

SCHEDULES

SCHEDULE 1

Section 2

SENIOR PRESIDENT OF TRIBUNALS

PART 1

RECOMMENDATIONS FOR APPOINTMENT

Duty to fill vacancies

- 1 (1) If there is a vacancy in the office of Senior President of Tribunals, the Lord Chancellor must recommend a person for appointment to that office.
- (2) Sub-paragraph (1) does not apply to a vacancy while the Lord Chief Justice of England and Wales agrees that it may remain unfilled.

The two routes to a recommendation: agreement under this paragraph or selection under Part 2

- 2 (1) Before the Lord Chancellor may recommend a person for appointment to the office of Senior President of Tribunals, the Lord Chancellor must consult—
 - (a) the Lord Chief Justice of England and Wales,
 - (b) the Lord President of the Court of Session, and
 - (c) the Lord Chief Justice of Northern Ireland.
- (2) Sub-paragraphs (3) and (4) apply if—
 - (a) the outcome of consultation under sub-paragraph (1) is agreement between—
 - (i) the Lord Chancellor,
 - (ii) the Lord Chief Justice of England and Wales,
 - (iii) the Lord President of the Court of Session, and
 - (iv) the Lord Chief Justice of Northern Ireland,as to the person to be recommended, and
 - (b) the person is—
 - (i) an ordinary judge of the Court of Appeal in England and Wales,
 - (ii) a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court, or
 - (iii) a Lord Justice of Appeal in Northern Ireland.
- (3) The Lord Chancellor must recommend the person for appointment to the office of Senior President of Tribunals, subject to sub-paragraph (4).
- (4) Where the person—

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- (a) declines to be recommended, or does not agree within a time specified to him for that purpose, or
 - (b) is otherwise not available within a reasonable time to be recommended,
- the Lord Chancellor must, instead of recommending the person for appointment, consult afresh under sub-paragraph (1).
- (5) If the Lord Chancellor has consulted under sub-paragraph (1) but sub-paragraphs (3) and (4) do not apply following that consultation, the Lord Chancellor must make a request to the Judicial Appointments Commission for a person to be selected for recommendation for appointment to the office of Senior President of Tribunals.

PART 2

SELECTION BY THE JUDICIAL APPOINTMENTS COMMISSION

Eligibility for selection

- 3 A person is eligible for selection in pursuance of a request under paragraph 2(5) only if—
- (a) he satisfies the judicial-appointment eligibility condition on a 7-year basis,
 - (b) he is an advocate or solicitor in Scotland of at least seven years' standing, or
 - (c) he is a barrister or solicitor in Northern Ireland of at least seven years' standing.

The selection process

- 4 In Chapter 2 of Part 4 of the Constitutional Reform Act 2005 (c. 4) (appointments), after section 75 insert—

“Senior President of Tribunals

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.
- (2) The panel must —
 - (a) determine the selection process to be applied,
 - (b) apply the selection process, and
 - (c) make a selection accordingly.

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- (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

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- (iii) a person who holds office as a Chamber President of a chamber of the Upper Tribunal.
- (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—

<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

- (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.

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- (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.

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.

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- (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.”

Withdrawal and modification of requests under paragraph 2(5)

- 5 (1) Section 95 of the Constitutional Reform Act 2005 (c. 4) (withdrawal and modification of requests) is amended as follows.
- (2) In subsection (1) (application of section), after “87” insert “or paragraph 2(5) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007”.
- (3) In subsection (4) (limitation on withdrawal of request under subsection (2)(c)), after “73(2),” insert “75E(2),”.

PART 3

TERMS OF OFFICE

Tenure, removal, resignation etc.

- 6 (1) If—
- (a) a person appointed to the office of Senior President of Tribunals is appointed on terms that provide for him to retire from the office at a particular time specified in those terms (“the end of the fixed-term”), and
 - (b) the end of the fixed-term is earlier than the time at which the person is required by the 1993 Act to retire from the office,
- the person shall, if still holding the office at the end of the fixed-term, vacate the office at the end of the fixed-term.
- (2) Subject to sub-paragraph (1) (and to the 1993 Act), a person appointed to the office of Senior President of Tribunals shall hold that office during good behaviour, subject to a power of removal by Her Majesty on an address presented to Her by both Houses of Parliament.
- (3) It is for the Lord Chancellor to recommend to Her Majesty the exercise of the power of removal under sub-paragraph (2).
- (4) In this paragraph “the 1993 Act” means the Judicial Pensions and Retirement Act 1993 (c. 8).
- 7 (1) Sub-paragraph (2) applies to a person appointed to the office of Senior President of Tribunals on a recommendation made under paragraph 2(3).
- (2) The person ceases to be Senior President of Tribunals if he ceases to fall within paragraph 2(2)(b).
- 8 A person who holds the office of Senior President of Tribunals may at any time resign that office by giving the Lord Chancellor notice in writing to that effect.
- 9 (1) The Lord Chancellor, if satisfied by means of a medical certificate that a person holding the office of Senior President of Tribunals—
- (a) is disabled by permanent infirmity from the performance of the duties of the office, and

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- (b) is for the time being incapacitated from resigning the office, may, subject to sub-paragraph (2), by instrument under his hand declare the person to have vacated the office; and the instrument shall have the like effect for all purposes as if the person had on the date of the instrument resigned the office.
- (2) A declaration under sub-paragraph (1) with respect to a person shall be of no effect unless it is made with the concurrence of—
- (a) the Lord Chief Justice of England and Wales,
 - (b) the Lord President of the Court of Session, and
 - (c) the Lord Chief Justice of Northern Ireland.

Remuneration, allowances and expenses

- 10 The Lord Chancellor may pay to the Senior President of Tribunals such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Oaths

- 11 (1) A person appointed to the office of Senior President of Tribunals must take the required oaths in the presence of—
- (a) the Lord Chief Justice of England and Wales, or
 - (b) another holder of high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005 (c. 4)) who is nominated by the Lord Chief Justice of England and Wales for the purpose of taking the oaths from the person.
- (2) Sub-paragraph (1) applies whether or not the person has previously taken the required oaths after accepting another office.
- (3) In this paragraph “the required oaths” means—
- (a) the oath of allegiance, and
 - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868 (c. 72).

PART 4

CERTAIN FUNCTIONS OF THE SENIOR PRESIDENT

Meaning of “tribunal member”

- 12 (1) For the purposes of this Part of this Schedule, each of the following is a “tribunal member”—
- (a) a judge, or other member, of the First-tier Tribunal or Upper Tribunal,
 - (b) any member of the Asylum and Immigration Tribunal,
 - (c) a member of a panel of members of employment tribunals (whether or not a panel of chairmen),
 - (d) a judge, or other member, of the Employment Appeal Tribunal, and

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- (e) a person who is, or is a member of, a tribunal in a list in Schedule 6 that has effect for the purposes of section 30.

(2) In this Part of this Schedule “tribunals” means—

- (a) the First-tier Tribunal,
- (b) the Upper Tribunal,
- (c) the Asylum and Immigration Tribunal,
- (d) employment tribunals,
- (e) the Employment Appeal Tribunal, and
- (f) any tribunal in a list in Schedule 6 that has effect for the purposes of section 30.

Representations to Parliament

- 13 The Senior President of Tribunals may lay before Parliament written representations on matters that appear to him to be matters of importance relating—
- (a) to tribunal members, or
 - (b) otherwise to the administration of justice by tribunals.

Representation of views of tribunal members

- 14 The Senior President of Tribunals is responsible for representing the views of tribunal members to Parliament, to the Lord Chancellor and to Ministers of the Crown generally.

SCHEDULE 2

Section 4

JUDGES AND OTHER MEMBERS OF THE FIRST-TIER TRIBUNAL

Power to appoint judges of First-tier Tribunal

- 1 (1) The Lord Chancellor may appoint a person to be one of the judges of the First-tier Tribunal.
- (2) A person is eligible for appointment under sub-paragraph (1) only if the person—
- (a) satisfies the judicial-appointment eligibility condition on a 5-year basis,
 - (b) is an advocate or solicitor in Scotland of at least five years' standing,
 - (c) is a barrister or solicitor in Northern Ireland of at least five years' standing, or
 - (d) in the Lord Chancellor's opinion, has gained experience in law which makes the person as suitable for appointment as if the person satisfied any of paragraphs (a) to (c).
- (3) Section 52(2) to (5) (meaning of “gain experience in law”) apply for the purposes of sub-paragraph (2)(d), but as if section 52(4)(i) referred to the Lord Chancellor instead of to the relevant decision-maker.

Power to appoint other members of First-tier Tribunal

- 2 (1) The Lord Chancellor may appoint a person to be one of the members of the First-tier Tribunal who are not judges of the tribunal.

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- (2) A person is eligible for appointment under sub-paragraph (1) only if the person has qualifications prescribed in an order made by the Lord Chancellor with the concurrence of the Senior President of Tribunals.

Appointed and transferred-in judges and other members: removal from office

- 3 (1) This paragraph applies to any power by which—
- (a) a person appointed under paragraph 1(1) or 2(1),
 - (b) a transferred-in judge of the First-tier Tribunal, or
 - (c) a transferred-in other member of the First-tier Tribunal,
- may be removed from office.
- (2) If the person exercises functions wholly or mainly in Scotland, the power may be exercised only with the concurrence of the Lord President of the Court of Session.
- (3) If the person exercises functions wholly or mainly in Northern Ireland, the power may be exercised only with the concurrence of the Lord Chief Justice of Northern Ireland.
- (4) If neither of sub-paragraphs (2) and (3) applies, the power may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.

Terms of appointment

- 4 (1) This paragraph applies—
- (a) to a person appointed under paragraph 1(1) or 2(1),
 - (b) to a transferred-in judge of the First-tier Tribunal, and
 - (c) to a transferred-in other member of the First-tier Tribunal.
- (2) If the terms of the person's appointment provide that he is appointed on a salaried (as opposed to fee-paid) basis, the person may be removed from office—
- (a) only by the Lord Chancellor (and in accordance with paragraph 3), and
 - (b) only on the ground of inability or misbehaviour.
- (3) Subject to sub-paragraph (2) (and to the Judicial Pensions and Retirement Act 1993 (c. 8)), the person is to hold and vacate office in accordance with the terms of his appointment.

Remuneration, allowances and expenses

- 5 (1) Sub-paragraph (2) applies—
- (a) to a person appointed under paragraph 1(1) or 2(1),
 - (b) to a transferred-in judge of the First-tier Tribunal, and
 - (c) to a transferred-in other member of the First-tier Tribunal.
- (2) The Lord Chancellor may pay to a person to whom this sub-paragraph applies such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.

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Certain judges neither appointed under paragraph 1(1) nor transferred in

- 6 (1) In this paragraph “judge by request of the First-tier Tribunal” means a person who is a judge of the First-tier Tribunal but who—
- (a) is not the Senior President of Tribunals,
 - (b) is not a judge of the First-tier Tribunal appointed under paragraph 1(1),
 - (c) is not a transferred-in judge of the First-tier Tribunal,
 - (d) is not a Chamber President, or Acting Chamber President or Deputy Chamber President, of a chamber of the First-tier Tribunal,
 - (e) is not a judge of the First-tier Tribunal by virtue of section 4(1)(e) (chairman of employment tribunal),
 - (f) is not a judge of the First-tier Tribunal by virtue of section 4(1)(d) or by virtue of the combination of sections 4(1)(c) and 5(1)(d) (legally qualified member of Asylum and Immigration Tribunal), and
 - (g) is not a judge of the First-tier tribunal by virtue of section 4(2) (criminal injuries compensation adjudicator appointed by the Scottish Ministers).
- (2) A judge by request of the First-tier Tribunal may act as a judge of the First-tier Tribunal only if requested to do so by the Senior President of Tribunals.
- (3) Such a request made to a person who is a judge of the First-tier Tribunal by virtue of the combination of sections 4(1)(c) and 5(1)(g) may be made only with—
- (a) the concurrence of the Lord Chief Justice of England and Wales where the person is—
 - (i) an ordinary judge of the Court of Appeal in England and Wales,
 - (ii) a puisne judge of the High Court in England and Wales,
 - (iii) a circuit judge,
 - (iv) a district judge in England and Wales, or
 - (v) a District Judge (Magistrates' Courts);
 - (b) the concurrence of the Lord President of the Court of Session where the person is—
 - (i) a judge of the Court of Session, or
 - (ii) a sheriff;
 - (c) the concurrence of the Lord Chief Justice of Northern Ireland where the person is—
 - (i) a Lord Justice of Appeal in Northern Ireland,
 - (ii) a puisne judge of the High Court in Northern Ireland,
 - (iii) a county court judge in Northern Ireland, or
 - (iv) a district judge in Northern Ireland.
- (4) Sub-paragraph (5) applies—
- (a) to a judge by request of the First-tier Tribunal,
 - (b) to a person who is a judge of the First-tier Tribunal by virtue of section 4(1)(e) (chairman of employment tribunal), and
 - (c) to a person who is a judge of the First-tier Tribunal by virtue of section 4(1)(d) or by virtue of the combination of sections 4(1)(c) and 5(1)(d) (legally qualified member of Asylum and Immigration Tribunal).
- (5) The Lord Chancellor may pay to a person to whom this sub-paragraph applies such amounts (if any) as the Lord Chancellor may determine by way of—

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- (a) remuneration;
- (b) allowances;
- (c) expenses.

Other members neither appointed under paragraph 2(1) nor transferred in

- 7 (1) In this paragraph “ex officio member of the First-tier Tribunal” means a person who is a member of the First-tier Tribunal by virtue of—
- (a) section 4(3)(d) (members of employment tribunals who are not chairmen),
 - (b) the combination of sections 4(3)(c) and 5(2)(c) (members of Employment Appeal Tribunal appointed under section 22(1)(c) of the Employment Tribunals Act 1996), or
 - (c) the combination of sections 4(3)(c) and 5(2)(d) (members of Asylum and Immigration Tribunal who are not legally qualified members).
- (2) The Lord Chancellor may pay to an ex officio member of the First-tier Tribunal such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Training etc.

- 8 The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of judges and other members of the First-tier Tribunal (in their capacities as such judges and other members).

Oaths

- 9 (1) Sub-paragraph (2) applies to a person (“J”)—
- (a) who is appointed under paragraph 1(1) or 2(1), or
 - (b) who becomes a transferred-in judge, or a transferred-in other member, of the First-tier Tribunal and has not previously taken the required oaths after accepting another office.
- (2) J must take the required oaths before—
- (a) the Senior President of Tribunals, or
 - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from J.
- (3) A person is eligible for the purposes of sub-paragraph (2)(b) if any one or more of the following paragraphs applies to him—
- (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005 (c. 4));
 - (b) he holds judicial office (as defined in section 109(4) of that Act);
 - (c) he holds (in Scotland) the office of sheriff.
- (4) In this paragraph “the required oaths” means (subject to sub-paragraph (5))—
- (a) the oath of allegiance, and
 - (b) the judicial oath,

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as set out in the Promissory Oaths Act 1868 (c. 72).

- (5) Where it appears to the Lord Chancellor that J will carry out functions as a judge or other member of the First-tier Tribunal wholly or mainly in Northern Ireland, the Lord Chancellor may direct that in relation to J “the required oaths” means—
- (a) the oath as set out in section 19(2) of the Justice (Northern Ireland) Act 2002 (c. 26), or
 - (b) the affirmation and declaration as set out in section 19(3) of that Act.

SCHEDULE 3

Section 5

JUDGES AND OTHER MEMBERS OF THE UPPER TRIBUNAL

Power to appoint judges of Upper Tribunal

- 1 (1) Her Majesty, on the recommendation of the Lord Chancellor, may appoint a person to be one of the judges of the Upper Tribunal.
- (2) A person is eligible for appointment under sub-paragraph (1) only if the person—
- (a) satisfies the judicial-appointment eligibility condition on a 7-year basis,
 - (b) is an advocate or solicitor in Scotland of at least seven years' standing,
 - (c) is a barrister or solicitor in Northern Ireland of at least seven years' standing, or
 - (d) in the Lord Chancellor's opinion, has gained experience in law which makes the person as suitable for appointment as if the person satisfied any of paragraphs (a) to (c).
- (3) Section 52(2) to (5) (meaning of “gain experience in law”) apply for the purposes of sub-paragraph (2)(d), but as if section 52(4)(i) referred to the Lord Chancellor instead of to the relevant decision-maker.

Power to appoint other members of Upper Tribunal

- 2 (1) The Lord Chancellor may appoint a person to be one of the members of the Upper Tribunal who are not judges of the tribunal.
- (2) A person is eligible for appointment under sub-paragraph (1) only if the person has qualifications prescribed in an order made by the Lord Chancellor with the concurrence of the Senior President of Tribunals.

Appointed and transferred-in judges and other members: removal from office

- 3 (1) This paragraph applies to any power by which—
- (a) a person appointed under paragraph 1(1) or 2(1),
 - (b) a transferred-in judge of the Upper Tribunal, or
 - (c) a transferred-in other member of the Upper Tribunal,
- may be removed from office.
- (2) If the person exercises functions wholly or mainly in Scotland, the power may be exercised only with the concurrence of the Lord President of the Court of Session.

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- (3) If the person exercises functions wholly or mainly in Northern Ireland, the power may be exercised only with the concurrence of the Lord Chief Justice of Northern Ireland.
- (4) If neither of sub-paragraphs (2) and (3) applies, the power may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.

Terms of appointment

- 4 (1) This paragraph applies—
 - (a) to a person appointed under paragraph 1(1) or 2(1),
 - (b) to a transferred-in judge of the Upper Tribunal, and
 - (c) to a transferred-in other member of the Upper Tribunal.
- (2) If the terms of the person’s appointment provide that he is appointed on a salaried (as opposed to fee-paid) basis, the person may be removed from office—
 - (a) only by the Lord Chancellor (and in accordance with paragraph 3), and
 - (b) only on the ground of inability or misbehaviour.
- (3) Subject to sub-paragraph (2) (and to the Judicial Pensions and Retirement Act 1993 (c. 8)), the person is to hold and vacate office as a judge, or other member, of the Upper Tribunal in accordance with the terms of his appointment.

