland Judicial Appointments Ombudsman. ”
- (3) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert— “ The Northern Ireland Judicial Appointments Ombudsman. ””

VALID FROM 01/10/2009

SCHEDULE 16

Section 138

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

*Judicial Committee Act 1833 (c. 41)*

1 The Judicial Committee Act 1833 is amended as follows.

2 For section 1 substitute—

**“1 The Judicial Committee of the Privy Council**

(1) There shall be a committee of the Privy Council styled “The Judicial Committee of the Privy Council”.

(2) A person is a member of the committee if—

(a) he is a member of the Privy Council who holds, or has held, high judicial office, or

(b) another enactment provides for him to be a member of the committee.

(3) Subsection (2)(a) does not apply to a person after the day on which he attains the age of 75 years.

(4) In this section “high judicial office” has the same meaning as in Part 3 of the Constitutional Reform Act 2005.”

3 For section 18 substitute—

**“18 Appointment of registrar**

(1) Her Majesty may, under her sign manual, appoint any person to be the registrar of the said privy council, as regards the purposes of this Act, and direct what duties shall be performed by the registrar.

(2) A recommendation to Her Majesty to exercise any power under subsection (1) may be made only after consultation with the President of the Supreme Court of the United Kingdom.”

4 In section 19 (attendance of witnesses etc) for “the president for the time being of the said privy council” substitute “ the Judicial Committee of the Privy Council ”.

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*Court of Chancery Act 1851 (c. 83)*

5 In section 16 of the Court of Chancery Act 1851 (quorum of Judicial Committee) omit the words from “, exclusive of” to the end.

*Privy Council Registrar Act 1853 (c. 85)*

6 In section 2 of the Privy Council Registrar Act 1853 (appointment by President of the Council of person to act for registrar) after “Privy Council” insert “, after consulting the President of the Supreme Court of the United Kingdom,”.

*Oxford University Act 1862 (c. 26)*

7 In section 7 of the Oxford University Act 1862 (approbation of statutes by Her Majesty in Council etc) omit “, not including the Lord President,”.

*Public Schools Act 1868 (c. 118)*

8 In section 9 of the Public Schools Act 1868 (statutes to be laid before Privy Council) omit “, not including the Lord President,”.

*Judicial Committee Act 1881 (c. 3)*

9 The Judicial Committee Act 1881 ceases to have effect.

*Judicial Committee Act 1915 (c. 92)*

10 In section 1 of the Judicial Committee Act 1915 (power of Judicial Committee to sit in more than one division) omit “and the Lord President of the Council”.

SCHEDULE 17

Section 145

MINOR AND CONSEQUENTIAL AMENDMENTS

**PART 1**

THE LORD CHANCELLOR

*Fines Act 1833 (c. 99)*

1 The Fines Act 1833 ceases to have effect.

*Promissory Oaths Act 1868 (c. 72)*

2 In the Schedule to the Promissory Oaths Act 1868 (persons to take oaths) in Part 2 omit “The Lord Chancellor of Great Britain”.



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*Universities of Oxford and Cambridge Act 1877 (c. 48)*

- 3 In the Universities of Oxford and Cambridge Act 1877, in section 44 (constitution of Universities Committee of Privy Council) omit—
- (a) “the Lord Chancellor,” in the first place;
  - (b) “the Lord Chancellor or”.

*Sheriffs Act 1887 (c. 55)*

- 4 In the Sheriffs Act 1887, in section 6 (nomination and appointment of sheriffs) in subsection (1) omit “the Lord Chancellor,”.

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

- 5 In section 37 of the Administration of Justice Act 1964 (financial provisions) omit subsection (2).

*Parliamentary Commissioner Act 1967 (c. 13)*

- 6 (1) The Parliamentary Commissioner Act 1967 is amended as follows.
- (2) In section 5 (matters subject to investigation) in subsection (6) for “Lord Chancellor's Department” substitute “ Department for Constitutional Affairs ”.
- (3) In Schedule 2 (departments etc. subject to investigation) in the note relating to the Department for Constitutional Affairs omit “the Lord Chancellor's Department and”.
- (4) In Schedule 3 (matters not subject to investigation) at the end insert—
- “12 (1) Action not otherwise within this Schedule which is taken in the course of administrative functions exercised at the direction, or on the authority (whether express or implied), of a judge of any court established under the law of England and Wales or Northern Ireland.
- (2) In this paragraph “judge” includes—
- (a) a person appointed under section 89 of, and Part 2 or 3 of Schedule 2 to, the Supreme Court Act 1981, and
  - (b) a Master or District Judge appointed under section 70 of, and Schedule 3 to, the Judicature (Northern Ireland) Act 1978.”

PROSPECTIVE

*Patronage (Benefices) Measure 1986 (1986 No. 3)*

- 7 Section 36 of the Patronage (Benefices) Measure 1986 ceases to have effect.

PROSPECTIVE

*Priests (Ordination of Women) Measure 1993 (1993 No. 2)*

- 8 (1) The Priests (Ordination of Women) Measure 1993 is amended as follows.

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- (2) Omit section 2(4)(c) (notice of declaration by Bishop to be given to Lord Chancellor).
- (3) In section 7(1) (benefices in the patronage of the Crown etc), omit the words from “and to” to “Lord Chancellor”.

VALID FROM 01/10/2009

## PART 2

### AMENDMENTS RELATING TO PART 3

#### *Appellate Jurisdiction Act 1876 (c. 59)*

9 The Appellate Jurisdiction Act 1876 ceases to have effect.

#### *Jurisdiction in Rating Act 1877 (c. 11)*

10 In the Jurisdiction in Rating Act 1877, in section 3 (interpretation) in the definition of “Judge” for the words from “any Lord of Appeal” to the end of the definition substitute “ any judge of the Supreme Court and any person acting as a judge of that court under section 38 of the Constitutional Reform Act 2005. ”

#### *Appellate Jurisdiction Act 1887 (c. 70)*

11 The Appellate Jurisdiction Act 1887 ceases to have effect.

#### *Railway and Canal Traffic Act 1888 (c. 25)*

12 Section 17(5) of the Railway and Canal Traffic Act 1888 ceases to have effect.

#### *Supreme Court of Judicature Act 1891 (c. 53)*

13 The Supreme Court of Judicature Act 1891 ceases to have effect.

#### *Appellate Jurisdiction Act 1947 (c. 11)*

14 The Appellate Jurisdiction Act 1947 ceases to have effect.

#### *Life Peerages Act 1958 (c. 21)*

15 In the Life Peerages Act 1958, in section 1 (power to create life peerages), in subsection (1) omit the words “Without prejudice to Her Majesty's powers as to the appointment of Lords of Appeal in Ordinary,”.

#### *Ecclesiastical Jurisdiction Measure 1963 (1963 No. 1)*

16 (1) The Ecclesiastical Jurisdiction Measure 1963 is amended as follows.

- (2) In section 11 (review of commissions of convocation or Court of Ecclesiastical Causes Reserved) for “Lords of Appeal (within the meaning of the Appellate

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Jurisdiction Act 1876)” substitute “ judges of the Supreme Court, or members of the supplementary panel under section 39 of the Constitutional Reform Act 2005, ”.

- (3) In section 66(1) (interpretation) for the definition of “high judicial office” substitute—

““high judicial office” means such office within the meaning of Part 3 of the Constitutional Reform Act 2005 or membership of the Judicial Committee of the Privy Council;”.

*Law Commissions Act 1965 (c. 22)*

- 17 In section 6 of the Law Commissions Act 1965 (supplemental) for the words from “has the same meaning” to “1887;” substitute “ means such office within the meaning of Part 3 of the Constitutional Reform Act 2005 or membership of the Judicial Committee of the Privy Council; ”.

*Administration of Justice Act 1968 (c. 5)*

- 18 The Administration of Justice Act 1968 ceases to have effect.

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

- 19 (1) The Administration of Justice Act 1973 is amended as follows.  
(2) In section 9 (judicial salaries) omit subsection (1)(a).  
(3) In section 12 (retirement of higher judiciary in event of incapacity)—  
(a) in subsection (1)—  
(i) omit “as Lord of Appeal in Ordinary, or”;  
(ii) for “subsections (2) to (4)” substitute “ subsection (4) ”;  
(b) omit subsection (2).