Remuneration, allowances and expenses

- 5 (1) Sub-paragraph (2) applies—
 - (a) to a person appointed under paragraph 1(1) or 2(1),
 - (b) to a transferred-in judge of the Upper Tribunal, and
 - (c) to a transferred-in other member of the Upper Tribunal.
- (2) The Lord Chancellor may pay to a person to whom this sub-paragraph applies such amounts (if any) as the Lord Chancellor may determine by way of—
 - (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Certain judges neither appointed under paragraph 1(1) nor transferred in

- 6 (1) In this paragraph “judge by request of the Upper Tribunal” means a person who is a judge of the Upper Tribunal but—
 - (a) is not the Senior President of Tribunals,
 - (b) is not a judge of the Upper Tribunal appointed under paragraph 1(1),
 - (c) is not a transferred-in judge of the Upper Tribunal,
 - (d) is not a judge of the Upper Tribunal by virtue of section 5(1)(d) (legally qualified member of Asylum and Immigration Tribunal),
 - (e) is not a deputy judge of the Upper Tribunal, and
 - (f) is not a Chamber President, or Acting Chamber President or Deputy Chamber President, of a chamber of the Upper Tribunal.
- (2) A judge by request of the Upper Tribunal may act as a judge of the Upper Tribunal only if requested to do so by the Senior President of Tribunals.

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- (3) Such a request made to a person who is a judge of the Upper Tribunal by virtue of section 5(1)(g) may be made only with—
- (a) the concurrence of the Lord Chief Justice of England and Wales where the person is—
 - (i) an ordinary judge of the Court of Appeal in England and Wales,
 - (ii) a puisne judge of the High Court in England and Wales,
 - (iii) a circuit judge,
 - (iv) a district judge in England and Wales, or
 - (v) a District Judge (Magistrates' Courts);
 - (b) the concurrence of the Lord President of the Court of Session where the person is—
 - (i) a judge of the Court of Session, or
 - (ii) a sheriff;
 - (c) the concurrence of the Lord Chief Justice of Northern Ireland where the person is—
 - (i) a Lord Justice of Appeal in Northern Ireland,
 - (ii) a puisne judge of the High Court in Northern Ireland,
 - (iii) a county court judge in Northern Ireland, or
 - (iv) a district judge in Northern Ireland.
- (4) The Lord Chancellor may pay to a judge by request of the Upper Tribunal, or a person who is a judge of the Upper Tribunal by virtue of section 5(1)(d), such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Deputy judges of the Upper Tribunal

- 7 (1) The Lord Chancellor may appoint a person to be a deputy judge of the Upper Tribunal for such period as the Lord Chancellor considers appropriate.
- (2) A person is eligible for appointment under sub-paragraph (1) only if he is eligible to be appointed under paragraph 1(1) (see paragraph 1(2)).
- (3) Sub-paragraphs (4) and (5) apply—
- (a) to a person appointed under sub-paragraph (1), and
 - (b) to a person who becomes a deputy judge of the Upper Tribunal as a result of provision under section 31(2).
- (4) A person to whom this sub-paragraph applies is to hold and vacate office as a deputy judge of the Upper Tribunal in accordance with the terms of his appointment (subject to the Judicial Pensions and Retirement Act 1993 (c. 8)).
- (5) The Lord Chancellor may pay to a person to whom this sub-paragraph applies such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Status: This is the original version (as it was originally enacted).

Other members neither appointed under paragraph 2(1) nor transferred in

- 8 (1) In this paragraph “ex officio member of the Upper Tribunal” means—
- (a) a person who is a member of the Upper Tribunal by virtue of section 5(2)(c) (member of Employment Appeal Tribunal appointed under section 22(1)(c) of the Employment Tribunals Act 1996 (c. 17)), or
 - (b) a person who is a member of the Upper Tribunal by virtue of section 5(2)(d) (member of the Asylum and Immigration Tribunal who is not a legally qualified member).
- (2) The Lord Chancellor may pay to an ex officio member of the Upper Tribunal such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Training etc.

- 9 The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of judges and other members of the Upper Tribunal (in their capacities as such judges and other members).

Oaths

- 10 (1) Sub-paragraph (2) applies to a person (“J”)—
- (a) who is appointed under paragraph 1(1), 2(1) or 7(1), or
 - (b) who—
 - (i) becomes a transferred-in judge, or a transferred-in other member, of the Upper Tribunal, or
 - (ii) becomes a deputy judge of the Upper Tribunal as a result of provision under section 31(2),and has not previously taken the required oaths after accepting another office.
- (2) J must take the required oaths before—
- (a) the Senior President of Tribunals, or
 - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from J.
- (3) A person is eligible for the purposes of sub-paragraph (2)(b) if any one or more of the following paragraphs applies to him—
- (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005 (c. 4));
 - (b) he holds judicial office (as defined in section 109(4) of that Act);
 - (c) he holds (in Scotland) the office of sheriff.
- (4) In this paragraph “the required oaths” means (subject to sub-paragraph (5))—
- (a) the oath of allegiance, and
 - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868 (c. 72).

Status: This is the original version (as it was originally enacted).

- (5) Where it appears to the Lord Chancellor that J will carry out functions as a judge or other member of the Upper Tribunal wholly or mainly in Northern Ireland, the Lord Chancellor may direct that in relation to J “the required oaths” means—
- (a) the oath as set out in section 19(2) of the Justice (Northern Ireland) Act 2002 (c. 26), or
 - (b) the affirmation and declaration as set out in section 19(3) of that Act.

SCHEDULE 4

Section 7

CHAMBERS AND CHAMBER PRESIDENTS: FURTHER PROVISION

PART 1

CHAMBER PRESIDENTS: APPOINTMENT, DELEGATION, DEPUTIES AND FURTHER PROVISION

Eligibility for appointment as Chamber President by Lord Chancellor

- 1 A person is eligible for appointment under section 7(7) only if—
- (a) he is a judge of the Upper Tribunal, or
 - (b) he does not fall within paragraph (a) but is eligible to be appointed under paragraph 1(1) of Schedule 3 as a judge of the Upper Tribunal (see paragraph 1(2) of that Schedule).

Appointment as Chamber President by Lord Chancellor: consultation and nomination

- 2 (1) The Lord Chancellor must consult the Senior President of Tribunals before the Lord Chancellor appoints under section 7(7) a person within—
- section 6(1)(a) (ordinary judge of Court of Appeal in England and Wales),
 - section 6(1)(b) (Lord Justice of Appeal in Northern Ireland),
 - section 6(1)(c) (judge of the Court of Session), or
 - section 6(1)(d) (puisne judge of the High Court in England and Wales or Northern Ireland).
- (2) If the Lord Chancellor, in exercise of his power under section 7(7) in a particular case, wishes that the person appointed should be drawn from among the ordinary judges of the Court of Appeal in England and Wales or the puisne judges of the High Court in England and Wales, the Lord Chancellor must first ask the Lord Chief Justice of England and Wales to nominate one of those judges for the purpose.
- (3) If the Lord Chancellor, in exercise of his power under section 7(7) in a particular case, wishes that the person appointed should be drawn from among the judges of the Court of Session, the Lord Chancellor must first ask the Lord President of the Court of Session to nominate one of those judges for the purpose.
- (4) If the Lord Chancellor, in exercise of his power under section 7(7) in a particular case, wishes that the person appointed should be drawn from among the Lords Justices of Appeal in Northern Ireland or the puisne judges of the High Court in Northern Ireland, the Lord Chancellor must first ask the Lord Chief Justice of Northern Ireland to nominate one of those judges for the purpose.

Status: This is the original version (as it was originally enacted).

- (5) If a judge is nominated under sub-paragraph (2), (3) or (4) in response to a request under that sub-paragraph, the Lord Chancellor must appoint the nominated judge as Chamber President of the chamber concerned.

Chamber Presidents: duration of appointment, remuneration etc.

- 3 (1) A Chamber President is to hold and vacate office as a Chamber President in accordance with the terms of his appointment as a Chamber President (subject to the Judicial Pensions and Retirement Act 1993 (c. 8)).
- (2) The Lord Chancellor may pay to a Chamber President such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Delegation of functions by Chamber Presidents

- 4 (1) The Chamber President of a chamber of the First-tier Tribunal or Upper Tribunal may delegate any function he has in his capacity as the Chamber President of the chamber—
- (a) to any judge, or other member, of either of those tribunals;
 - (b) to staff appointed under section 40(1).
- (2) A delegation under sub-paragraph (1) is not revoked by the delegator's becoming incapacitated.
- (3) Any delegation made by a person under sub-paragraph (1) that is in force immediately before the person ceases to be the Chamber President of a chamber continues in force until subsequently varied or revoked by another holder of the office of Chamber President of that chamber.
- (4) The delegation under sub-paragraph (1) of a function shall not prevent the exercise of the function by the Chamber President of the chamber concerned.
- (5) In this paragraph “delegate” includes further delegate.

Deputy Chamber Presidents

- 5 (1) The Lord Chancellor may appoint a person who is not a Deputy Chamber President of a chamber to be a Deputy Chamber President of a chamber.
- (2) The Senior President of Tribunals may appoint a person who is a Deputy Chamber President of a chamber to be instead, or to be also, a Deputy Chamber President of another chamber.
- (3) The power under sub-paragraph (1) is exercisable in any particular case only if the Lord Chancellor—
- (a) has consulted the Senior President of Tribunals about whether a Deputy Chamber President should be appointed for the chamber concerned, and
 - (b) considers, in the light of the consultation, that a Deputy Chamber President of the chamber should be appointed.
- (4) A person is eligible for appointment under sub-paragraph (1) only if—

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- (a) he is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3,
 - (b) he is a transferred-in judge of the Upper Tribunal (see section 31(2)),
 - (c) he is a judge of the Upper Tribunal by virtue of—
 - section 5(1)(d) (legally qualified member of Asylum and Immigration Tribunal),
 - section 5(1)(e) (Social Security Commissioner for Northern Ireland),
 - section 5(1)(g) (certain judges of courts in the United Kingdom), or
 - section 5(1)(h) (deputy judge of the Upper Tribunal), or
 - (d) he falls within none of paragraphs (a) to (c) but is eligible to be appointed under paragraph 1(1) of Schedule 3 as a judge of the Upper Tribunal (see paragraph 1(2) of that Schedule).
- (5) If the Lord Chancellor, in exercise of his power under sub-paragraph (1) in a particular case, wishes that the person appointed should be drawn from among the ordinary judges of the Court of Appeal in England and Wales or the puisne judges of the High Court in England and Wales, the Lord Chancellor must first ask the Lord Chief Justice of England and Wales to nominate one of those judges for the purpose.
- (6) If the Lord Chancellor, in exercise of his power under sub-paragraph (1) in a particular case, wishes that the person appointed should be drawn from among the judges of the Court of Session, the Lord Chancellor must first ask the Lord President of the Court of Session to nominate one of those judges for the purpose.
- (7) If the Lord Chancellor, in exercise of his power under sub-paragraph (1) in a particular case, wishes that the person appointed should be drawn from among the Lords Justices of Appeal in Northern Ireland or the puisne judges of the High Court in Northern Ireland, the Lord Chancellor must first ask the Lord Chief Justice of Northern Ireland to nominate one of those judges for the purpose.
- (8) If a judge is nominated under sub-paragraph (5), (6) or (7) in response to a request under that sub-paragraph, the Lord Chancellor must appoint the nominated judge as a Deputy Chamber President of the chamber concerned.
- (9) A Deputy Chamber President is to hold and vacate office as a Deputy Chamber President in accordance with the terms of his appointment (subject to the Judicial Pensions and Retirement Act 1993 (c. 8)).
- (10) The Lord Chancellor may pay to a Deputy Chamber President such amounts (if any) as the Lord Chancellor may determine by way of—
- (a) remuneration;
 - (b) allowances;
 - (c) expenses.
- (11) In sub-paragraphs (1) and (2) “chamber” means chamber of the First-tier Tribunal or chamber of the Upper Tribunal.

Acting Chamber Presidents

- 6 (1) If in the case of a particular chamber of the First-tier Tribunal or Upper Tribunal there is no-one appointed under section 7 to preside over the chamber, the Senior President of Tribunals may appoint a person to preside over the chamber during the vacancy.

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- (2) A person appointed under sub-paragraph (1) is to be known as an Acting Chamber President.
- (3) A person who is the Acting Chamber President of a chamber is to be treated as the Chamber President of the chamber for all purposes other than—
 - (a) the purposes of this paragraph of this Schedule, and
 - (b) the purposes of the Judicial Pensions and Retirement Act 1993 (c. 8).
- (4) A person is eligible for appointment under sub-paragraph (1) only if he is eligible for appointment as a Chamber President.
- (5) An Acting Chamber President is to hold and vacate office as an Acting Chamber President in accordance with the terms of his appointment.
- (6) The Lord Chancellor may pay to an Acting Chamber President such amounts (if any) as the Lord Chancellor may determine by way of—
 - (a) remuneration;
 - (b) allowances;
 - (c) expenses.

Guidance

- 7 The Chamber President of a chamber of the First-tier Tribunal or the Upper Tribunal is to make arrangements for the issuing of guidance on changes in the law and practice as they relate to the functions allocated to the chamber.

Oaths

- 8 (1) Sub-paragraph (2) applies to a person (“the appointee”)—
 - (a) appointed under section 7(7) as a Chamber President,
 - (b) appointed under paragraph 5(1) as a Deputy Chamber President of a chamber, or
 - (c) appointed as an Acting Chamber President.
- (2) The appointee must take the required oaths before—
 - (a) the Senior President of Tribunals, or
 - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) A person is eligible for the purposes of sub-paragraph (2)(b) if any one or more of the following paragraphs applies to him—
 - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005 (c. 4));
 - (b) he holds judicial office (as defined in section 109(4) of that Act);
 - (c) he holds (in Scotland) the office of sheriff.
- (4) Sub-paragraph (2) does not apply to the appointee if he has previously taken the required oaths in compliance with a requirement imposed on him under paragraph 9 of Schedule 2 or paragraph 10 of Schedule 3.
- (5) In this paragraph “the required oaths” means (subject to sub-paragraph (6))—
 - (a) the oath of allegiance, and

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- (b) the judicial oath,
as set out in the Promissory Oaths Act 1868 (c. 72).
- (6) Where it appears to the Lord Chancellor that the appointee will carry out functions under his appointment wholly or mainly in Northern Ireland, the Lord Chancellor may direct that in relation to the appointee “the required oaths” means—
 - (a) the oath as set out in section 19(2) of the Justice (Northern Ireland) Act 2002 (c. 26), or
 - (b) the affirmation and declaration as set out in section 19(3) of that Act.

PART 2

JUDGES AND OTHER MEMBERS OF CHAMBERS: ASSIGNMENT AND JURISDICTION

Assignment is function of Senior President of Tribunals

- 9 (1) The Senior President of Tribunals has—
- (a) the function of assigning judges and other members of the First-tier Tribunal (including himself) to chambers of the First-tier Tribunal, and
 - (b) the function of assigning judges and other members of the Upper Tribunal (including himself) to chambers of the Upper Tribunal.
- (2) The functions under sub-paragraph (1) are to be exercised in accordance with the following provisions of this Part of this Schedule.

Deemed assignment of Chamber Presidents and Deputy Chamber Presidents

- 10 (1) The Chamber President, or a Deputy Chamber President, of a chamber—
- (a) is to be taken to be assigned to that chamber;
 - (b) may be assigned additionally to one or more of the other chambers;
 - (c) may be assigned under paragraph (b) to different chambers at different times.
- (2) Paragraphs 11(1) and (2) and 12(2) and (3) do not apply to assignment of a person who is a Chamber President or a Deputy Chamber President.
- (3) In sub-paragraph (1) “chamber” means chamber of the First-tier Tribunal or the Upper Tribunal.

Assigning members of First-tier Tribunal to its chambers

- 11 (1) Each person who is a judge or other member of the First-tier Tribunal by virtue of appointment under paragraph 1(1) or 2(1) of Schedule 2 or who is a transferred-in judge, or transferred-in other member, of the First-tier Tribunal—
- (a) is to be assigned to at least one of the chambers of the First-tier Tribunal, and
 - (b) may be assigned to different chambers of the First-tier Tribunal at different times.
- (2) A judge or other member of the First-tier Tribunal to whom sub-paragraph (1) does not apply—
- (a) may be assigned to one or more of the chambers of the First-tier Tribunal, and

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- (b) may be assigned to different chambers of the First-tier Tribunal at different times.
- (3) The Senior President of Tribunals may assign a judge or other member of the First-tier Tribunal to a particular chamber of the First-tier Tribunal only with the concurrence—
 - (a) of the Chamber President of the chamber, and
 - (b) of the judge or other member.
- (4) The Senior President of Tribunals may end the assignment of a judge or other member of the First-tier Tribunal to a particular chamber of the First-tier Tribunal only with the concurrence of the Chamber President of the chamber.
- (5) Sub-paragraph (3)(a) does not apply where the judge, or other member, concerned is not assigned to any of the chambers of the First-tier Tribunal.
- (6) Sub-paragraphs (3)(a) and (4) do not apply where the judge concerned is within section 6(1)(a) to (d) (judges of Courts of Appeal, Court of Session and High Courts).
- (7) Sub-paragraphs (3) and (4) do not apply where the judge concerned is the Senior President of Tribunals himself.

Assigning members of Upper Tribunal to its chambers

- 12 (1) Sub-paragraph (2) applies to a person if—
- (a) he is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3, or
 - (b) he is a transferred-in judge of the Upper Tribunal, or
 - (c) he is a deputy judge of the Upper Tribunal, or
 - (d) he is a member of the Upper Tribunal by virtue of appointment under paragraph 2(1) of Schedule 3, or
 - (e) he is a transferred-in other member of the Upper Tribunal.
- (2) Each person to whom this sub-paragraph applies—
- (a) is to be assigned to at least one of the chambers of the Upper Tribunal, and
 - (b) may be assigned to different chambers of the Upper Tribunal at different times.
- (3) A judge or other member of the Upper Tribunal to whom sub-paragraph (2) does not apply—
- (a) may be assigned to one or more of the chambers of the Upper Tribunal, and
 - (b) may be assigned to different chambers of the Upper Tribunal at different times.
- (4) The Senior President of Tribunals may assign a judge or other member of the Upper Tribunal to a particular chamber of the Upper Tribunal only with the concurrence—
- (a) of the Chamber President of the chamber, and
 - (b) of the judge or other member.
- (5) The Senior President of Tribunals may end the assignment of a judge or other member of the Upper Tribunal to a particular chamber of the Upper Tribunal only with the concurrence of the Chamber President of the chamber.

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- (6) Sub-paragraph (4)(a) does not apply where the judge, or other member, concerned is not assigned to any of the chambers of the Upper Tribunal.
- (7) Sub-paragraphs (4)(a) and (5) do not apply where the judge concerned is within section 6(1)(a) to (d) (judges of Courts of Appeal, Court of Session and High Courts).
- (8) Sub-paragraphs (4) and (5) do not apply where the judge concerned is the Senior President of Tribunals himself.

Policy of Senior President of Tribunals as respects assigning members to chambers etc.

- 13 (1) The Senior President of Tribunals must publish a document recording the policy adopted by him in relation to—
- (a) the assigning of persons to chambers in exercise of his functions under paragraph 9,
 - (b) the assigning of persons to act as members of the Asylum and Immigration Tribunal in exercise of his functions under paragraphs 5A and 5B of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (c. 41), and
 - (c) the nominating of persons to act as members of panels of members of employment tribunals in exercise of his functions under any such provision as is mentioned in section 5D(1) of the Employment Tribunals Act 1996 (c. 17).
- (2) That policy must be such as to secure—
- (a) that appropriate use is made of the knowledge and experience of the judges and other members of the First-tier Tribunal and Upper Tribunal, and
 - (b) that, in the case of a chamber (of the First-tier Tribunal or Upper Tribunal) whose business consists of, or includes, cases likely to involve the application of the law of Scotland or Northern Ireland, sufficient knowledge and experience of that law is to be found among persons assigned to the chamber.
- (3) No policy may be adopted by the Senior President of Tribunals for the purposes of sub-paragraph (1) unless the Lord Chancellor concurs in the policy.
- (4) The Senior President of Tribunals must keep any policy adopted for the purposes of sub-paragraph (1) under review.

Choosing members to decide cases

- 14 (1) The First-tier Tribunal’s function, or the Upper Tribunal’s function, of deciding any matter in a case before the tribunal is to be exercised by a member or members of the chamber of the tribunal to which the case is allocated.
- (2) The member or members must be chosen by the Senior President of Tribunals.
- (3) A person choosing under sub-paragraph (2)—
- (a) must act in accordance with any provision under paragraph 15;
 - (b) may choose himself.
- (4) In this paragraph “member”, in relation to a chamber of a tribunal, means a judge or other member of the tribunal who is assigned to the chamber.

Composition of tribunals

- 15 (1) The Lord Chancellor must by order make provision, in relation to every matter that may fall to be decided by the First-tier Tribunal or the Upper Tribunal, for determining the number of members of the tribunal who are to decide the matter.
- (2) Where an order under sub-paragraph (1) provides for a matter to be decided by a single member of a tribunal, the order—
- (a) must make provision for determining whether the matter is to be decided by one of the judges, or by one of the other members, of the tribunal, and
 - (b) may make provision for determining, if the matter is to be decided by one of the other members of the tribunal, what qualifications (if any) that other member must have.
- (3) Where an order under sub-paragraph (1) provides for a matter to be decided by two or more members of a tribunal, the order—
- (a) must make provision for determining how many (if any) of those members are to be judges of the tribunal and how many (if any) are to be other members of the tribunal, and
 - (b) may make provision for determining—
 - (i) if the matter is to be decided by persons who include one or more of the other members of the tribunal, or
 - (ii) if the matter is to be decided by two or more of the other members of the tribunal,what qualifications (if any) that other member or any of those other members must have.
- (4) A duty under sub-paragraph (1), (2) or (3) to provide for the determination of anything may be discharged by providing for the thing to be determined by the Senior President of Tribunals, or a Chamber President, in accordance with any provision made under that sub-paragraph.
- (5) Power under paragraph (b) of sub-paragraph (2) or (3) to provide for the determination of anything may be exercised by giving, to the Senior President of Tribunals or a Chamber President, power to determine that thing in accordance with any provision made under that paragraph.
- (6) Where under sub-paragraphs (1) to (4) a matter is to be decided by two or more members of a tribunal, the matter may, if the parties to the case agree, be decided in the absence of one or more (but not all) of the members chosen to decide the matter.
- (7) Where the member, or any of the members, of a tribunal chosen to decide a matter does not have any qualification that he is required to have under sub-paragraphs (2) (b), or (3)(b), and (5), the matter may despite that, if the parties to the case agree, be decided by the chosen member or members.
- (8) Before making an order under this paragraph, the Lord Chancellor must consult the Senior President of Tribunals.
- (9) In this paragraph “qualification” includes experience.

SCHEDULE 5

Section 22

PROCEDURE IN FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

PART 1

TRIBUNAL PROCEDURE RULES

Introductory

- 1 (1) This Part of this Schedule makes further provision about the content of Tribunal Procedure Rules.
- (2) The generality of section 22(1) is not to be taken to be prejudiced by—
 - (a) the following paragraphs of this Part of this Schedule, or
 - (b) any other provision (including future provision) authorising or requiring the making of provision by Tribunal Procedure Rules.
- (3) In the following paragraphs of this Part of this Schedule “Rules” means Tribunal Procedure Rules.

Concurrent functions

- 2 Rules may make provision as to who is to decide, or as to how to decide, which of the First-tier Tribunal and Upper Tribunal is to exercise, in relation to any particular matter, a function that is exercisable by the two tribunals on the basis that the question as to which of them is to exercise the function is to be determined by, or under, Rules.

Delegation of functions to staff

- 3 (1) Rules may provide for functions—
 - (a) of the First-tier Tribunal, or
 - (b) of the Upper Tribunal,to be exercised by staff appointed under section 40(1).
- (2) In making provision of the kind mentioned in sub-paragraph (1) in relation to a function, Rules may (in particular)—
 - (a) provide for the function to be exercisable by a member of staff only if the member of staff is, or is of a description, specified in exercise of a discretion conferred by Rules;
 - (b) provide for the function to be exercisable by a member of staff only if the member of staff is approved, or is of a description approved, for the purpose by a person specified in Rules.

Time limits

- 4 Rules may make provision for time limits as respects initiating, or taking any step in, proceedings before the First-tier Tribunal or the Upper Tribunal.

Repeat applications

- 5 Rules may make provision restricting the making of fresh applications where a previous application in relation to the same matter has been made.

Tribunal acting of its own initiative

- 6 Rules may make provision about the circumstances in which the First-tier Tribunal, or the Upper Tribunal, may exercise its powers of its own initiative.

Hearings

- 7 Rules may—
- (a) make provision for dealing with matters without a hearing;
 - (b) make provision as respects allowing or requiring a hearing to be in private or as respects allowing or requiring a hearing to be in public.

Proceedings without notice

- 8 Rules may make provision for proceedings to take place, in circumstances described in Rules, at the request of one party even though the other, or another, party has had no notice.

Representation

- 9 Rules may make provision conferring additional rights of audience before the First-tier Tribunal or the Upper Tribunal.

Evidence, witnesses and attendance

- 10 (1) Rules may make provision about evidence (including evidence on oath and administration of oaths).
- (2) Rules may modify any rules of evidence provided for elsewhere, so far as they would apply to proceedings before the First-tier Tribunal or Upper Tribunal.
- (3) Rules may make provision, where the First-tier Tribunal has required a person—
- (a) to attend at any place for the purpose of giving evidence,
 - (b) otherwise to make himself available to give evidence,
 - (c) to swear an oath in connection with the giving of evidence,
 - (d) to give evidence as a witness,
 - (e) to produce a document, or
 - (f) to facilitate the inspection of a document or any other thing (including any premises),
- for the Upper Tribunal to deal with non-compliance with the requirement as though the requirement had been imposed by the Upper Tribunal.
- (4) Rules may make provision for the payment of expenses and allowances to persons giving evidence, producing documents, attending proceedings or required to attend proceedings.

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Use of information

- 11 (1) Rules may make provision for the disclosure or non-disclosure of information received during the course of proceedings before the First-tier Tribunal or Upper Tribunal.
- (2) Rules may make provision for imposing reporting restrictions in circumstances described in Rules.

Costs and expenses

- 12 (1) Rules may make provision for regulating matters relating to costs, or (in Scotland) expenses, of proceedings before the First-tier Tribunal or Upper Tribunal.
- (2) The provision mentioned in sub-paragraph (1) includes (in particular)—
- (a) provision prescribing scales of costs or expenses;
 - (b) provision for enabling costs to undergo detailed assessment in England and Wales by a county court or the High Court;
 - (c) provision for taxation in Scotland of accounts of expenses by an Auditor of Court;
 - (d) provision for enabling costs to be taxed in Northern Ireland in a county court or the High Court;
 - (e) provision for costs or expenses—
 - (i) not to be allowed in respect of items of a description specified in Rules;
 - (ii) not to be allowed in proceedings of a description so specified;
 - (f) provision for other exceptions to either or both of subsections (1) and (2) of section 29.

Set-off and interest

- 13 (1) Rules may make provision for a party to proceedings to deduct, from amounts payable by him, amounts payable to him.
- (2) Rules may make provision for interest on sums awarded (including provision conferring a discretion or provision in accordance with which interest is to be calculated).

Arbitration

- 14 Rules may provide for Part 1 of the Arbitration Act 1996 (c. 23) (which extends to England and Wales, and Northern Ireland, but not Scotland) not to apply, or not to apply except so far as is specified in Rules, where the First-tier Tribunal, or Upper Tribunal, acts as arbitrator.

Correction of errors and setting-aside of decisions on procedural grounds

- 15 (1) Rules may make provision for the correction of accidental errors in a decision or record of a decision.
- (2) Rules may make provision for the setting aside of a decision in proceedings before the First-tier Tribunal or Upper Tribunal—

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- (a) where a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party's representative,
 - (b) where a document relating to the proceedings was not sent to the First-tier Tribunal or Upper Tribunal at an appropriate time,
 - (c) where a party to the proceedings, or a party's representative, was not present at a hearing related to the proceedings, or
 - (d) where there has been any other procedural irregularity in the proceedings.
- (3) Sub-paragraphs (1) and (2) shall not be taken to prejudice, or to be prejudiced by, any power to correct errors or set aside decisions that is exercisable apart from rules made by virtue of those sub-paragraphs.

Ancillary powers

- 16 Rules may confer on the First-tier Tribunal, or the Upper Tribunal, such ancillary powers as are necessary for the proper discharge of its functions.

Rules may refer to practice directions

- 17 Rules may, instead of providing for any matter, refer to provision made or to be made about that matter by directions under section 23.

Presumptions

- 18 Rules may make provision in the form of presumptions (including, in particular, presumptions as to service or notification).

Differential provision

- 19 Rules may make different provision for different purposes or different areas.

PART 2

TRIBUNAL PROCEDURE COMMITTEE

Membership

- 20 The Tribunal Procedure Committee is to consist of—
- (a) the Senior President of Tribunals or a person nominated by him,
 - (b) the persons currently appointed by the Lord Chancellor under paragraph 21,
 - (c) the persons currently appointed by the Lord Chief Justice of England and Wales under paragraph 22,
 - (d) the person currently appointed by the Lord President of the Court of Session under paragraph 23, and
 - (e) any person currently appointed under paragraph 24 at the request of the Senior President of Tribunals.

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Lord Chancellor's appointees

- 21 (1) The Lord Chancellor must appoint—
- (a) three persons each of whom must be a person with experience of—
 - (i) practice in tribunals, or
 - (ii) advising persons involved in tribunal proceedings, and
 - (b) one person nominated by the Administrative Justice and Tribunals Council.
- (2) Before making an appointment under sub-paragraph (1), the Lord Chancellor must consult the Lord Chief Justice of England and Wales.
- (3) Until the Administrative Justice and Tribunals Council first has ten members appointed under paragraph 1(2) of Schedule 7, the reference to that council in sub-paragraph (1)(b) is to be read as a reference to the Council on Tribunals; and if, when the Administrative Justice and Tribunals Council first has ten members so appointed, the person appointed under sub-paragraph (1)(b) is a nominee of the Council on Tribunals, that person ceases to be a member of the Tribunal Procedure Committee at that time.

Lord Chief Justice's appointees

- 22 (1) The Lord Chief Justice of England and Wales must appoint—
- (a) one of the judges of the First-tier Tribunal,
 - (b) one of the judges of the Upper Tribunal, and
 - (c) one person who is a member of the First-tier Tribunal, or is a member of the Upper Tribunal, but is not a judge of the First-tier Tribunal and is not a judge of the Upper Tribunal.
- (2) Before making an appointment under sub-paragraph (1), the Lord Chief Justice of England and Wales must consult the Lord Chancellor.

Lord President's appointee

- 23 (1) The Lord President of the Court of Session must appoint one person with experience in and knowledge of the Scottish legal system.
- (2) Before making an appointment under sub-paragraph (1), the Lord President of the Court of Session must consult the Lord Chancellor.

Persons appointed at request of Senior President of Tribunals

- 24 (1) At the request of the Senior President of Tribunals, an appropriate senior judge may appoint a person or persons with experience in and knowledge of—
- (a) a particular issue, or
 - (b) a particular subject area in relation to which the First-tier Tribunal or the Upper Tribunal has, or is likely to have, jurisdiction,
- for the purpose of assisting the Committee with regard to that issue or subject area.
- (2) In sub-paragraph (1) “an appropriate senior judge” means any of—
- (a) the Lord Chief Justice of England and Wales,
 - (b) the Lord President of the Court of Session, and
 - (c) the Lord Chief Justice of Northern Ireland.

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- (3) The total number of persons appointed at any time under sub-paragraph (1) must not exceed four.
- (4) Before making an appointment under sub-paragraph (1), the person making the appointment must consult the Lord Chancellor.
- (5) The terms of appointment of a person appointed under sub-paragraph (1) may (in particular) authorise him to act as a member of the Committee only in relation to matters specified by those terms.

Power to amend paragraphs 20 to 24

- 25 (1) The Lord Chancellor may by order—
- (a) amend any of paragraphs 20, 21(1), 22(1), 23(1) and 24(1), and
 - (b) make consequential amendments in any other provision of paragraphs 21 to 24 or in paragraph 28(7).
- (2) The making of an order under this paragraph—
- (a) requires the concurrence of the Lord Chief Justice of England and Wales,
 - (b) if the order amends paragraph 23(1), requires also the concurrence of the Lord President of the Court of Session, and
 - (c) if the order amends paragraph 24(1), requires also the concurrence of the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland.

Committee members' expenses

- 26 The Lord Chancellor may reimburse members of the Tribunal Procedure Committee their travelling and out-of-pocket expenses.

PART 3

MAKING OF TRIBUNAL PROCEDURE RULES BY TRIBUNAL PROCEDURE COMMITTEE

Meaning of “Rules” and “the Committee”

- 27 In the following provisions of this Part of this Schedule—
- “the Committee” means the Tribunal Procedure Committee;
- “Rules” means Tribunal Procedure Rules.

Process for making Rules

- 28 (1) Before the Committee makes Rules, the Committee must—
- (a) consult such persons (including such of the Chamber Presidents) as it considers appropriate,
 - (b) consult the Lord President of the Court of Session if the Rules contain provision relating to proceedings in Scotland, and
 - (c) meet (unless it is inexpedient to do so).
- (2) Rules made by the Committee must be—
- (a) signed by a majority of the members of the Committee, and

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- (b) submitted to the Lord Chancellor.
- (3) The Lord Chancellor may allow or disallow Rules so made.
- (4) If the Lord Chancellor disallows Rules so made, he must give the Committee written reasons for doing so.
- (5) Rules so made and allowed—
 - (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.
- (6) A statutory instrument containing Rules made by the Committee is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In the case of a member of the Committee appointed under paragraph 24, the terms of his appointment may (in particular) provide that, for the purposes of subparagraph (2)(a), he is to count as a member of the Committee only in relation to matters specified in those terms.

Power of Lord Chancellor to require Rules to be made

- 29 (1) This paragraph applies if the Lord Chancellor gives the Committee written notice that he thinks it is expedient for Rules to include provision that would achieve a purpose specified in the notice.
- (2) The Committee must make such Rules, in accordance with paragraph 28, as it considers necessary to achieve the specified purpose.
- (3) Those Rules must be made—
- (a) within such period as may be specified by the Lord Chancellor in the notice, or
 - (b) if no period is so specified, within a reasonable period after the Lord Chancellor gives the notice to the Committee.

PART 4

POWER TO AMEND LEGISLATION IN CONNECTION WITH TRIBUNAL PROCEDURE RULES

Lord Chancellor's power

- 30 (1) The Lord Chancellor may by order amend, repeal or revoke any enactment to the extent he considers necessary or desirable—
- (a) in order to facilitate the making of Tribunal Procedure Rules, or
 - (b) in consequence of—
 - (i) section 22,
 - (ii) Part 1 or 3 of this Schedule, or
 - (iii) Tribunal Procedure Rules.
- (2) In this paragraph “enactment” means any enactment whenever passed or made, including an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

Status: This is the original version (as it was originally enacted).