*Juries Act 1974 (c. 23)*

- 20 In the Juries Act 1974, in Group A in Part 1 of Schedule 1 (persons ineligible: the judiciary)—  
(a) in the entry relating to holders of high judicial office, for “the Appellate Jurisdiction Act 1876” substitute “ Part 3 of the Constitutional Reform Act 2005 ”, and  
(b) after that entry insert the following entry— “ Members of the Judicial Committee of the Privy Council (if not holders of high judicial office within the meaning of that Part). ”

*Judicature (Northern Ireland) Act 1978 (c. 23)*

- 21 (1) The Judicature (Northern Ireland) Act 1978 is amended as follows.  
(2) In section 7 (further assistance for transaction of judicial business) in subsections (1)(a) and (4) for “Lord of Appeal in Ordinary” substitute “ judge of the Supreme Court ”.  
(3) In section 9 (qualifications of judges), in subsection (3)(b) for “Lord of Appeal in Ordinary” substitute “ judge of the Supreme Court ”.

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*Supreme Court Act 1981 (c. 54)*

- 22 (1) The Supreme Court Act 1981 is amended as follows.
- (2) In section 2 (the Court of Appeal), in subsection (2)(c) for “Lord of Appeal in Ordinary” substitute “ judge of the Supreme Court ”.
- (3) In section 9 (assistance for transaction of judicial business), in subsection (8) for paragraph (a)(i) substitute—  
“(i) a judge of the Supreme Court; or”.
- (4) In section 11 (tenure of offices), in subsection (4) for “Lord Chancellor or a Lord of Appeal in Ordinary” substitute “ a judge of the Supreme Court ”.
- (5) In section 13 (precedence), in subsection (1)(b) for the words “Lords of Appeal in Ordinary” in each place substitute “ judges of the Supreme Court ”.

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

- 23 In the Civil Jurisdiction and Judgments Act 1982, in section 50 (interpretation) in the definition of “court of law” for paragraph (a) substitute—  
“(a) the Supreme Court.”.

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

- 24 In the Courts and Legal Services Act 1990, in Schedule 11 (judges etc barred from legal practice) for the words “Lord of Appeal in Ordinary” substitute  
“Judge of the Supreme Court”

*Care of Churches and Ecclesiastical Jurisdiction Measure 1991 (1991 No. 3)*

- 25 In the Care of Churches and Ecclesiastical Jurisdiction Measure 1991, in section 31(1) (interpretation) for the definition of “high judicial office” substitute—  
““high judicial office” means such office within the meaning of Part 3 of the Constitutional Reform Act 2005 or membership of the Judicial Committee of the Privy Council;”.

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

- 26 In section 7(2) of the Justices of the Peace Act 1997 (the supplemental list)—  
(a) in paragraph (a) omit “within the meaning of the Appellate Jurisdiction Act 1876”, and  
(b) after paragraph (b) insert “ ; and in this subsection “high judicial office” means such office within the meaning of Part 3 of the Constitutional Reform Act 2005 or membership of the Judicial Committee of the Privy Council. ”.

*Police Act 1997 (c. 50)*

- 27 In section 91(2) of the Police Act 1997 (Commissioners for the authorisation of action in respect of property) for “the Appellate Jurisdiction Act 1876 (c. 59).”

**Status:** Point in time view as at 01/04/2008. This version of this Act contains provisions that are not valid for this point in time.

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substitute “ Part 3 of the Constitutional Reform Act 2005 or are or have been members of the Judicial Committee of the Privy Council. ”

*Special Immigration Appeals Commission Act 1997 (c. 68)*

28 In paragraph 5 of Schedule 1 to the Special Immigration Appeals Commission Act 1997 (the Commission) for “the Appellate Jurisdiction Act 1876)” substitute “ Part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council ”.

*Terrorism Act 2000 (c. 11)*

29 In paragraph 4(3)(b) of Schedule 3 to the Terrorism Act 2000 (the Proscribed Organisations Appeal Commission) for “the Appellate Jurisdiction Act 1876)” substitute “ Part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council ”.