SCHEDULE 6

Sections 30 to 37

TRIBUNALS FOR THE PURPOSES OF SECTIONS 30 TO 36

PART 1

TRIBUNALS FOR THE PURPOSES OF SECTIONS 30, 35 AND 36

<i>Tribunal</i>	<i>Enactment</i>
Appeal tribunal	Chapter 1 of Part 1 of the Social Security Act 1998 (c. 14)
Child Support Commissioner	Section 22 of the Child Support Act 1991 (c. 48)
The Secretary of State as respects his function of deciding appeals under:	Section 41 of the Consumer Credit Act 1974 (c. 39)
The Secretary of State as respects his function of deciding appeals under:	Section 7(1) of the Estate Agents Act 1979 (c. 38)
Foreign Compensation Commission	Section 1 of the Foreign Compensation Act 1950 (c. 12)
Commissioner for the general purposes of the income tax	Section 2 of the Taxes Management Act 1970 (c. 9)
Information Tribunal	Section 6 of the Data Protection Act 1998 (c. 29)
Meat Hygiene Appeals Tribunal	Regulation 6 of the Fresh Meat (Hygiene and Inspection) Regulations 1995 (S.I. 1995/539)
Meat Hygiene Appeals Tribunal	Regulation 6 of the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995 (S.I. 1995/540)
Meat Hygiene Appeals Tribunal	Regulation 5 of the Wild Game Meat (Hygiene and Inspection) Regulations 1995 (S.I. 1995/2148)
Mental Health Review Tribunal for a region of England	Section 65(1) and (1A)(a) of the Mental Health Act 1983 (c. 20)
Reinstatement Committee	Paragraph 1 of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985 (c. 17)
Reserve forces appeal tribunal	Section 88 of the Reserve Forces Act 1996 (c. 14)
Sea Fish Licence Tribunal	Section 4AA of the Sea Fish (Conservation) Act 1967 (c. 84)
Social Security Commissioner	Schedule 4 to the Social Security Act 1998 (c. 14)

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<i>Tribunal</i>	<i>Enactment</i>
Special Educational Needs and Disability Tribunal	Section 333 of the Education Act 1996 (c. 56)
Transport Tribunal	Schedule 4 to the Transport Act 1985 (c. 67)
Umpire or deputy umpire	Paragraph 5 of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985
VAT and duties tribunal	Schedule 12 to the Value Added Tax Act 1994 (c. 23)

PART 2

TRIBUNALS FOR THE PURPOSES OF SECTIONS 30 AND 35

<i>Tribunal</i>	<i>Enactment</i>
Adjudicator	Section 5 of the Criminal Injuries Compensation Act 1995 (c. 53)

PART 3

TRIBUNALS FOR THE PURPOSES OF SECTIONS 30 AND 36

<i>Tribunal</i>	<i>Enactment</i>
Adjudicator to Her Majesty's Land Registry	Section 107 of the Land Registration Act 2002 (c. 9)
Charity Tribunal	Section 2A of the Charities Act 1993 (c. 10)
Consumer Credit Appeals Tribunal	Section 40A of the Consumer Credit Act 1974 (c. 39)
Financial Services and Markets Tribunal	Section 132 of the Financial Services and Markets Act 2000 (c. 8)
Gambling Appeals Tribunal	Section 140 of the Gambling Act 2005 (c. 19)
Immigration Services Tribunal	Section 87 of the Immigration and Asylum Act 1999 (c. 33)
Lands Tribunal	Section 1(1)(b) of the Lands Tribunal Act 1949 (c. 42)
Pensions Appeal Tribunal in England and Wales	Paragraph 1(1) of the Schedule to the Pensions Appeal Tribunals Act 1943 (c. 39)
Pensions Regulator Tribunal	Section 102 of the Pensions Act 2004 (c. 35)
Commissioner for the special purposes of the Income Tax Acts	Section 4 of the Taxes Management Act 1970 (c. 9)

Status: This is the original version (as it was originally enacted).

PART 4

TRIBUNALS FOR THE PURPOSES OF SECTION 30

<i>Tribunal</i>	<i>Enactment</i>
Agricultural Land Tribunal	Section 73 of the Agriculture Act 1947 (c. 48)
Aircraft and Shipbuilding Industries Arbitration Tribunal	Section 42 of the Aircraft and Shipbuilding Industries Act 1977 (c. 3)
Antarctic Act Tribunal	Regulation 11 of the Antarctic Regulations 1995 (S.I. 1995/490)
Appeal tribunal	Part 2 of Schedule 9 to the Scheme set out in Schedule 2 to the Firefighters' Pension Scheme Order 1992 (S.I. 1992/129)
Asylum Support Adjudicator	Section 102 of the Immigration and Asylum Act 1999
Case tribunal, or interim case tribunal, drawn from the Adjudication Panel for England	Section 76 of the Local Government Act 2000 (c. 22)
Family Health Services Appeal Authority	Section 49S of the National Health Service Act 1977 (c. 49)
Insolvency Practitioners Tribunal	Section 396(1) of the Insolvency Act 1986 (c. 45)
Appeals Tribunal	Part 3 of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (S.I. 2003/1483)
Plant Varieties and Seeds Tribunal	Section 42 of the Plant Varieties Act 1997 (c. 66)
Tribunal	Rule 6 of the model provisions with respect to appeals as applied with modifications by the Chemical Weapons (Licence Appeal Provisions) Order 1996 (S.I. 1996/3030)
Tribunal	Health Service Medicines (Price Control Appeals) Regulations 2000 (S.I. 2000/124)
Tribunal	Section 706 of the Income and Corporation Taxes Act 1988 (c. 1)
Tribunal	Section 150 of the Mines and Quarries Act 1954 (c. 70)
Tribunal	Part 1 of Schedule 3 to the Misuse of Drugs Act 1971 (c. 38)
Tribunal	Regulation H6(3) of the Police Pensions Regulations 1987 (S.I. 1987/257)
Tribunal	Section 9 of the Protection of Children Act 1999 (c. 14)

Status: This is the original version (as it was originally enacted).

PART 5

TRIBUNALS FOR THE PURPOSES OF SECTIONS 35 AND 36

<i>Tribunal</i>	<i>Enactment</i>
Employment Appeal Tribunal	Section 20 of the Employment Tribunals Act 1996 (c. 17)

PART 6

TRIBUNALS FOR THE PURPOSES OF SECTION 35

<i>Tribunal</i>	<i>Enactment</i>
Employment tribunal	Section 1 of the Employment Tribunals Act 1996

PART 7

TRIBUNALS FOR THE PURPOSES OF SECTION 32(3)

<i>Tribunal</i>	<i>Enactment</i>
Case tribunal, or interim case tribunal, drawn from the Adjudication Panel for Wales	Section 76 of the Local Government Act 2000 (c. 22)
Appeals Tribunal	Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (S.I. 2001/2281)
Mental Health Review Tribunal for Wales	Section 65(1) and (1A)(b) of the Mental Health Act 1983 (c. 20)
Special Educational Needs Tribunal for Wales	Section 336ZA of the Education Act 1996 (c. 56)
Tribunal	Section 27 of, and Schedule 3 to, the Education Act 2005 (c. 18)

SCHEDULE 7

Section 44

ADMINISTRATIVE JUSTICE AND TRIBUNALS COUNCIL

PART 1

MEMBERS AND COMMITTEES

Membership

- 1 (1) The Council is to consist of—
 - (a) the Parliamentary Commissioner for Administration, and
 - (b) not more than fifteen nor fewer than ten appointed members.
- (2) Of the appointed members—
 - (a) either two or three are to be appointed by the Scottish Ministers with the concurrence of the Lord Chancellor and the Welsh Ministers,
 - (b) either one or two are to be appointed by the Welsh Ministers with the concurrence of the Lord Chancellor and the Scottish Ministers, and
 - (c) the others are to be appointed by the Lord Chancellor with the concurrence of the Scottish Ministers and the Welsh Ministers.

Chairman of the Council

- 2 (1) After consultation with the Scottish Ministers and the Welsh Ministers, the Lord Chancellor must nominate one of the appointed members to be chairman of the Council.
- (2) The chairman of the Council is to hold and vacate that office in accordance with the terms of his nomination, but—
 - (a) may resign that office by giving written notice to the Lord Chancellor, and
 - (b) ceases to be chairman if he ceases to be a person who is a member of the Council by virtue of appointment under paragraph 1(2).

Term of office of appointed members of Council

- 3 (1) Subject to the following provisions of this paragraph, a person appointed under paragraph 1(2) is to hold and vacate office in accordance with the terms of his appointment.
- (2) A person appointed under paragraph 1(2)(a) may resign by giving written notice to the Scottish Ministers.
- (3) A person appointed under paragraph 1(2)(b) may resign by giving written notice to the Welsh Ministers.
- (4) A person appointed under paragraph 1(2)(c) may resign by giving written notice to the Lord Chancellor.
- (5) The Lord Chancellor may remove a person appointed under paragraph 1(2) on the ground of inability or misbehaviour.

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- (6) The power of the Lord Chancellor under sub-paragraph (5) to remove a person who was appointed under paragraph 1(2)(a) may be exercised only with the concurrence of the Scottish Ministers.
- (7) The power of the Lord Chancellor under sub-paragraph (5) to remove a person who was appointed under paragraph 1(2)(b) may be exercised only with the concurrence of the Welsh Ministers.

Scottish Committee

- 4 (1) There is to be a Scottish Committee of the Council (referred to in this Schedule as “the Scottish Committee”) for the purpose of exercising the functions conferred on it by any statutory provision.
- (2) The Scottish Committee is to consist of—
 - (a) the Parliamentary Commissioner for Administration,
 - (b) the Scottish Public Services Ombudsman,
 - (c) the members of the Council appointed under paragraph 1(2)(a), and
 - (d) either three or four other persons, not being members of the Council, appointed by the Scottish Ministers.

Chairman of the Scottish Committee

- 5 (1) The Scottish Ministers must nominate one of the members mentioned in paragraph 4(2)(c) to be chairman of the Scottish Committee.
- (2) The chairman of the Scottish Committee is to hold and vacate that office in accordance with the terms of his nomination, but—
 - (a) may resign that office by giving written notice to the Scottish Ministers, and
 - (b) ceases to be chairman if he ceases to be a person who is a member of the Council by virtue of appointment under paragraph 1(2)(a).

Term of office of appointed members of Scottish Committee

- 6 (1) Subject to the following provisions of this paragraph, a person appointed under paragraph 4(2)(d) is to hold and vacate office in accordance with the terms of his appointment.
- (2) The person may resign by giving written notice to the Scottish Ministers.
- (3) The Scottish Ministers may remove the person on the ground of inability or misbehaviour.

Welsh Committee

- 7 (1) There is to be a Welsh Committee of the Council (referred to in this Schedule as “the Welsh Committee”) for the purpose of exercising the functions conferred on it by any statutory provision.
- (2) The Welsh Committee is to consist of—
 - (a) the Parliamentary Commissioner for Administration,
 - (b) the Public Services Ombudsman for Wales,
 - (c) the members of the Council appointed under paragraph 1(2)(b), and

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- (d) either two or three other persons, not being members of the Council, appointed by the Welsh Ministers.

Chairman of Welsh Committee

- 8 (1) The Welsh Ministers must nominate one of the members mentioned in paragraph 7(2)(c) to be chairman of the Welsh Committee.
- (2) The chairman of the Welsh Committee is to hold and vacate that office in accordance with the terms of his nomination, but—
- (a) may resign that office by giving written notice to the Welsh Ministers, and
 - (b) ceases to be chairman if he ceases to be a person who is a member of the Council by virtue of appointment under paragraph 1(2)(b).

Term of office of Committee members

- 9 (1) Subject to the following provisions of this paragraph, a person appointed under paragraph 7(2)(d) is to hold and vacate office in accordance with the terms of his appointment.
- (2) The person may resign by giving written notice to the Welsh Ministers.
- (3) The Welsh Ministers may remove the person on the ground of inability or misbehaviour.

Remuneration of Council and Committee members

- 10 (1) The Lord Chancellor must pay such remuneration as he may determine to each of the following—
- (a) the chairman of the Council;
 - (b) the chairman of the Scottish Committee;
 - (c) the chairman of the Welsh Committee.
- (2) The Lord Chancellor may pay such fees as he may determine to—
- (a) members of the Council other than the chairman;
 - (b) members of the Scottish Committee other than the chairman;
 - (c) members of the Welsh Committee other than the chairman.
- (3) The Lord Chancellor may pay such expenses as he may determine to—
- (a) members of the Council;
 - (b) members of the Scottish Committee;
 - (c) members of the Welsh Committee.
- (4) In sub-paragraph (3) “expenses” includes (in particular) subsistence allowances and travelling expenses.

Status of Council and Committees

- 11 The Council, the Scottish Committee and the Welsh Committee are not to be regarded—
- (a) as agents or servants of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.

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PART 2

FUNCTIONS

Introductory

- 12 The Council has the functions conferred on it by this Schedule or any other statutory provision.

Functions with respect to the administrative justice system

- 13 (1) The Council is to—
- (a) keep the administrative justice system under review,
 - (b) consider ways to make the system accessible, fair and efficient,
 - (c) advise the persons mentioned in sub-paragraph (2) on the development of the system,
 - (d) refer proposals for changes in the system to those persons, and
 - (e) make proposals for research into the system.
- (2) Those persons are—
- (a) the Lord Chancellor,
 - (b) the Scottish Ministers,
 - (c) the Welsh Ministers, and
 - (d) the Senior President of Tribunals.
- (3) The Council may make such reports as it considers appropriate on any of the matters mentioned in sub-paragraph (1).
- (4) In this paragraph “the administrative justice system” means the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including—
- (a) the procedures for making such decisions,
 - (b) the law under which such decisions are made, and
 - (c) the systems for resolving disputes and airing grievances in relation to such decisions.

General functions with respect to tribunals

- 14 (1) The Council is to—
- (a) keep under review, and report on, the constitution and working—
 - (i) of listed tribunals in general, and
 - (ii) of each listed tribunal,
 - (b) consider, and report on, any other matter—
 - (i) that relates to listed tribunals in general or to a particular listed tribunal, and
 - (ii) that the Council determines to be of special importance, and
 - (c) consider, and report on, any particular matter referred to the Council—
 - (i) that relates to tribunals in general or to any particular tribunal, and
 - (ii) whose referral to the Council falls within paragraph 16.

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- (2) The Council may scrutinise and comment on legislation, existing or proposed, relating to tribunals or to any particular tribunal.
- (3) The Council must—
 - (a) consult the Scottish Committee before exercising the power conferred by sub-paragraph (2) with respect to legislation, existing or proposed, that relates to at least one tribunal with jurisdiction in cases arising in Scotland;
 - (b) consult the Welsh Committee before exercising that power with respect to legislation, existing or proposed, that relates to at least one tribunal with jurisdiction in cases arising in Wales.
- (4) In sub-paragraphs (1)(c), (2) and (3)—
 - “legislation” includes procedural rules;
 - “tribunal” includes a proposed tribunal.

General functions with respect to statutory inquiries

- 15 The Council is to—
- (a) keep under review, and report on, the constitution and working of statutory inquiries, both in general and by reference to statutory provisions under which statutory inquiries of different descriptions may be held,
 - (b) consider, and report on, any other matter—
 - (i) that relates to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
 - (ii) that the Council determines to be of special importance, and
 - (c) consider, and report on, any particular matter referred to the Council—
 - (i) that relates to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
 - (ii) whose referral to the Council falls within paragraph 16.

Referral of matters to the Council under paragraphs 14 and 15

- 16 (1) This paragraph has effect for the purposes of paragraphs 14(1)(c) and 15(c).
- (2) The referral of any matter falls within this paragraph if it is referred to the Council jointly by—
- (a) the Lord Chancellor,
 - (b) the Welsh Ministers, and
 - (c) the Scottish Ministers.
- (3) In addition—
- (a) the referral of a matter that relates only to Wales falls within this paragraph if it is referred to the Council by the Welsh Ministers,
 - (b) the referral of a matter that relates only to Scotland falls within this paragraph if it is referred to the Council by the Scottish Ministers, and
 - (c) the referral of a matter that—
 - (i) does not relate to Scotland, and
 - (ii) if it relates to Wales, does not relate only to Wales,falls within this paragraph if it is referred to the Council by the Lord Chancellor.

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Reports by the Council under paragraphs 14 and 15

- 17 (1) A report by the Council on a matter referred to it under paragraph 14(1)(c) or 15(c) must be made to the authority or authorities who referred the matter.
- (2) Any other report by the Council under paragraph 14 or 15—
- (a) must be made to the Lord Chancellor,
 - (b) if it relates to Wales, must be made also to the Welsh Ministers, and
 - (c) if it relates to Scotland, must be made also to the Scottish Ministers.
- (3) The Lord Chancellor must lay before each House of Parliament every report made by the Council to him under this paragraph, other than a report that relates only to matters within sub-paragraph (4).
- (4) Matters are within this sub-paragraph if legislation providing for them would be within the legislative competence of the Scottish Parliament if the legislation were included in an Act of that Parliament.
- (5) The Scottish Ministers must lay before the Scottish Parliament every report made by the Council to them under this paragraph.
- (6) The Welsh Ministers must lay before the National Assembly for Wales every report made by the Council to them under this paragraph.
- (7) Where—
- (a) a report is required by this paragraph to be made to one or more, but not all, of—
 - (i) the Lord Chancellor,
 - (ii) the Welsh Ministers, and
 - (iii) the Scottish Ministers, and
 - (b) the Council considers that the report could be relevant to matters that are the responsibility of another of those authorities,
- the Council must send a copy of the report to the other authority.

Referral of matters to, and reports by, the Scottish Committee

- 18 (1) The Council may not make a report on any matter relating only to Scotland until the Council—
- (a) has referred the matter of the report for consideration, and report to the Council, by the Scottish Committee, and
 - (b) has considered the report of the Committee.
- (2) Where the Council proposes to make a report on a matter that relates to Scotland but not only to Scotland, the Council must give the Scottish Committee details of the matter.
- (3) The Scottish Committee may of its own motion make a report to the Council on any of the following matters so far as relating to Scotland—
- (a) any matter relating to the administrative justice system,
 - (b) the constitution or working—
 - (i) of listed tribunals in general or of a particular listed tribunal, or
 - (ii) of statutory inquiries in general or of statutory inquiries of a particular description,

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- (c) any other matter—
 - (i) that relates to listed tribunals in general, to a particular listed tribunal, to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
 - (ii) that the Scottish Committee determines to be of special importance, and
 - (d) any matter referred to the Council under paragraph 14(1)(c) or 15(c).
- (4) If—
- (a) the Council does not make a report on matters dealt with in a report made by the Scottish Committee under sub-paragraph (1) or (3), or
 - (b) in making a report on those matters, the Council does not adopt the report made by the Scottish Committee without modification,
- the Scottish Committee may submit its report to the Scottish Ministers.
- (5) Where the Scottish Committee—
- (a) submits a report to the Scottish Ministers under sub-paragraph (4), and
 - (b) considers that the report could be relevant to matters that are the responsibility of the Lord Chancellor or the Welsh Ministers,
- the Council must send a copy of the report to the Lord Chancellor or (as the case may be) the Assembly.
- (6) The Scottish Ministers must lay before the Scottish Parliament any report submitted to them under sub-paragraph (4).
- (7) In sub-paragraph (3)(a) “the administrative justice system” has the meaning given by paragraph 13(4).