*Regulation of Investigatory Powers Act 2000 (c. 23)*

30 (1) The Regulation of Investigatory Powers Act 2000 is amended as follows.

(2) In each of—

- (a) section 57(5) (Interception of Communications Commissioner),
- (b) section 59(5) (Intelligence Services Commissioner), and
- (c) paragraphs 1(1)(a) and 2(2) of Schedule 3 (the Tribunal),

for “the Appellate Jurisdiction Act 1876)” substitute “ Part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council ”.

(3) In section 61(8)(a) (Investigatory Powers Commissioner for Northern Ireland) for “the Appellate Jurisdiction Act 1876” substitute “ Part 3 of the Constitutional Reform Act 2005 ”.

*Anti-terrorism, Crime and Security Act 2001 (c. 24)*

31 In Schedule 6 to the Anti-terrorism, Crime and Security Act 2001 (the Pathogens Access Appeal Commission), in paragraph 4(3)(b) for “the Appellate Jurisdiction Act 1876 (c. 59));” substitute “ Part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council; ”.

*European Parliamentary Elections Act 2002 (c. 24)*

32 In the European Parliamentary Elections Act 2002, in section 10 (disqualification) in subsection (1) omit paragraph (b) and the “or” immediately preceding it.

*Justice (Northern Ireland) Act 2002 (c. 26)*

33 (1) The Justice (Northern Ireland) Act 2002 is amended as follows.

(2) In each of—

- (a) section 8(4)(a),

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- (b) section 24(4)(a), and
- (c) section 43(5)(a),

(tribunals for considering removal from certain offices) for the words from “holds the office” to “Appellate Jurisdiction Act 1887 (c. 70))” substitute “ holds high judicial office, within the meaning of Part 3 of the Constitutional Reform Act 2005 ”.

- (3) Omit section 18(1) (amendment of section 6 of the Appellate Jurisdiction Act 1876).

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

34 In Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (the Asylum and Immigration Tribunal) (as inserted by the Asylum and Immigration (Treatment of Claimants, etc) Act 2004), in paragraph 5(1)(a) (President of the Asylum and Immigration Tribunal) for “the Appellate Jurisdiction Act 1859 (c. 59)” substitute “ Part 3 of Constitutional Reform Act 2005 or who is or has been a member of the Judicial Committee of the Privy Council ”.

*Clergy Discipline Measure 2003 (2003 No. 3)*

35 In the Clergy Discipline Measure 2003, in section 43(1) (interpretation) for the definition of “high judicial office” substitute—

““high judicial office” means such office within the meaning of Part 3 of the Constitutional Reform Act 2005 or membership of the Judicial Committee of the Privy Council;”.

VALID FROM 12/04/2010

**PART 3**

NORTHERN IRELAND

*Judicature (Northern Ireland) Act 1978 (c. 23)*

PROSPECTIVE

F55 36 .....

**Textual Amendments**

**F55** Sch. 17 paras. 36-39 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 5 para. 8; S.I. 2010/812, art. 2

**Status:** Point in time view as at 01/04/2008. This version of this Act contains provisions that are not valid for this point in time.

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*Justice (Northern Ireland) Act 2002 (c. 26)*

PROSPECTIVE

F55 37 .....

**Textual Amendments**

F55 Sch. 17 paras. 36-39 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 5 para. 8; S.I. 2010/812, art. 2

PROSPECTIVE

F55 38 .....

**Textual Amendments**

F55 Sch. 17 paras. 36-39 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 5 para. 8; S.I. 2010/812, art. 2

PROSPECTIVE

F55 39 .....

**Textual Amendments**

F55 Sch. 17 paras. 36-39 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 5 para. 8; S.I. 2010/812, art. 2

SCHEDULE 18

Section 146

REPEALS AND REVOCATIONS

PART 1

POWERS TO MAKE RULES

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Courts-Martial (Appeals) Act 1968 (c. 20)	Section 49(3) and (4).
Supreme Court Act 1981 (c. 54)	Section 127(3). Section 136(3).



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County Courts Act 1984 (c. 28)	Section 38(4)(c).
Matrimonial and Family Proceedings Act 1984 (c. 42)	In the second paragraph of section 40(2)— (a) in paragraph (a) “by the Lord Chancellor”; (b) in paragraph (b) “by the President of the Family Division with the concurrence of the Lord Chancellor”.
Coroners Act 1988 (c. 13)	Section 32(4).

## PART 2

### JUDICIARY-RELATED FUNCTIONS AND ORGANISATION OF THE COURTS

#### Commencement Information

**I32** Sch. 18 Pt. 2 partly in force; Sch. 18 Pt. 2 not in force at Royal Assent see s. 148; Sch. 18 Pt. 2 in force for certain purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 30(b)

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Habeas Corpus Act 1679 (c. 2)	In section 1 “the lord chauncelior or lord keeper of the great seale of England for the time being or”. In section 2— (a) “the lord chauncellour or lord keeper or” in each place; (b) “lord chauncellor lord keeper”; (c) “the said lord chauncellor or lord keeper or” in the first and second places; (d) “lord chauncellor or lord keeper or” in the last place. In section 9 “the said lord chauncellor or lord keeper or”.
Pluralities Act 1838 (c. 106)	In section 126 “or persons”. In section 128 “or persons” in the second place.
Ecclesiastical Leasing Act 1842 (c. 108)	In section 22 “or persons”.
British Law Ascertainment Act 1859 (c. 63)	In section 5 “the Lord Chancellor”.
Compensation (Defence) Act 1939 (c. 75)	Section 9(1)(a). Section 18(2).
Pensions Appeal Tribunals Act 1943 (c. 39)	Section 13. Section 14.
Agriculture Act 1947 (c. 48)	In section 108(1) “by the Minister” in the second place.



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Lands Tribunal Act 1949 (c. 42)	In section 2(9)(a) “to the Lord President of the Court of Session or, in subsections (5) to (7),”.
Land Powers (Defence) Act 1958 (c. 30)	In Schedule 2, paragraphs 10 and 11.
Mental Health Act 1959 (c. 72)	In section 145 “or the Lord Chancellor”.
Administration of Justice Act 1960 (c. 65)	In section 14(2) “; and no such application shall in any case be made to the Lord Chancellor”.
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2 in the note relating to the Department for Constitutional Affairs “the Lord Chancellor’s Department and”.
Transport Act 1962 (c. 46)	In Schedule 11, paragraph 10.
Courts Act 1971 (c. 23)	In section 24(1)— (a) “, he may”; (b) in paragraph (a) “or” in the last place where it occurs. In Schedule 10, paragraphs 3 and 4.
Land Charges Act 1972 (c. 61)	In section 16(2) “of the Lord Chancellor, with the concurrence of the Secretary of State,”.
Hearing Aid Council Act 1968 (c. 50)	In section 13 “on the Lord Chancellor”.
Rent (Agriculture) Act 1976 (c. 80)	Section 26(5).
Rent Act 1977 (c. 42)	Section 142.
Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)	In section 2(3), the second paragraph.
Housing Act 1980 (c. 51)	Section 86(4) to (6).
Pensions Appeal Tribunals (Posthumous Appeals) Order 1980 (S.I. 1980/1082)	Article 10(b) and (c). Article 11(b) and (c).
Judicial Pensions Act 1981 (c. 20)	In section 1 in the entry beginning “Judge of the Supreme Court” in the first column of the table “, other than the Lord Chancellor”.
Supreme Court Act 1981 (c. 54)	Section 1(2). In section 2— (a) subsection (2)(a); (b) in subsection (6) “Lord Chancellor,”. In section 4— (a) subsection (1)(a); (b) in subsection (6) “Lord Chancellor,”. In section 7 “the Lord Chancellor,”. In section 9(2) the words after the definition of “relevant court”. In section 11(1) “except the Lord Chancellor”. In section 12(1) “, other than the Lord Chancellor,”.