Referral of matters to, and reports by, the Welsh Committee

- 19 (1) The Council may not make a report on any matter relating only to Wales until the Council—
- (a) has referred the matter of the report for consideration, and report to the Council, by the Welsh Committee, and
 - (b) has considered the report of the Committee.
- (2) Where the Council proposes to make a report on a matter that relates to Wales but not only to Wales, the Council must give the Welsh Committee details of the matter.
- (3) The Welsh Committee may of its own motion make a report to the Council on any of the following matters so far as relating to Wales—
- (a) any matter relating to the administrative justice system,
 - (b) the constitution or working—
 - (i) of listed tribunals in general or of a particular listed tribunal, or
 - (ii) of statutory inquiries in general or of statutory inquiries of a particular description,
 - (c) any other matter—
 - (i) that relates to listed tribunals in general, to a particular listed tribunal, to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and

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- (ii) that the Welsh Committee determines to be of special importance, and
- (d) any matter referred to the Council under paragraph 14(1)(c) or 15(c).
- (4) If—
 - (a) the Council does not make a report on matters dealt with in a report made by the Welsh Committee under sub-paragraph (1) or (3), or
 - (b) in making a report on those matters, the Council does not adopt the report made by the Welsh Committee without modification,
 the Welsh Committee may submit its report to the Welsh Ministers.
- (5) Where the Welsh Committee—
 - (a) submits a report to the Welsh Ministers under sub-paragraph (4), and
 - (b) considers that the report could be relevant to matters that are the responsibility of the Lord Chancellor or the Scottish Ministers,
 the Council must send a copy of the report to the Lord Chancellor or (as the case may be) the Scottish Ministers.
- (6) The Welsh Ministers must lay before the National Assembly for Wales any report submitted to them under sub-paragraph (4).
- (7) In sub-paragraph (3)(a) “the administrative justice system” has the meaning given by paragraph 13(4).

The Council's programme of work

- 20
- (1) The Council must formulate, in general terms, a programme of the work that the Council plans to undertake in carrying out its functions.
 - (2) The Council must—
 - (a) keep the programme under review, and
 - (b) revise it when appropriate.
 - (3) In discharging its duties under sub-paragraphs (1) and (2), the Council must have regard to—
 - (a) the work of the Civil Justice Council,
 - (b) the work of the Social Security Advisory Committee, and
 - (c) the work of the Industrial Injuries Advisory Council.
 - (4) The Council must send a copy of the programme, and a copy of any significant revisions to the programme, to—
 - (a) the Lord Chancellor,
 - (b) the Welsh Ministers, and
 - (c) the Scottish Ministers.

Annual reports

- 21
- (1) The Council must make an annual report on the proceedings of the Council to—
 - (a) the Lord Chancellor,
 - (b) the Scottish Ministers, and
 - (c) the Welsh Ministers.

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- (2) The Scottish Committee must make an annual report to the Scottish Ministers on the proceedings of the Scottish Committee.
- (3) The Welsh Committee must make an annual report to the Welsh Ministers on the proceedings of the Welsh Committee.
- (4) The Lord Chancellor must lay before each House of Parliament a copy of any report made under sub-paragraph (1).
- (5) The Scottish Ministers must lay before the Scottish Parliament a copy of any report made under sub-paragraph (1) or (2).
- (6) The Welsh Ministers must lay before the National Assembly for Wales a copy of any report made under sub-paragraph (1) or (3).

Right to attend proceedings

- 22 (1) A member of any of—
- (a) the Council,
 - (b) the Scottish Committee, and
 - (c) the Welsh Committee,
- may attend (as observer) proceedings of a listed tribunal or of a statutory inquiry.
- (2) The right under sub-paragraph (1) applies even in respect of proceedings—
- (a) taking the form of a hearing held in private, or
 - (b) not taking the form of a hearing.
- (3) The right under sub-paragraph (1) is subject to any statutory provision by which members of the Council, members of the Scottish Committee or members of the Welsh Committee are expressly excluded from proceedings.

Application to Northern Ireland

- 23 Nothing in paragraphs 13 to 15 authorises or requires the Council to deal with a matter if legislation providing for the matter would be within the legislative competence of the Northern Ireland Assembly.

PART 3

COUNCIL TO BE CONSULTED ON RULES FOR LISTED TRIBUNALS

- 24 (1) The power of a Minister of the Crown, the Welsh Ministers or the Scottish Ministers to make, approve, confirm or concur in procedural rules for any listed tribunal is exercisable only after consultation with the Council.
- (2) Sub-paragraph (1) does not apply with respect to any procedural rules made or to be made for a listed tribunal by the Tribunal Procedure Committee.
- (3) The Council must consult the Scottish Committee in relation to the exercise of its function under sub-paragraph (1) with respect to any tribunal having jurisdiction in relation to Scotland.

Status: This is the original version (as it was originally enacted).

- (4) The Council must consult the Welsh Committee in relation to the exercise of its function under sub-paragraph (1) with respect to any tribunal having jurisdiction in relation to Wales.

PART 4

INTERPRETATION

Meaning of “listed tribunal”

- 25 (1) The following are listed tribunals for the purposes of this Schedule—
- (a) the First-tier Tribunal, and
 - (b) the Upper Tribunal.
- (2) In addition, an authority may by order provide for a tribunal to be a listed tribunal for the purposes of this Schedule if, or to the extent that, the tribunal is one for which the authority is responsible.
- (3) For the purposes of sub-paragraph (2)—
- (a) each of the following is an authority—
 - (i) the Lord Chancellor,
 - (ii) the Scottish Ministers, and
 - (iii) the Welsh Ministers, and
 - (b) the Lord Chancellor is the authority responsible for a tribunal unless, or except to the extent that, paragraph 26 or 27 provides for the Scottish Ministers or the Welsh Ministers to be the authority responsible for the tribunal.
- (4) An order under sub-paragraph (2) may include—
- (a) provision for a tribunal to be a listed tribunal only for the purposes of provisions of this Schedule specified in the order;
 - (b) provision for a tribunal to be a listed tribunal for the purposes of this Schedule, or for the purposes of provisions of this Schedule specified in the order, only in so far as it exercises functions so specified.
- (5) The power under sub-paragraph (2) may not be exercised so as to cause a tribunal to be a listed tribunal for any purpose of this Schedule so far as it exercises functions with respect to relevant Northern Ireland matters; and for this purpose a matter is a “relevant Northern Ireland matter” if legislation providing for the matter would be within the legislative competence of the Northern Ireland Assembly.
- (6) The power under sub-paragraph (2) may not be exercised so as to cause a tribunal to be a listed tribunal for any purpose of this Schedule if the tribunal is established otherwise than by or under a statutory provision.
- (7) Sub-paragraph (4) is not to be taken to prejudice the generality of section 49(3).

Responsible authorities for purposes of paragraph 25: Scotland

- 26 (1) This paragraph applies for the purposes of paragraph 25.
- (2) The Scottish Ministers are the authority responsible for a tribunal if—

Status: This is the original version (as it was originally enacted).

- (a) all of the tribunal's functions are exercisable only in relation to Scotland, and
 - (b) at least one of the powers referred to in sub-paragraph (3) is exercisable as mentioned in sub-paragraph (6).
- (3) Those powers are—
- (a) power to appoint the members of the tribunal;
 - (b) power to make procedural rules for the tribunal.
- (4) In the case of a tribunal that exercises functions in relation to Scotland and also exercises those or other functions in relation to somewhere other than Scotland, the Scottish Ministers are the authority responsible for the tribunal to the extent that it exercises functions in relation to Scotland if at least one of the powers referred to in sub-paragraph (5) is exercisable as mentioned in sub-paragraph (6).
- (5) Those powers are—
- (a) power to appoint the members of tribunal who exercise the tribunal's functions in relation to Scotland;
 - (b) power to make procedural rules for the exercise of the tribunal's functions in relation to Scotland.
- (6) Power is exercisable as mentioned in this sub-paragraph if it is exercisable—
- (a) by the Scottish Ministers, or
 - (b) by the Lord President of the Court of Session,
- and is not exercisable by them or him jointly or concurrently with a Minister of the Crown.

Responsible authorities for purposes of paragraph 25: Wales

- 27 (1) This paragraph applies for the purposes of paragraph 25.
- (2) The Welsh Ministers are the authority responsible for a tribunal if—
- (a) all of the tribunal's functions are exercisable only in relation to Wales, and
 - (b) at least one of the powers referred to in sub-paragraph (3) is exercisable as mentioned in sub-paragraph (6).
- (3) Those powers are—
- (a) power to appoint the members of the tribunal;
 - (b) power to make procedural rules for the tribunal.
- (4) In the case of a tribunal that exercises functions in relation to Wales and also exercises those or other functions in relation to somewhere other than Wales, the Welsh Ministers are the authority responsible for the tribunal to the extent that it exercises functions in relation to Wales if at least one of the powers referred to in sub-paragraph (5) is exercisable as mentioned in sub-paragraph (6).
- (5) Those powers are—
- (a) power to appoint the members of the tribunal who exercise the tribunal's functions in relation to Wales;
 - (b) power to make procedural rules for the exercise of the tribunal's functions in relation to Wales.

Status: This is the original version (as it was originally enacted).

- (6) Power is exercisable as mentioned in this sub-paragraph if it is exercisable by the Welsh Ministers and is not exercisable by the Welsh Ministers jointly or concurrently with a Minister of the Crown.

Other definitions

- 28 (1) In this Schedule—
- “enactment” includes an Act of the Scottish Parliament;
 - “the Council” means the Administrative Justice and Tribunals Council;
 - “Minister of the Crown” has the meaning given in the Ministers of the Crown Act 1975 (c. 26);
 - “procedural rules”, in relation to a tribunal, includes any statutory provision relating to the practice or procedure of the tribunal;
 - “the Scottish Committee” means the Scottish Committee of the Council;
 - “statutory inquiry” means a 1992 Act inquiry held, or to be held, by or on behalf of—
 - (a) a Minister of the Crown,
 - (b) the Scottish Ministers, or
 - (c) the Welsh Ministers;
 - “statutory provision” means a provision contained in, or having effect under, any enactment;
 - “tribunal” does not include an ordinary court of law;
 - “the Welsh Committee” means the Welsh Committee of the Council;
- (2) References in this Schedule to members of tribunals include references to the person constituting a tribunal consisting of one person.
- (3) In sub-paragraph (1) “1992 Act inquiry” means—
- (a) an inquiry or hearing within paragraph (a) of the definition of “statutory inquiry” in section 16(1) of the Tribunals and Inquiries Act 1992 (c. 53), or
 - (b) an inquiry or hearing that is a statutory inquiry for the purposes of that Act by virtue of an order under section 16(2) of that Act (including such an order made after the coming into force of this Schedule).

SCHEDULE 8

Section 48(1)

TRIBUNALS AND INQUIRIES: CONSEQUENTIAL AND OTHER AMENDMENTS

Taxes Management Act 1970 (c. 9)

- 1 (1) The following offices are abolished—
- General Commissioner;
 - clerk to the General Commissioners for a division;
 - assistant clerk to the General Commissioners for a division.
- (2) In consequence of sub-paragraph (1), sections 2 and 3 of the Taxes Management Act 1970 cease to have effect.
- (3) In this paragraph—

Status: This is the original version (as it was originally enacted).

“division” has the meaning given by section 2(1) and (6) of that Act;
“General Commissioner” means a Commissioner for the general purposes
of the income tax.

Chronically Sick and Disabled Persons Act 1970 (c. 44)

- 2 In section 21(7E) of the Chronically Sick and Disabled Persons Act 1970 (procedural regulations in connection with appeals against refusal of application for disabled person’s badge), for “Council on Tribunals” substitute “Administrative Justice and Tribunals Council”.

Health and Safety at Work etc. Act 1974 (c. 37)

- 3 In section 44 of the Health and Safety at Work etc. Act 1974 (appeals in connection with licensing provisions), after subsection (4) insert—
- “(4A) A hearing held by a person appointed in pursuance of subsection (2) above shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

House of Commons Disqualification Act 1975 (c. 24)

- 4 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies whose members are disqualified), in the appropriate places insert—
- “The Administrative Justice and Tribunals Council.”
- “The First-tier Tribunal.”
- “The Scottish Committee of the Administrative Justice and Tribunals Council.”
- “The Upper Tribunal.”
- “The Welsh Committee of the Administrative Justice and Tribunals Council.”

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 5 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified), in the appropriate places insert—
- “The Administrative Justice and Tribunals Council.”
- “The First-tier Tribunal.”
- “The Scottish Committee of the Administrative Justice and Tribunals Council.”
- “The Upper Tribunal.”
- “The Welsh Committee of the Administrative Justice and Tribunals Council.”

Litigants in Person (Costs and Expenses) Act 1975 (c. 47)

- 6 (1) The Litigants in Person (Costs and Expenses) Act 1975 is amended as follows.

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- (2) In section 1(1) and (2) (costs, expenses and losses of litigant in person to be recoverable), before the word “or” at the end of paragraph (b) insert—
 “(ba) before the First-tier Tribunal or the Upper Tribunal,”.
- (3) In section 1(4) (meaning of “rules of court”), before the word “and” at the end of paragraph (b) insert—
 “(ba) in relation to the First-tier Tribunal or the Upper Tribunal, means Tribunal Procedure Rules,”.

Race Relations Act 1976 (c. 74)

- 7 In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty), under the heading “Other bodies, etc.” insert the following entries in the appropriate places—
 “The Administrative Justice and Tribunals Council.”
 “The Scottish Committee of the Administrative Justice and Tribunals Council.”
 “The Welsh Committee of the Administrative Justice and Tribunals Council.”

Estate Agents Act 1979 (c. 38)

- 8 Omit section 24(2) of the Estate Agents Act 1979 (Council on Tribunals' right to attend hearings etc.).

Town and Country Planning Act 1990 (c. 8)

- 9 The Town and Country Planning Act 1990 is amended as follows.
- 10 In paragraph 8 of Schedule 6 (appeals determined by appointed persons: supplementary provision), after sub-paragraph (1) insert—
 “(1A) A local inquiry or hearing held in pursuance of this Schedule shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”
- 11 In paragraph 8 of Schedule 7 (objections to simplified planning zone schemes), after sub-paragraph (6) insert—
 “(7) A local inquiry or other hearing held under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”
- 12 In paragraph 5 of Schedule 8 (local inquiries held by Planning Inquiry Commission), after sub-paragraph (3) insert—
 “(3A) An inquiry held by a commission under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

Food Safety Act 1990 (c. 16)

- 13 (1) The Food Safety Act 1990 is amended as follows.
- (2) In section 26(2)(e) (regulations may provide for appeals, including appeals to a tribunal set up by the regulations)—
- (a) after “to the sheriff,” insert “or to the First-tier Tribunal or the Upper Tribunal,” and
 - (b) omit “or to a tribunal constituted in accordance with the regulations,”.
- (3) In section 37(2) (subsection (1)(c) does not apply where appeal may be made to a tribunal set up by regulations under Part 2), for the words from “provide for an appeal” onwards substitute “provide for an appeal—
- (a) to a tribunal constituted in accordance with the regulations, or
 - (b) to the First-tier Tribunal or the Upper Tribunal.”

Courts and Legal Services Act 1990 (c. 41)

- 14 The Courts and Legal Services Act 1990 is amended as follows.
- 15 In section 119(1) (interpretation), in the definition of “court”, for paragraph (a) (any tribunal kept under review by the Council on Tribunals) substitute—
- “(a) a tribunal that is (to any extent) a listed tribunal for, or for any of, the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council);”.
- 16 In Schedule 11 (full-time judges etc barred from legal practice), at the end insert—
- “Judge or other member of the First-tier Tribunal—
 - (a) appointed under paragraph 1(1) or 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007, or
 - (b) who is a transferred-in judge, or a transferred-in other member, of the First-tier Tribunal (see section 31(2) of that Act)
- Judge or other member of the Upper Tribunal—
- (a) appointed under paragraph 1(1) or 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, or
 - (b) who is a transferred-in judge, or a transferred-in other member, of the Upper Tribunal (see section 31(2) of that Act)
- Senior President of Tribunals
- Chamber President, or Acting Chamber President or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal”.

Social Security Administration Act 1992 (c. 5)

- 17 The Social Security Administration Act 1992 is amended as follows.
- 18 In Schedule 4 (persons employed in social security administration or adjudication), in paragraph 3(b) of Part 2, for “Council on Tribunals or the” substitute “Administrative Justice and Tribunals Council or the Welsh or”.
- 19 In Schedule 7 (regulations not requiring prior submission), in paragraphs 9 and 14, for the words from “Council on Tribunals” onwards substitute “Administrative

Status: This is the original version (as it was originally enacted).

Justice and Tribunals Council is required by paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007.”

Transport and Works Act 1992 (c. 42)

- 20 The Transport and Works Act 1992 is amended as follows.
- 21 In section 22 (validity of orders authorising works), in subsections (1)(b) and (2)(b), for “1971” substitute “1992”.
- 22 (1) Section 23 (inquiries etc. held by person appointed to determine application) is amended as follows.
- (2) In subsection (9)—
- (a) for “1971” substitute “1992”, and
- (b) for “section 12(1)” substitute “section 10(1)”.
- (3) After that subsection insert—
- “(9A) A local inquiry or other hearing held by a person appointed under this section shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

Tribunals and Inquiries Act 1992 (c. 53)

- 23 The Tribunals and Inquiries Act 1992 is amended as follows.
- 24 Omit section 5 (recommendations of Council as to appointment of members of tribunals).
- 25 In section 6, subsections (1) to (3) (chairman of a tribunal presided over by a Child Support Commissioner, and chairman of a reserve forces reinstatement committee, to be selected from panels appointed by Lord Chancellor or Lord President of the Court of Session) cease to have effect.
- 26 In section 8 (procedural rules for tribunals), after subsection (1) insert—
- “(1A) Subsection (1) does not apply with respect to any procedural rules made or to be made by the Tribunal Procedure Committee.”
- 27 Omit section 8 (procedural rules for tribunals).
- 28 In section 9 (power of Lord Chancellor, after consulting the Council, to make rules of procedure for statutory inquiries), after subsection (3) insert—
- “(3A) The Council, in exercising their functions under this section in relation to inquiries to be held in Wales, shall consult with the Welsh Committee.”
- 29 In section 14(1) (restricted application of Act in relation to certain tribunals)—
- (a) for “the working or a decision of, or procedural rules for,” substitute “a decision of”, and
- (b) for “working, decisions or procedure” substitute “decisions”.
- 30 In section 16(1) (interpretation)—
- (a) for the definition of “Council” substitute—

Status: This is the original version (as it was originally enacted).

- ““Council” means the Administrative Justice and Tribunals Council,”
- (b) after the definition of “Council” insert—
- ““enactment” includes an Act of the Scottish Parliament,”
- (c) for the definition of “Scottish Committee” substitute—
- ““Scottish Committee” means the Scottish Committee of the Administrative Justice and Tribunals Council,” and
- (d) after the definition of “statutory provision” insert—
- ““Welsh Committee” means the Welsh Committee of the Administrative Justice and Tribunals Council.”

Judicial Pensions and Retirement Act 1993 (c. 8)

- 31 (1) The Judicial Pensions and Retirement Act 1993 is amended as follows.
- (2) In section 26 (retirement date for holders of certain judicial offices etc.), subsection (7) is amended as follows.
- (3) In paragraph (f), for the words from “(persons” to the end substitute “(holders of relevant office);”.
- (4) After paragraph (g) insert—
- “(ga) hold office as a deputy judge of the Upper Tribunal if—
- (i) section 94B of the Constitutional Reform Act 2005 applied to the appointment, and
- (ii) his corresponding qualifying office was listed in section 6(1) of the Tribunals, Courts and Enforcement Act 2007;”.
- (5) In Part 2 of Schedule 1 (offices which may be qualifying judicial offices for purposes of the pensions provisions), at the end of the part dealing with the members of tribunals insert—
- “Judge or other member of the First-tier Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007
Judge or other member of the Upper Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007
Transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of the Tribunals, Courts and Enforcement Act 2007)
Senior President of Tribunals
Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal”.
- (6) In Schedule 5 (retirement provisions: the relevant offices), at the end insert—
- “Judge or other member of the First-tier Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007
Judge or other member of the Upper Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Status: This is the original version (as it was originally enacted).

Transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of the Tribunals, Courts and Enforcement Act 2007)

Senior President of Tribunals

Deputy judge of the Upper Tribunal appointed under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, except in a case where the holding of the office by the person in question falls within section 26(7)(ga) of this Act

Deputy judge of the Upper Tribunal by virtue of an order under section 31(2) of the Tribunals, Courts and Enforcement Act 2007

Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal”.

Pension Schemes Act 1993 (c. 48)

- 32 In section 185(8) of the Pension Schemes Act 1993 (consultation about regulations), for “Council on Tribunals” substitute “Administrative Justice and Tribunals Council”.

Law of Property (Miscellaneous Provisions) Act 1994 (c. 36)

- 33 (1) Section 17(3) of the Law of Property (Miscellaneous Provisions) Act 1994 (notices affecting land where recipient has died: exceptions where relating to court or tribunal etc. proceedings) is amended as follows.
- (2) For paragraph (b) substitute—
- “(b) any tribunal that is (to any extent) a listed tribunal for, or for any of, the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council), or”.
- (3) For “within the meaning of section 8 of the Tribunals and Inquiries Act 1992” substitute “within the meaning given by paragraph 28 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007”.

Criminal Injuries Compensation Act 1995 (c. 53)

- 34 In the Criminal Injuries Compensation Act 1995, after section 5 insert—

“5A Oaths to be taken by adjudicators

- (1) A person appointed as an adjudicator under section 5 (“the adjudicator”) must take—
- (a) the oath of allegiance, and
- (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.
- (2) The adjudicator must take the oaths before—
- (a) the Senior President of Tribunals, or
- (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the adjudicator.

Status: This is the original version (as it was originally enacted).

- (3) A person is eligible for the purposes of subsection (2)(b) if any one or more of the following paragraphs applies to him—
- (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
 - (b) he holds judicial office (as defined in section 109(4) of that Act);
 - (c) he holds (in Scotland) the office of sheriff.
- (4) In relation to a person who is an adjudicator appointed before the coming into force of this section, the requirement in subsection (1) applies from the coming into force of this section.”

Employment Tribunals Act 1996 (c. 17)

35 The Employment Tribunals Act 1996 is amended as follows.

36 Before section 4 insert—

“3A Meaning of “Employment Judge”

A person who is a member of a panel of chairmen of employment tribunals which is appointed in accordance with regulations under section 1(1) may be referred to as an Employment Judge.”

37 In section 4 (composition of employment tribunals), in each of subsections (2), (6), (6A) and (6B)(a) (which refer to the person who is the chairman of an employment tribunal), after “the person mentioned in subsection (1)(a) alone” insert “or alone by any Employment Judge who, in accordance with regulations made under section 1(1), is a member of the tribunal”.

38 In sections 4(4), 18(8) and 40(1), after “The Secretary of State” insert “and the Lord Chancellor, acting jointly,”.

39 In section 5(1) (pay), for paragraph (c) substitute—

“(c) any person who is an Employment Judge on a full-time basis, and”.

40 After section 5 insert—

“5A Training etc.

The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of members of panels of members of employment tribunals (in their capacities as members of such panels, whether or not panels of chairmen).

5B Members of employment tribunals: removal from office

- (1) Any power by which the President of the Employment Tribunals (England and Wales) may be removed from that office may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.
- (2) Any power by which the President of the Employment Tribunals (Scotland) may be removed from that office may be exercised only with the concurrence of the Lord President of the Court of Session.

Status: This is the original version (as it was originally enacted).

- (3) Any power by which a member of a panel may be removed from membership of the panel—
 - (a) may, if the person exercises functions wholly or mainly in Scotland, be exercised only with the concurrence of the Lord President of the Court of Session;
 - (b) may, if paragraph (a) does not apply, be exercised only with the concurrence of the Lord Chief Justice of England and Wales.
- (4) In subsection (3) “panel” means—
 - (a) a panel of chairmen of employment tribunals, or
 - (b) any other panel of members of employment tribunals,
 which is appointed in accordance with regulations made under section 1(1).
- (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 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 this section.

5C Oaths

- (1) Subsection (2) applies to a person (“the appointee”)—
 - (a) who is appointed—
 - (i) as President of the Employment Tribunals (England and Wales),
 - (ii) as President of the Employment Tribunals (Scotland), or
 - (iii) as a member of a panel (as defined in section 5B(4)), and
 - (b) who has not previously taken the required oaths after accepting another office.
- (2) The appointee must take the required oaths before—
 - (a) the Senior President of Tribunals, or
 - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) If the appointee is a President or panel member appointed before the coming into force of this section, the requirement in subsection (2) applies in relation to the appointee from the coming into force of this section.
- (4) A person is eligible for the purposes of subsection (2)(b) if one or more of the following paragraphs applies to him—
 - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
 - (b) he holds judicial office (as defined in section 109(4) of that Act);
 - (c) he holds (in Scotland) the office of sheriff.
- (5) In this section “the required oaths” means—
 - (a) the oath of allegiance, and
 - (b) the judicial oath,

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as set out in the Promissory Oaths Act 1868.

5D Judicial assistance

- (1) Subsection (2) applies where regulations under section 1(1) make provision for a relevant tribunal judge, or a relevant judge, to be able by virtue of his office to act as a member of a panel of members of employment tribunals.
- (2) The provision has effect only if—
 - (a) the persons in relation to whom the provision operates have to be persons nominated for the purposes of the provision by the Senior President of Tribunals,
 - (b) its operation in relation to a panel established for England and Wales in any particular case requires the consent of the President of Employment Tribunals (England and Wales),
 - (c) its operation in relation to a panel established for Scotland in any particular case requires the consent of the President of Employment Tribunals (Scotland),
 - (d) its operation as respects a particular relevant judge requires—
 - (i) the consent of the relevant judge, and
 - (ii) the appropriate consent (see subsection (3)), and
 - (e) it operates as respects a relevant tribunal judge or a relevant judge only for the purpose of enabling him to act as a member of a panel of chairmen of employment tribunals.
- (3) In subsection (2)(d)(ii) “the appropriate consent” means—
 - (a) the consent of the Lord Chief Justice of England and Wales where the relevant judge is—
 - (i) an ordinary judge of the Court of Appeal in England and Wales,
 - (ii) a puisne judge of the High Court in England and Wales,
 - (iii) a circuit judge,
 - (iv) a district judge in England and Wales, or
 - (v) a District Judge (Magistrates' Courts);
 - (b) the consent of the Lord President of the Court of Session where the relevant judge is—
 - (i) a judge of the Court of Session, or
 - (ii) a sheriff;
 - (c) the consent of the Lord Chief Justice of Northern Ireland where the relevant judge is—
 - (i) a Lord Justice of Appeal in Northern Ireland,
 - (ii) a puisne judge of the High Court in Northern Ireland,
 - (iii) a county court judge in Northern Ireland, or
 - (iv) a district judge in Northern Ireland.
- (4) In this section—
 - (a) “relevant tribunal judge” means—
 - (i) a person who is a judge of the First-tier Tribunal by virtue of appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007,

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- (ii) a transferred-in judge of the First-tier Tribunal,
- (iii) a person who is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3 to that Act,
- (iv) a transferred-in judge of the Upper Tribunal,
- (v) a deputy judge of the Upper Tribunal, or
- (vi) a person who is the Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, and does not fall within any of sub-paragraphs (i) to (v);

(b) “relevant judge” means a person who—

- (i) is an ordinary judge of the Court of Appeal in England and Wales (including the vice-president, if any, of either division of that Court),
- (ii) is a Lord Justice of Appeal in Northern Ireland,
- (iii) is a judge of the Court of Session,
- (iv) is a puisne judge of the High Court in England and Wales or Northern Ireland,
- (v) is a circuit judge,
- (vi) is a sheriff in Scotland,
- (vii) is a county court judge in Northern Ireland,
- (viii) is a district judge in England and Wales or Northern Ireland, or
- (ix) is a District Judge (Magistrates' Courts).

(5) References in subsection (4)(b)(iii) to (ix) to office-holders do not include deputies or temporary office-holders.”

41 (1) Section 7A (practice directions) is amended as follows.

(2) Before subsection (1) insert—

“(A1) The Senior President of Tribunals may make directions about the procedure of employment tribunals.”

(3) In subsection (1)—

- (a) in paragraph (a), before “President” insert “territorial”, and
- (b) in paragraphs (b) and (c), for “such directions” substitute “directions under subsection (A1) or paragraph (a)”.

(4) In subsection (2), for “by the President” substitute “under subsection (A1) or (1)(a)”.

(5) After subsection (2) insert—

“(2A) The power under subsection (A1) includes—

- (a) power to vary or revoke directions made in exercise of the power, and
- (b) power to make different provision for different purposes (including different provision for different areas).

(2B) Directions under subsection (A1) may not be made without the approval of the Lord Chancellor.

(2C) Directions under subsection (1)(a) may not be made without the approval of—

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- (a) the Senior President of Tribunals, and
- (b) the Lord Chancellor.

(2D) Subsections (2B) and (2C)(b) do 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 decisions by members of an employment tribunal.

(2E) Subsections (2B) and (2C)(b) do not apply to directions to the extent that they consist of criteria for determining which members of employment tribunals may be selected to decide particular categories of matter; but the directions may, to that extent, be made only after consulting the Lord Chancellor.”

(6) In subsection (3), after “references to the” insert “territorial”.

42 After section 7A insert—

“7B Mediation

- (1) Employment tribunal procedure regulations may include provision enabling practice directions to provide for members to act as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (2) The provision that may be included in employment tribunal procedure regulations by virtue of subsection (1) includes provision for enabling practice directions to provide for a member to act as mediator in relation to disputed matters in a case even though the member has been selected to decide matters in the case.
- (3) Once a member has begun to act as mediator in relation to a disputed matter in a case that is the subject of proceedings, the member may decide matters in the case only with the consent of the parties.
- (4) Staff appointed under section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (staff for employment and other tribunals) may, subject to their terms of appointment, act as mediators in relation to disputed matters in a case that is the subject of proceedings.
- (5) Before making a practice direction that makes provision in relation to mediation, the person making the direction must consult the Advisory, Conciliation and Arbitration Service.

(6) In this section—

“member” means a member of a panel of members of employment tribunals (whether or not a panel of chairmen);

“practice direction” means a direction under section 7A;

“proceedings” means proceedings before an employment tribunal.”

43 In section 15(1) (enforcement in England and Wales as an order of a county court), for the words from “shall, if a county court so orders,” to the end substitute “shall be recoverable by execution issued from a county court or otherwise as if it were payable under an order of a county court.”

44 After section 24 insert—

Status: This is the original version (as it was originally enacted).

“24A Training etc. of members of Appeal Tribunal

The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of judges, and other members, of the Appeal Tribunal (in their capacities as members of the Appeal Tribunal).

24B Oaths

- (1) Subsection (2) applies to a person (“the appointee”)—
 - (a) who is appointed under section 22(1)(c) or 23(3), or
 - (b) who is appointed under section 24(1A) and—
 - (i) falls when appointed within paragraph (a), but not paragraph (b), of section 24(2), and
 - (ii) has not previously taken the required oaths after accepting another office.
- (2) The appointee must take the required oaths before—
 - (a) the Senior President of Tribunals, or
 - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) If the appointee is a member of the Appeal Tribunal appointed before the coming into force of this section, the requirement in subsection (2) applies in relation to the appointee from the coming into force of this section.
- (4) A person is eligible for the purposes of subsection (2)(b) if one or more of the following paragraphs applies to him—
 - (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
 - (b) he holds judicial office (as defined in section 109(4) of that Act);
 - (c) he holds (in Scotland) the office of sheriff.
- (5) In this section “the required oaths” means—
 - (a) the oath of allegiance, and
 - (b) the judicial oath,
 as set out in the Promissory Oaths Act 1868.”

45 In section 27(1)(a) (payment of appointed members of Employment Appeal Tribunal), after “members,” insert “and”.

- 46 (1) Section 28 (composition of Employment Appeal Tribunal) is amended as follows.
- (2) In subsection (4) (appeals from employment tribunal consisting of chairman alone), for the words from “question” to “section 4(1)(a) alone” substitute “chairman-alone question”.
 - (3) After subsection (4) insert—
 - “(4A) In subsection (4) “chairman-alone question” means—
 - (a) a question arising from any decision of an employment tribunal that is a decision of—

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- (i) the person mentioned in section 4(1)(a) acting alone, or
- (ii) any Employment Judge acting alone, or
- (b) a question arising in any proceedings before an employment tribunal that are proceedings before—
 - (i) the person mentioned in section 4(1)(a) alone, or
 - (ii) any Employment Judge alone.”

47 After section 29 insert—

“29A Practice directions

- (1) Directions about the procedure of the Appeal Tribunal may be given—
 - (a) by the Senior President of Tribunals, or
 - (b) by the President of the Appeal Tribunal.
- (2) A power under subsection (1) includes—
 - (a) power to vary or revoke directions given in exercise of the power, and
 - (b) power to make different provision for different purposes.
- (3) Directions under subsection (1)(a) may not be given without the approval of the Lord Chancellor.
- (4) Directions under subsection (1)(b) may not be given without the approval of—
 - (a) the Senior President of Tribunals, and
 - (b) the Lord Chancellor.
- (5) Subsection (1) does not prejudice any power apart from that subsection to give directions about the procedure of the Appeal Tribunal.
- (6) Directions may not be given in exercise of any such power as is mentioned in subsection (5) without the approval of—
 - (a) the Senior President of Tribunals, and
 - (b) the Lord Chancellor.
- (7) Subsections (3), (4)(b) and (6)(b) do 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 decisions by members of the Appeal Tribunal.
- (8) Subsections (3), (4)(b) and (6)(b) do not apply to directions to the extent that they consist of criteria for determining which members of the Appeal Tribunal may be chosen to decide particular categories of matter; but the directions may, to that extent, be given only after consulting the Lord Chancellor.
- (9) Subsections (4) and (6) do not apply to directions given in a particular case for the purposes of that case only.
- (10) Subsection (6) does not apply to directions under section 28(1).”

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- 48 In section 30(3) (Employment Appeal Tribunal to regulate its own procedure, subject to procedure rules), after the words “Appeal Tribunal procedure rules” insert “and directions under section 28(1) or 29A(1)”.

Town and Country Planning (Scotland) Act 1997 (c. 8)

- 49 The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- 50 In paragraph 5 of Schedule 6 (local inquiries held by Planning Inquiry Commission), after sub-paragraph (4) insert—
- “(4A) An inquiry held by a commission under this paragraph shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”
- 51 In paragraph 8 of Schedule 7 (local inquiries held by Joint Planning Inquiry Commission), after sub-paragraph (4) insert—
- “(4A) A local inquiry held by a joint commission shall be a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (functions etc. of Administrative Justice and Tribunals Council).”

Greater London Authority Act 1999 (c. 29)

- 52 In section 338 of the Greater London Authority Act 1999 (spatial development strategy: examination in public), for subsection (10) substitute—
- “(10) An examination in public shall constitute a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (Administrative Justice and Tribunals Council).”

Freedom of Information Act 2000 (c. 36)

- 53 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public bodies and offices), insert in the appropriate places—
- “The Administrative Justice and Tribunals Council.”
- “The Scottish Committee of the Administrative Justice and Tribunals Council.”
- “The Welsh Committee of the Administrative Justice and Tribunals Council.”