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	In section 44(2), “the Lord Chancellor,”. Section 84(8). In section 91(1)(a) “or III”.
Mental Health Act 1983 (c. 20)	In section 94(1) “by the Lord Chancellor or”. In section 96(3) “the Lord Chancellor or”. In section 104(3) “the Lord Chancellor or” in both places. In section 105(2) “from any decision of the Lord Chancellor or”. In section 111— <ul style="list-style-type: none"> <li>(a) in subsection (1) “by the Lord Chancellor or”;</li> <li>(b) in subsection (2) “the Lord Chancellor or”;</li> <li>(c) in subsection (4)(a) “the Lord Chancellor or”;</li> <li>(d) in subsection (4)(b) “the Lord Chancellor,”.</li> </ul> In Schedule 2, in paragraph 1(b) and (c) “after consultation with the Secretary of State”.
Pastoral Measure 1983 (1983 No. 1)	In section 81(2)— <ul style="list-style-type: none"> <li>(a) in paragraph (a) the words from “, or a” to “books” and “last-mentioned”;</li> <li>(b) paragraph (b).</li> </ul>
County Courts Act 1984 (c. 28)	Section 74A.
Matrimonial and Family Proceedings Act 1984 (c. 42)	Section 40(5).
Housing Act 1985 (c. 68)	Section 111. Section 181(4) and (5). Section 572(4) to (6).
Coroners Act 1988 (c. 13)	In section 33(2)(a) “the Lord Chancellor or”.
Finance Act 1988 (c. 39)	Section 134(4).
Courts and Legal Services Act 1990 (c. 41)	Section 11(10).
Child Support Act 1991 (c. 48)	In section 52(1) “the Lord Chancellor,”.
Tribunals and Inquiries Act 1992 (c. 53)	Section 6(9). In section 7(1) “, other than the Lord Chancellor,”.
Judicial Pensions and Retirement Act 1993 (c. 8)	In section 26(7)— <ul style="list-style-type: none"> <li>(a) in paragraph (a) “, unless he is the Lord Chancellor”;</li> <li>(b) in paragraph (b) “, unless he is the Lord Chancellor”.</li> </ul> In Schedule 5, in the second entry “, other than the Lord Chancellor”.
Employment Tribunals Act 1996 (c. 17)	In section 22(1)(a) “(other than the Lord Chancellor)”.

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Housing Act 1996 (c. 52)	Section 138(4) to (6). Section 143N(5) to (7).
Civil Procedure Act 1997 (c. 12)	In section 1(3) “or alter”. In section 3(6) “Subject to subsection (7),”. Section 3(7).
Justices of the Peace Act 1997 (c. 25)	In section 24(5) “by the Lord Chancellor”.
Terrorism Act 2000 (c. 11)	In section 74— (a) in paragraph (a) from “the Lord Chancellor” to “directs that”; (b) in paragraph (b) “the Lord Chief Justice of Northern Ireland directs that”.
Criminal Justice and Court Services Act 2000 (c. 43)	In section 76(1) “the Lord Chancellor or”. In section 77(1) “The Lord Chancellor or”.
Enterprise Act 2002 (c. 40)	In section 268(7) “made with the concurrence of the Lord Chancellor”.
Nationality, Immigration and Asylum Act 2002 (c. 41)	In section 16(3)(a) “of the Lord Chancellor”.
Criminal Justice Act 2003 (c. 44)	In section 330(1)(b) “on the Lord Chancellor”. Section 168(2).
Courts Act 2003 (c. 39)	In section 64— (a) in subsection (2) “Vice-Chancellor”; (b) subsection (4)(a). In section 69(4) “or alter”. In section 72(6), “Subject to subsection (7),”. Section 72(7). In section 75(5) “or alter”. Section 77(4). In section 79(6), “Subject to subsection (7),”. Section 79(7). Section 107(6), “by the Lord Chancellor”.
Armed Forces (Pensions and Compensation) Act 2004 (c. 32)	In Schedule 1, paragraphs 8 and 9.