Nationality, Immigration and Asylum Act 2002 (c. 41)

- 54 (1) The Nationality, Immigration and Asylum Act 2002 is amended as follows.
- (2) In section 107 (power for President of the Asylum and Immigration Tribunal to give practice directions), after subsection (1) insert—
- “(1A) The Senior President of Tribunals may give directions as to the practice to be followed by the Tribunal.”
- (3) In section 107, after subsection (3) insert—
- “(4) Directions under subsection (1) may not be given without the approval of—
- (a) the Senior President of Tribunals, and

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- (b) the Lord Chancellor.
- (5) Directions under subsection (1A) may not be given without the approval of the Lord Chancellor.
- (6) Subsections (4)(b) and (5) do 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 decisions by members of the Tribunal.
- (7) Subsections (4)(b) and (5) do not apply to directions to the extent that they consist of criteria for determining which members of the Tribunal may be chosen to decide particular categories of matter; but the directions may, to that extent, be given only after consulting the Lord Chancellor.”
- (4) In Schedule 4 (membership etc. of the Asylum and Immigration Tribunal), in paragraph 3 (resignation, retirement and terms of appointment), after subparagraph (2) insert—
 - “(3) Any power by which a person may be removed from membership of the Tribunal—
 - (a) may, if the person exercises functions wholly or mainly in Scotland, be exercised only with the concurrence of the Lord President of the Court of Session;
 - (b) may, if the person exercises functions wholly or mainly in Northern Ireland, be exercised only with the concurrence of the Lord Chief Justice of Northern Ireland;
 - (c) may, if neither of paragraphs (a) and (b) applies, be exercised only with the concurrence of the Lord Chief Justice of England and Wales.”
- (5) In Schedule 4, after paragraph 5 insert—

“Judicial assistance

- 5A (1) The Senior President of Tribunals, with the consent of the President of the Tribunal, may assign—
 - (a) a relevant tribunal judge to act as a legally qualified member of the Tribunal;
 - (b) a relevant other tribunal member to act as a member of the Tribunal who is not a legally qualified member.
- (2) In this paragraph—
 - (a) “relevant tribunal judge” means—
 - (i) a person who is a judge of the First-tier Tribunal by virtue of appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007,
 - (ii) a transferred-in judge of the First-tier Tribunal,
 - (iii) a person who is a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3 to that Act,
 - (iv) a transferred-in judge of the Upper Tribunal,

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- (v) a deputy judge of the Upper Tribunal, or
 - (vi) a person who is the Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, and does not fall within any of sub-paragraphs (i) to (v);
- (b) “relevant other tribunal member” means—
- (i) a person who is a member of the First-tier Tribunal by virtue of appointment under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007,
 - (ii) a transferred-in other member of the First-tier Tribunal,
 - (iii) a person who is a member of the Upper Tribunal by virtue of appointment under paragraph 2(1) of Schedule 3 to that Act, or
 - (iv) a transferred-in other member of the Upper Tribunal.
- (3) A relevant tribunal judge within sub-paragraph (2)(a)(i) or (ii) who is assigned under sub-paragraph (1) may, when acting under his assignment, exercise any function or jurisdiction which is exercisable by a legally qualified member of the Tribunal who—
- (a) has the title of Immigration Judge, and
 - (b) is neither the President, nor a Deputy President, of the Tribunal.
- (4) A relevant tribunal judge within sub-paragraph (2)(a)(iii), (iv) or (v) who is assigned under sub-paragraph (1) may, when acting under his assignment, exercise—
- (a) any function or jurisdiction which is exercisable by a legally qualified member of the Tribunal who—
 - (i) has the title of Immigration Judge, and
 - (ii) is neither the President, nor a Deputy President, of the Tribunal, and
 - (b) any function or jurisdiction which is exercisable by a legally qualified member of the Tribunal who—
 - (i) has the title of Senior Immigration Judge, and
 - (ii) is neither the President, nor a Deputy President, of the Tribunal.
- (5) A relevant other tribunal member who is assigned under sub-paragraph (1) may, when acting under his assignment, exercise any function or jurisdiction which is exercisable by a member of the Tribunal who—
- (a) is appointed under paragraph 2(1)(e), and
 - (b) is neither the President, nor a Deputy President, of the Tribunal.
- 5B (1) The Senior President of Tribunals may—
- (a) with the consent of the President of the Tribunal,
 - (b) with the consent required by sub-paragraph (4), and
 - (c) with the consent of the relevant judge concerned,
- assign a relevant judge to act as a Senior Immigration Judge.
- (2) In this paragraph “relevant judge” means a person who—

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- (a) is an ordinary judge of the Court of Appeal in England and Wales (including the vice-president, if any, of either division of that Court),
 - (b) is a Lord Justice of Appeal in Northern Ireland,
 - (c) is a judge of the Court of Session,
 - (d) is a puisne judge of the High Court in England and Wales or Northern Ireland,
 - (e) is a circuit judge,
 - (f) is a sheriff in Scotland,
 - (g) is a county court judge in Northern Ireland,
 - (h) is a district judge in England and Wales or Northern Ireland, or
 - (i) is a District Judge (Magistrates' Courts).
- (3) References in sub-paragraph (2)(c) to (i) to office-holders do not include deputies or temporary office-holders.
- (4) The consent required by this sub-paragraph is—
- (a) the consent of the Lord Chief Justice of England and Wales where the relevant judge is—
 - (i) an ordinary judge of the Court of Appeal in England and Wales,
 - (ii) a puisne judge of the High Court in England and Wales,
 - (iii) a circuit judge,
 - (iv) a district judge in England and Wales, or
 - (v) a District Judge (Magistrates' Courts);
 - (b) the consent of the Lord President of the Court of Session where the relevant judge is—
 - (i) a judge of the Court of Session, or
 - (ii) a sheriff;
 - (c) the consent of the Lord Chief Justice of Northern Ireland where the relevant judge is—
 - (i) a Lord Justice of Appeal in Northern Ireland,
 - (ii) a puisne judge of the High Court in Northern Ireland,
 - (iii) a county court judge in Northern Ireland, or
 - (iv) a district judge in Northern Ireland.
- (5) A relevant judge who is assigned under sub-paragraph (1) may, when acting under his assignment, exercise—
- (a) any function or jurisdiction which is exercisable by a legally qualified member of the Tribunal who—
 - (i) has the title of Immigration Judge, and
 - (ii) is neither the President, nor a Deputy President, of the Tribunal, and
 - (b) any function or jurisdiction which is exercisable by a legally qualified member of the Tribunal who—
 - (i) has the title of Senior Immigration Judge, and
 - (ii) is neither the President, nor a Deputy President, of the Tribunal.”

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- (6) In paragraph 8 of Schedule 4 (allocation of proceedings)—
- (a) in sub-paragraph (1) (President of the Tribunal to make arrangements for allocation of proceedings to members of the Tribunal), for “President” substitute “Senior President of Tribunals”, and
 - (b) in sub-paragraph (2)(a) (arrangements may permit allocation by the President of the Tribunal or another member), for “President or another” substitute “Senior President of Tribunals or a”.
- (7) In Schedule 4, after paragraph 12 insert—

“Training etc.

- 13 The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of members of the Tribunal (in their capacities as such members).

Oaths

- 14 (1) Sub-paragraph (2) applies to a person (“the appointee”)—
- (a) who is appointed under paragraph 1, and
 - (b) who has not previously taken the required oaths after accepting another office.
- (2) The appointee must take the required oaths before—
- (a) the Senior President of Tribunals, or
 - (b) an eligible person who is nominated by the Senior President of Tribunals for the purpose of taking the oaths from the appointee.
- (3) A person is eligible for the purposes of sub-paragraph (2)(b) if one or more of the following paragraphs applies to him—
- (a) he holds high judicial office (as defined in section 60(2) of the Constitutional Reform Act 2005);
 - (b) he holds judicial office (as defined in section 109(4) of that Act);
 - (c) he holds (in Scotland) the office of sheriff.
- (4) In this paragraph “the required oaths” means (subject to sub-paragraph (5))—
- (a) the oath of allegiance, and
 - (b) the judicial oath,
- as set out in the Promissory Oaths Act 1868.
- (5) Where it appears to the Lord Chancellor that the appointee will carry out functions as a member of the Tribunal wholly or mainly in Northern Ireland, he may direct that in relation to the appointee “the required oaths” means—
- (a) the oath as set out in section 19(2) of the Justice (Northern Ireland) Act 2002, or
 - (b) the affirmation and declaration as set out in section 19(3) of that Act.

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- (6) If the appointee is a member of the Tribunal appointed before the coming into force of this paragraph, the requirement in sub-paragraph (2) applies in relation to the appointee from the coming into force of this paragraph.”

Courts Act 2003 (c. 39)

- 55 (1) Section 98 of the Courts Act 2003 (register of judgments and orders etc.) is amended as follows.
- (2) In subsection (1) (registrable orders etc.), after paragraph (e) insert—
- “*(f)* a decision or award of—
- (i) the First-tier Tribunal,
- (ii) the Upper Tribunal,
- (iii) an employment tribunal, or
- (iv) the Employment Appeal Tribunal,
- in pursuance of which any sum is payable.”
- (3) In subsection (3) (regulations)—
- (a) in each of paragraphs (a) and (b) (exemption), after “orders” insert “, decisions, awards”, and
- (b) in paragraph (d) (power to provide for certain sums only to be registered), after “magistrates' court” insert “or in the case of sums payable in pursuance of decisions or awards of a tribunal mentioned in subsection (1)(f)”.

Title Conditions (Scotland) Act 2003 (asp 9)

- 56 The Title Conditions (Scotland) Act 2003 is amended as follows.
- 57 In section 104(1) (rules as to when certain orders of Lands Tribunal take effect), for “Council on Tribunals” substitute “Administrative Justice and Tribunals Council”.
- 58 In section 126 (rules as to fees chargeable by Lands Tribunal in relation to functions under Act), for “Council on Tribunals” substitute “Administrative Justice and Tribunals Council”.

Planning and Compulsory Purchase Act 2004 (c. 5)

- 59 In section 8 of the Planning and Compulsory Purchase Act 2004 (regional spatial strategy: examination in public), for subsection (7) substitute—
- “(7) An examination in public—
- (a) is a statutory inquiry for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007 (Administrative Justice and Tribunals Council), but
- (b) is not a statutory inquiry for the purposes of the Tribunals and Inquiries Act 1992.”

Gender Recognition Act 2004 (c. 7)

- 60 In paragraph 6(5) of Schedule 1 to the Gender Recognition Act 2004 (directions about practice and procedure of Gender Recognition Panels), for “Council on Tribunals” substitute “Administrative Justice and Tribunals Council”.

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Civil Contingencies Act 2004 (c. 36)

- 61 In section 25 of the Civil Contingencies Act 2004 (consultation in connection with establishment of tribunal), in each of subsections (1), (2)(b), (3) and (6), for “Council on Tribunals” substitute “Administrative Justice and Tribunals Council”.

Constitutional Reform Act 2005 (c. 4)

- 62 The Constitutional Reform Act 2005 is amended as follows.
- 63 In section 109(5) (disciplinary powers: meaning of “senior judge”), after paragraph (d) insert—
- “(da) Senior President of Tribunals;”.
- 64 In Schedule 7 (protected functions of Lord Chancellor), in Part A (general) of the list in paragraph 4—
- (a) omit the entry for section 6(2), (8) and (9) of the Tribunals and Inquiries Act 1992 (c. 53), and
- (b) omit the entry for paragraph 7(4) of Schedule 5 to that Act.
- 65 (1) In Schedule 12 (the Judicial Appointments Commission), paragraph 2 (members) is amended as follows.
- (2) In sub-paragraph (2)(d) (one member must be holder of an office listed in Part 3 of Schedule 14), after “listed in Part 3 of Schedule 14” insert “or of an office listed in sub-paragraph (2A)”.
- (3) After sub-paragraph (2) insert—
- “(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)(c) of the Employment Tribunals Act 1996.”
- 66 (1) Schedule 14 (Judicial Appointments Commission: relevant offices and enactments) is amended as follows.
- (2) In Part 1 (appointments by Her Majesty), at the end insert—

“Judge of the Upper Tribunal by appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007	Paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007”
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- (3) In Part 3 (appointments by Lord Chancellor to offices to which paragraph 2(2)(d) of Schedule 12 applies), at the end insert—

“Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the	Section 7(7) of the Tribunals, Courts and Enforcement Act 2007
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Upper Tribunal, by appointment under section 7(7) of the Tribunals, Courts and Enforcement Act 2007, but not where appointed in accordance with paragraph 2(2) to (5) of Schedule 4 to that Act	
Judge of the First-tier Tribunal by appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007	Paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007
Other member of the First-tier Tribunal by appointment under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007	Paragraph 2(1) of Schedule 2 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	Paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007
Deputy judge of the Upper Tribunal by appointment under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007	Paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007
Deputy Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, but not where appointed in accordance with paragraph 5(5) to (8) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007	Paragraph 5(1) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007”

SCHEDULE 9

Section 48(2)

TRIBUNALS: TRANSITIONAL PROVISION

PART 1

GENERAL AND MISCELLANEOUS

Introductory

- 1 The following provisions of this Schedule are to be taken not to prejudice the generality of sections 31(9) and 145(1).

Membership of Tribunal Procedure Committee

- 2 (1) The Lord Chancellor may by order make provision for a person—
- (a) who is a scheduled tribunal, or
 - (b) who is a member of a scheduled tribunal,

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to be treated for the purposes of sub-paragraph (1) of paragraph 22 of Schedule 5 as falling within paragraph (a), (b) or (c) of that sub-paragraph.

- (2) In sub-paragraph (1) “scheduled tribunal” means a tribunal in a list in Schedule 6 that has effect for the purposes of section 30.
- (3) The power under sub-paragraph (1) may not be exercised so as to provide for the Secretary of State to be treated as mentioned in that sub-paragraph.

PART 2

JUDGES AND OTHER MEMBERS OF FIRST-TIER AND UPPER TRIBUNALS: RETIREMENT DATES

Interpretation of Part 2 of Schedule

- 3 (1) For the purposes of this Part of this Schedule—
 - (a) “relevant judicial office” means—
 - (i) the office of transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2)),
 - (ii) an office to which a person is appointed under paragraph 1(1) or 2(1) of Schedule 2 or 3 (judge, or other member, of the First-tier Tribunal or of the Upper Tribunal),
 - (iii) the office of deputy judge of the Upper Tribunal (whether under section 31(2) or under paragraph 7 of Schedule 3),
 - (iv) the office of Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of the Upper Tribunal, or
 - (v) the office of Senior President of Tribunals;
 - (b) “relevant day”, in relation to a person who holds a relevant judicial office, means the day when he was appointed to that office or, if he holds that office as the latest in an unbroken succession of different relevant judicial offices, the day when he was appointed to the first of the offices in that succession;
 - (c) an office is a “qualifying office” at any particular time (but see sub-paragraph (2)) if—
 - (i) the office is that of member of a tribunal which at that time is in a list in Schedule 6, or
 - (ii) the office itself is at that time in a list in Schedule 6,
 and (in either case) the list has effect at that time for the purposes of section 30;
 - (d) “the 1993 Act” means the Judicial Pensions and Retirement Act 1993 (c. 8).
- (2) Where—
 - (a) a person held two or more qualifying offices (“the actual offices”) immediately before the relevant day, and
 - (b) at that time the person held at least one of the actual offices on a salaried basis and held at least one of the actual offices on a non-salaried basis,
 the person shall be treated for the purposes of paragraphs 6 and 7 as not having held immediately before the relevant day any of the actual offices that the person held on a non-salaried basis at that time.
- (3) For the purposes of sub-paragraph (2)—

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- (a) a person holds an office on a salaried basis at any particular time if, at that time, the person's service in the office is remunerated by payment of a salary, and
- (b) a person holds an office on a non-salaried basis at any particular time if, at that time, the person's service in the office—
 - (i) is remunerated by the payment of fees,
 - (ii) is remunerated by the payment of a supplement to the salary payable to him in respect of his service in another office, or
 - (iii) is unremunerated.

Retirement from First-tier and Upper Tribunals: application of paragraphs 5 to 8

4 Paragraphs 5 to 8 apply where a person holds a relevant judicial office.

Retirement later than age 70 in certain cases where office previously held in another tribunal

- 5
- (1) Subject to paragraph 8(1) (persons who held certain judicial offices on 30th March 1995), sub-paragraphs (3) and (4) apply where the person has a personal retirement date under either or both of paragraphs 6 and 7.
 - (2) In sub-paragraphs (3) and (4) and paragraph 8(1) and (2)—
 - (a) if the person has a personal retirement date under just one of paragraphs 6 and 7 or has the same personal retirement date under each of those paragraphs, “the special date” means that date;
 - (b) if the person has a personal retirement date under each of those paragraphs and those dates are different, “the special date” means the later of those dates.
 - (3) Subsection (1) of section 26 of the 1993 Act shall have effect (subject to the following provisions of that section) as if it provided for the person to vacate the relevant judicial office on the special date.
 - (4) The special date is to be taken for the purposes of that section to be the compulsory retirement date for the relevant judicial office in the person's case.

Cases where retirement from existing office would be after age 70

- 6
- (1) Sub-paragraphs (2) and (3) apply where, immediately before the relevant day, the person—
 - (a) held a qualifying office, and
 - (b) was required to vacate the qualifying office on a day later than the day on which he attains the age of 70.
 - (2) The person's personal retirement date under this paragraph is the later day mentioned in sub-paragraph (1)(b), subject to sub-paragraph (3).
 - (3) If—
 - (a) there are two or more qualifying offices each of which is one that, immediately before the relevant day, the person—
 - (i) held, and
 - (ii) was required to vacate on a day later than the day on which he attains the age of 70, and

- (b) the later day mentioned in paragraph (a)(ii) is not the same for each of those offices,
the person's personal retirement date under this paragraph is the latest (or later) of those later days.

Cases where no requirement to retire from existing office

- 7 (1) Sub-paragraph (2) applies where—
- (a) immediately before the relevant day, the person held, on an unlimited basis, a qualifying office or two or more qualifying offices, and
 - (b) the relevant day falls after the day on which the person attains the age of 69.
- (2) The person's personal retirement date under this paragraph is the last day of the 12 months beginning with the day after the relevant day.
- (3) For the purposes of this paragraph, a person holds an office on an unlimited basis at a particular time if at that time he is not required to vacate the office at any particular later time.