### PART 3

#### FUNCTIONS UNDER LEGISLATION RELATING TO NORTHERN IRELAND

##### Commencement Information

**I33** Sch. 18 Pt. 3 partly in force; Sch. 18 Pt. 3 not in force at Royal Assent see s. 148; Sch. 18 Pt. 3 in force for certain purposes at 3.4.2006 by S.I. 2006/1014, art. 2(a), Sch. 1 para. 30(c)

*Reference*

*Extent of repeal or revocation*

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Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.))	In section 36(1)— (a) in paragraph (a) “made after consultation with the Treasury,”; (b) in paragraph (b) “made after consultation with the Lord Chief Justice”.
County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.))	In section 105(4) “Lord Chancellor’s”. In section 107(4) “Lord Chancellor’s”.
Resident Magistrates' Pensions Act (Northern Ireland) 1960 (c. 2 (N.I.))	In section 1 “Lord Chancellor’s”. Section 11.
Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c. 29 (N.I.))	In section 2(1)(b) “Lord Chancellor’s”.
Judicature (Northern Ireland) Act 1978 (c. 23)	In section 71(3) “Lord Chancellor’s”. Section 104. In section 119(5) “on the Lord Chancellor”. In Schedule 6, paragraphs 6(a), 11(3), 14 and 17.
Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15))	In Article 48(1) the words after paragraph (b).
County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3))	In Article 2(5) “on the Lord Chancellor”.
Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))	In Article 13(1) the words from “or as” to “Article 14”. Article 14. In Article 37(5) “Without prejudice to Article 14,”. In Article 168 “on the Lord Chancellor”.
Pensions Appeal Tribunals (Northern Ireland) Rules 1981 (S.R. 1981/231)	In Rule 2(1)— (a) in the definition of “the Deputy President”, “by the Lord Chief Justice of Northern Ireland”; (b) in the definition of “the President”, “by the Lord Chief Justice of Northern Ireland”.
Merchant Shipping (Formal Investigations) Rules 1985 (S.I. 1985/1001)	Rule 17(a).
Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4))	In Schedule 3, in paragraph 1(b) and (c) “after consultation with the Head of the Department”. In Schedule 6, paragraph 19.
Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997 (S.R. 1997/269)	In the Schedule, in rule 6 (appointment of tribunal)— (a) in paragraph (3)(a) omit “but”; (b) omit paragraph (3)(b).
Justice (Northern Ireland) Act 2002 (c. 26)	Section 12(2) and (3). In Schedule 3, paragraph 33. Schedule 5.

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	In Schedule 13—
	(a) the entry relating to section 119(5) of the Judicature (Northern Ireland) Act 1978;
	(b) the entry relating to the County Courts (Northern Ireland) Order 1980;
	(c) the entry relating to Article 168 of the Magistrates' Courts (Northern Ireland) Order 1981.
Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9))	In Schedule 2, paragraph 3(3). In Schedule 4, the amendment of Schedule 6 to the Justice (Northern Ireland) Act 2002.”

## PART 4

### THE LORD CHANCELLOR: MINOR AND CONSEQUENTIAL

#### Commencement Information

**I34** Sch. 18 Pt. 4 partly in force; Sch. 18 Pt. 4 not in force at Royal Assent see s. 148; Sch. 18 Pt. 4 in force for certain purposes at (3.4.2006) by S.I. 2006/1014, art. 2, Sch. 1 para. 30

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Fines Act 1833 (c. 99)	The whole Act.
Promissory Oaths Act 1868 (c. 72)	In the Schedule in Part 2 “The Lord Chancellor of Great Britain”.
Universities of Oxford and Cambridge Act 1877 (c. 48)	In section 44— (a) “the Lord Chancellor,” in the first place; (b) “the Lord Chancellor or”.
Sheriffs Act 1887 (c. 55)	In section 6(1) “the Lord Chancellor,”.
Administration of Justice Act 1964 (c. 42)	Section 37(2).
Patronage (Benefices) Measure 1986 (1986 No. 3)	Section 36.
Priests (Ordination of Women) Measure 1993 (1993 No. 2)	Section 2(4)(c). In section 7(1) the words from “and to” to “Lord Chancellor”.

VALID FROM 01/10/2009

## PART 5

### SUPREME COURT

#### *Reference*

#### *Extent of repeal or revocation*

**Status:** Point in time view as at 01/04/2008. This version of this Act contains provisions that are not valid for this point in time.

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Appellate Jurisdiction Act 1876 (c. 59)	The whole Act.
Appellate Jurisdiction Act 1887 (c. 70)	The whole Act.
Railway and Canal Traffic Act 1888 (c. 25)	Section 17(5).
Supreme Court of Judicature Act 1891 (c. 53)	The whole Act.
Commissioners for Oaths Act 1889 (c. 10)	In section 11 the definition of “Supreme Court”.
Notice of Accidents Act 1894 (c. 28)	Section 8.
Administration of Justice (Appeals) Act 1934 (c. 40)	Section 1.
Appellate Jurisdiction Act 1947 (c. 11)	The whole Act.
Life Peerages Act 1958 (c. 21)	In section 1(1), “Without prejudice to Her Majesty's powers as to the appointment of Lords of Appeal in Ordinary,”.
Administration of Justice Act 1960 (c. 65)	Section 1(3).
Northern Ireland Act 1962 (c. 30)	In section 29(1) the definition of “the Supreme Court”.
Administration of Justice Act 1968 (c. 5)	The whole Act.
Criminal Appeal Act 1968 (c. 19)	Section 35(1) and (2).
Courts-Martial (Appeals) Act 1968 (c. 20)	Section 41(1) and (2).
Administration of Justice Act 1969 (c. 58)	Section 13(4) Section 14.
Taxes Management Act 1970(c. 9)	Section 56(8)(a). Section 56A(7).
Administration of Justice Act 1973 (c. 15)	Section 9(1)(a). In section 12, in subsection (1) “as Lord of Appeal in Ordinary, or” and subsection (2).
Judicature (Northern Ireland) Act 1978 (c. 23)	Section 41(3). Section 42(3) to (5). In Schedule 5, in Part 2 the entry relating to the Appellate Jurisdiction Act 1876.
Criminal Appeal (Northern Ireland) Act 1980 (c. 47)	Section 33(1) and (2).
Contempt of Court Act 1981 (c. 49)	In section 19, in the definition of “superior court”, the words from “and includes” to the end.
Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8))	In Part 1 of Schedule 1, paragraph 1(b).
Justices of the Peace Act 1997 (c. 25)	In section 7(2)(a) “within the meaning of the Appellate Jurisdiction Act 1876”.
Government of Wales Act 1998 (c. 38)	In Schedule 8—

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	(a) paragraph 1(2)(a); (b) paragraph 29 and the heading before it; (c) paragraphs 32 to 34 and the heading before paragraph 32.
Human Rights Act 1998 (c. 42)	Section 6(4).
Scotland Act 1998 (c. 46)	Section 15(1)(c). In section 32(4), the definition of “Judicial Committee”. Section 103. In section 127, the entry for “Judicial Committee”. In Schedule 6, paragraph 32 and the heading before it. In Schedule 7, in the table under paragraph 1(2), the entry relating to section 103(3)(a) and (b).
Northern Ireland Act 1998 (c. 47)	In section 36(6)(a) “(other than a Lord of Appeal in Ordinary)”. Section 82. In section 98(1), the entry for “Judicial Committee”. In Schedule 10, paragraph 32 and the heading before it.
Access to Justice Act 1999 (c. 22)	In Schedule 2, paragraph 2(1)(b).
Freedom of Information Act 2000 (c. 36)	In Part 7 of Schedule 1, “The Northern Ireland Supreme Court Rules Committee.”
European Parliamentary Elections Act 2002 (c. 24)	In section 10(1), paragraph (b) and the “or” immediately preceding it.
Justice (Northern Ireland) Act 2002 (c. 26)	Section 18(1).
Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10))	In Schedule 2, paragraph 2(a)(ii).

VALID FROM 01/10/2009

## PART 6

### JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

#### *Reference*

Court of Chancery Act 1851 (c. 83)

#### *Extent of repeal or revocation*

In section 16, the words from “, exclusive of” to the end.

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Oxford University Act 1862 (c. 26)	In section 7, “, not including the Lord President,”.
Public Schools Act 1868 (c. 118)	In section 9, “, not including the Lord President,”.
Judicial Committee Act 1881 (c. 3)	The whole Act.
Judicial Committee Act 1915 (c. 92)	In section 1, “and the Lord President of the Council”.

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**Status:**

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**Changes to legislation:**

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