Interaction between rules under paragraph 5, and rules under Schedule 7 to the 1993 Act, in cases where office held on 30th March 1995

- 8 (1) If—
- (a) sub-paragraph (2) of paragraph 2 of Schedule 7 to the 1993 Act (transitional provision where person held salaried relevant office on 30th March 1995) has effect in relation to retirement from the relevant judicial office in the person's case, and
 - (b) the date that, for the purposes of that paragraph, is the person's potential retirement date by reference to his pre-commencement office ("the retirement date preserved in 1995") is the same as, or later than, the special date,
- paragraph 5(3) and (4) do not apply.
- (2) If the special date is later than the retirement date preserved in 1995, paragraph 2(2) (b) of Schedule 7 to the 1993 Act does not have effect in relation to the relevant judicial office in the person's case.
- (3) Accordingly, in paragraph 1 of Schedule 7 to the 1993 Act, after sub-paragraph (5) insert—
- “(6) Paragraph 2(2) has effect subject to paragraph 8(2) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007 (certain cases where the post-commencement office is that of judge, or other member, of the First-tier Tribunal or the Upper Tribunal).”

Eligibility for appointment after having attained age of 70

- 9 (1) Sub-paragraph (3) applies in respect of a person on each day that—
- (a) is, or is later than, the day on which the person attains the age of 70,
 - (b) is a day on which the person holds a qualifying office, and
 - (c) is earlier than the day on which the person is required to vacate the qualifying office.

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- (2) Sub-paragraph (3) also applies in respect of a person on each day that—
 - (a) is, or is later than, the day on which the person attains the age of 70, and
 - (b) is a day on which the person holds, on an unlimited basis, a qualifying office.
- (3) Where this sub-paragraph applies in respect of a person on a day, the fact that the person has attained the age of 70 shall not (by itself) render him ineligible for appointment (or re-appointment) on that day to a relevant judicial office.
- (4) For the purposes of this paragraph, a person holds an office on an unlimited basis at a particular time if at that time he is not required to vacate the office at any particular later time.

PART 3

JUDGES AND OTHER MEMBERS OF FIRST-TIER AND UPPER TRIBUNALS: PENSIONS WHERE OFFICE ACQUIRED UNDER SECTION 31(2)

Interpretation of Part 3 of Schedule

- 10 For the purposes of this Part of this Schedule—
- (a) “new office” means—
 - (i) the office of judge of the First-tier Tribunal by virtue of being a transferred-in judge of the First-tier Tribunal,
 - (ii) the office of other member of the First-tier Tribunal by virtue of being a transferred-in other member of the First-tier Tribunal,
 - (iii) the office of judge of the Upper Tribunal by virtue of being a transferred-in judge of the Upper Tribunal, and
 - (iv) the office of other member of the Upper Tribunal by virtue of being a transferred-in other member of the Upper Tribunal;
 - (b) a person holds an office “on a salaried basis” if and so long as, and to the extent that—
 - (i) the person’s service in the office is remunerated by payment of a salary, and
 - (ii) the salary is not subject to terms which preclude rights to pensions and other benefits accruing by reference to it;
 - (c) a person shall be regarded as holding “qualifying judicial office” at any time when he holds, on a salaried basis, any one or more of the offices specified in Schedule 1 to the 1993 Act, and any reference to a “qualifying judicial office” is a reference to any office specified in that Schedule if it is held on a salaried basis;
 - (d) “the 1993 Act” means the Judicial Pensions and Retirement Act 1993 (c. 8).

Right to opt in to Part 1 of the 1993 Act where qualifying judicial office not previously held

- 11 (1) Sub-paragraphs (2) and (3) apply where—
- (a) a person becomes, as a result of provision under section 31(2), the holder of a new office,
 - (b) before that, the person has never held qualifying judicial office, and

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- (c) the person, on becoming the holder of the new office, holds the new office on a salaried basis.
- (2) Section 1(1)(a) of the 1993 Act (Part 1 of the 1993 Act applies to a person who first holds qualifying judicial office on or after 31st March 1995) does not have effect in relation to the person.
- (3) The person is entitled, subject to paragraph 12, to elect for Part 1 of the 1993 Act (judicial pensions) to apply to him.
- (4) Part 1 of the 1993 Act applies to a person who makes an election under sub-paragraph (3).
- (5) Sub-paragraph (4) is subject to sections 1(5) and 13 of the 1993 Act (where person has opted out of Part 1 of the 1993 Act then, except as provided by section 13 of that Act, that Part does not apply to the person).

Election under paragraph 11(3) for pension under Part 1 of the 1993 Act

- 12
- (1) In this paragraph “opt-in election” means an election under paragraph 11(3).
 - (2) An opt-in election may be made only in such circumstances, within such time and in such manner as the Lord Chancellor may by regulations prescribe.
 - (3) An opt-in election is irrevocable.
 - (4) Regulations under sub-paragraph (2) may permit the making of an opt-in election even though the person in respect of whom the opt-in election is made—
 - (a) has ceased (whether by virtue of dying or otherwise) to hold the office mentioned in paragraph 11(1)(a), or
 - (b) has ceased to hold that office on a salaried basis without having ceased to hold that office.
 - (5) Where regulations under sub-paragraph (2) permit the making of an opt-in election in respect of a person who has died, the right to make that election is exercisable by the person’s personal representatives.
 - (6) The Lord Chancellor may by regulations provide for a person in respect of whom an opt-in election is made to be treated for such purposes as may be prescribed by the regulations as if the person had, at such times as may be prescribed by the regulations, been a person to whom Part 1 of the 1993 Act applies.
 - (7) An opt-in election may not be made in respect of a person at any time when an election made under section 13 of the 1993 Act (election to opt out of Part 1 of the 1993 Act) is in force in respect of the person.

Continuation of existing public service pension arrangements in certain cases

- 13
- (1) Sub-paragraph (2) applies if—
 - (a) a person, as a result of provision under section 31(2), becomes the holder of a new office,
 - (b) either—
 - (i) the person held qualifying judicial office immediately before 31st March 1995, or

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- (ii) before becoming the holder of the new office, the person has never held qualifying judicial office,
 - (c) immediately before the person becomes the holder of the new office—
 - (i) the person holds an office within paragraph (a), (b) or (c) of section 31(2) (the “old office”), and
 - (ii) the person’s service in the old office is subject to a public service pension scheme,
 - (d) the person, on becoming the holder of the new office, holds the new office on a salaried basis, and
 - (e) immediately after the person becomes the holder of the new office, the person—
 - (i) is not a person to whom Part 1 of the 1993 Act applies, and
 - (ii) is not a person to whom that Part would apply but for section 13 of that Act.
- (2) The person’s service in the new office, so far as it is service during the continuity period—
 - (a) shall be subject to that public service pension scheme, and
 - (b) shall be subject to that scheme in a way that corresponds to the way in which the person’s service in the old office was subject to that scheme.
- (3) In sub-paragraph (2) “the continuity period” means the period—
 - (a) that begins when the person becomes the holder of the new office on a salaried basis, and
 - (b) that ends with whichever of the following first happens after that—
 - (i) the person’s ceasing to hold the new office,
 - (ii) the person’s ceasing to hold the new office on a salaried basis without ceasing to hold the new office,
 - (iii) the person’s becoming a person to whom Part 1 of the 1993 Act applies, and
 - (iv) the person’s becoming a person to whom Part 1 of the 1993 Act would apply but for section 13 of that Act.
- (4) For the purposes of sub-paragraph (1)(c)(ii), the person’s service in the old office is not to be treated as subject to a public service pension scheme at a time when the scheme does not apply to him as a result of his having exercised a right to elect for the scheme not to apply to him.
- (5) A public service pension scheme which, apart from sub-paragraph (2), would not be a judicial pension scheme for the purposes of the 1993 Act does not become a judicial pension scheme for those purposes if it is only as a result of sub-paragraph (2) that pensions and other benefits are payable under the scheme in respect of service in qualifying judicial office.
- (6) In this paragraph “public service pension scheme” means any public service pension scheme, as defined in—
 - (a) section 1 of the Pension Schemes Act 1993 (c. 48), or
 - (b) section 1 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49).

PART 4

AMENDMENTS TO THE JUDICIAL PENSIONS AND RETIREMENT ACT 1993

- 14 The Judicial Pensions and Retirement Act 1993 (c. 8) is amended as follows.
- 15 (1) Section 1 (application of Part 1: judicial pensions) is amended as follows.
- (2) In subsection (1) (persons to whom Part 1 of the 1993 Act applies), after paragraph (d) insert “and
- (e) to any person appointed to a qualifying judicial office in circumstances falling within subsection (4A) below;”.
- (3) In subsection (1), after “but this subsection is subject to the following provisions of this Act” insert “and to Part 3 of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007 (transitional arrangements for pensions of certain judges and other members of the First-tier Tribunal and Upper Tribunal)”.
- (4) After subsection (4) insert—
- “(4A) The circumstances of a person’s appointment to a qualifying judicial office (“the subsequent office”) fall within this subsection if—
- (a) the person, immediately before being appointed to the subsequent office, holds an office within subsection (4B) below (“the replacement tribunal office”);
- (b) the person held the replacement tribunal office on a salaried basis from when he became its holder until immediately before being appointed to the subsequent office; and
- (c) the person, before becoming the holder of the replacement tribunal office, had never held qualifying judicial office.
- (4B) The offices within this subsection are—
- (a) the office of judge of the First-tier Tribunal by virtue of being a transferred-in judge of the First-tier Tribunal,
- (b) the office of other member of the First-tier Tribunal by virtue of being a transferred-in other member of the First-tier Tribunal,
- (c) the office of judge of the Upper Tribunal by virtue of being a transferred-in judge of the Upper Tribunal, and
- (d) the office of other member of the Upper Tribunal by virtue of being a transferred-in other member of the Upper Tribunal.”
- 16 In section 9(4) (contribution towards cost of surviving spouse's, surviving civil partner's and surviving children's pension), for “or (d) above,” substitute “, (d) or (e) above or in the case of persons to whom this Part applies by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007,”.
- 17 (1) In section 12(1) (transfer of accrued benefits under judicial pension schemes in certain cases where person held qualifying judicial office before 31st March 1995)—
- (a) for “or (d)” substitute “, (d) or (e)”;
- (b) after “of section 1(1) above” insert “or by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007”, and
- (c) omit paragraph (b) (which is superseded by the new section 12B inserted by this Part of this Schedule).

- (2) In the sidenote to section 12, for the words after “Transfer of rights” substitute “under judicial pension schemes”.

18 After section 12 insert—

“12A Transfer of rights under other public service pension schemes

- (1) Where this Part—
- (a) begins, on or after the day on which this section comes into force, to apply to a person by virtue of section 1(1)(d) above, or
 - (b) begins to apply to a person—
 - (i) by virtue of section 1(1)(e) above, or
 - (ii) by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007,any relevant public service pension rights of his shall be transferred to the scheme constituted by this Part.
- (2) Where a person’s rights under a public service pension scheme are transferred under subsection (1) above—
- (a) that scheme shall no longer have effect in relation to him, and
 - (b) no pension or lump sum under the scheme shall be paid to or in respect of him.
- (3) Regulations may make provision—
- (a) for calculating, whether by actuarial assessment or otherwise, the amount or value of the rights transferred under subsection (1) above, and
 - (b) prescribing the manner in which those rights are to be given effect under this Part.
- (4) Without prejudice to the generality of paragraph (b) of subsection (3) above, regulations under that paragraph may provide for rights transferred under subsection (1) above to be given effect by crediting the person in question with such service, on or after the day on which this Part first applies to the person, as may be prescribed.
- (5) For the purposes of this section, a person’s “relevant public service pension rights” are the person’s accrued rights to benefit under any public service pension scheme, but this is subject to subsections (6) to (8) below.
- (6) A person’s rights under a public service pension scheme are not “relevant public service pension rights” if the scheme is a judicial pension scheme other than—
- (a) the principal civil service pension scheme, or
 - (b) the principal civil service pension scheme for the civil service of Northern Ireland.
- (7) A person’s rights—
- (a) under the principal civil service pension scheme, or
 - (b) under the principal civil service pension scheme for the civil service of Northern Ireland,

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are not “relevant public service pension rights” if they are transferred under section 12 above.

(8) A person’s rights under a public service pension scheme are not “relevant public service pension rights” unless at least some of his service which was subject to the scheme was qualifying tribunal service and, in that event, all of his rights under the scheme shall be regarded as relevant public service pension rights.

(9) In this section—

“prescribe” means prescribe in regulations;

“public service pension scheme” means any public service pension scheme, as defined in—

(a) section 1 of the Pension Schemes Act 1993, or

(b) section 1 of the Pension Schemes (Northern Ireland) Act 1993;

“qualifying tribunal service” means—

(a) service as, or as a member of, a tribunal specified in a list in Schedule 6 to the Tribunals, Courts and Enforcement Act 2007 that has effect for the purposes of section 30 of that Act, or

(b) service as an authorised decision-maker for a tribunal, within the meaning given by section 31(4) of that Act;

“regulations” means regulations made by the Lord Chancellor with the concurrence of the Treasury.

12B Rate of pension etc. where rights transferred under section 12 or 12A

Entitlement to, and the rate or amount of, any judicial pension or derivative benefit payable under this Part to or in respect of a person whose rights are transferred under section 12 or 12A above shall be determined by reference to—

- (a) any rights of his that are transferred under section 12 above,
- (b) any rights of his that are transferred under section 12A above, and
- (c) his service in qualifying judicial office on or after the day on which this Part first applies to him.”

19 In section 23 (which provides that Schedule 2 does not apply to transfers under section 12), after “section 12” insert “or 12A”.

SCHEDULE 10

Section 50

AMENDMENTS RELATING TO JUDICIAL APPOINTMENTS

PART 1

AMENDMENTS

1 (1) Paragraph 2A of the Schedule to the War Pensions (Administrative Provisions) Act 1919 (c. 53) (legally qualified member of Pensions Appeal Tribunals) is amended as follows.

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- (2) For paragraph (a) substitute—
- “(a) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In paragraphs (b) and (c), for “7” substitute “5”.
- 2 (1) Section 109 of the [London Building Acts \(Amendment\) Act 1939 \(c. xcvi\)](#) is amended as follows.
- (2) For subsection (1)(b) (tribunal of appeal: Lord Chancellor’s nominee) substitute—
- “(b) A person is eligible to be nominated by the Lord Chancellor under paragraph (a) or (h) of this subsection only if the person—
- (i) is a solicitor of the Senior Courts of England and Wales,
- (ii) is a barrister in England and Wales, or
- (iii) has a qualification that is specified under subsection (4) of this section;”.
- (3) After subsection (3) insert—
- “(4) The Lord Chancellor may by order specify a qualification for the purposes of paragraph (b) of subsection (1) of this section.
- (5) Subsections (2) to (4), (9), (10) and (12) to (14) of section 51 of the Tribunals, Courts and Enforcement Act 2007 (contents of and procedure for orders under subsection (1) of that section, and cessation of effect of such orders) shall apply for the purposes of subsection (4) of this section as they apply for the purposes of subsection (1) of that section, but as if the reference in subsection (3) of that section to section 50 of that Act were a reference to this section.
- (6) For the purposes of paragraph (b) of subsection (1) of this section, a person shall be taken first to become a barrister—
- (a) when the person completes pupillage in connection with becoming a barrister, or
- (b) in the case of a person not required to undertake pupillage in connection with becoming a barrister, when the person is called to the Bar of England and Wales.
- (7) For the purposes of paragraph (b) of subsection (1) of this section, a person shall be taken not to be a solicitor or a barrister, or not to have a qualification specified under subsection (4) of this section, if as a result of disciplinary proceedings he is prevented from practising as a solicitor or (as the case may be) as a barrister or as a holder of the specified qualification.”
- (4) At any time before the coming into force of section 59(1) of the Constitutional Reform Act 2005 (c. 4) (renaming of Supreme Court), the reference to the Senior Courts in the section 109(1)(b) substituted by sub-paragraph (2) is to be read as a reference to the Supreme Court.
- 3 (1) Paragraph 2A(2) of the Schedule to the Pensions Appeal Tribunals Act 1943 (c. 39) (legally qualified members of Pensions Appeal Tribunals) is amended as follows.
- (2) For paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis;”.

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- (3) In paragraphs (b) and (c), for “seven” substitute “five”.
- 4 In paragraph 13(1) of Schedule 9 to the Agriculture Act 1947 (chairman of agricultural land tribunal), for the words from “person” to the end substitute “person who satisfies the judicial-appointment eligibility condition on a 5-year basis.”
- 5 (1) Section 2(2) of the Lands Tribunal Act 1949 (c. 42) (President and members of Lands Tribunal) is amended as follows.
- (2) For paragraph (b) substitute—
- “(b) satisfies the judicial-appointment eligibility condition on a 5-year basis; or”.
- (3) In paragraph (c) and in the words after that paragraph, for “7” substitute “5”.
- 6 (1) The Courts-Martial (Appeals) Act 1951 (c. 46) is amended as follows.
- (2) In section 31(1) (Judge Advocate General)—
- (a) for paragraph (a) substitute—
- “(a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;”, and
- (b) in paragraphs (b) and (c), for “10” (in each place where it occurs) substitute “7”.
- (3) In section 31(2) (Vice Judge Advocate General and assistants)—
- (a) for paragraph (a) substitute—
- “(a) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”, and
- (b) in paragraphs (b) and (c), for “7” (in each place where it occurs) substitute “5”.
- 7 In section 12(2) of the City of London (Courts) Act 1964 (c. iv) (Common Serjeant), for the words from “he has a 10 year” to the end substitute “he satisfies the judicial-appointment eligibility condition on a 7-year basis.”
- 8 (1) Section 4(2) of the Taxes Management Act 1970 (c. 9) (Special Commissioners) is amended as follows.
- (2) For paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;”.
- (3) In paragraphs (b) and (c), for “10” substitute “7”.
- 9 (1) The Courts Act 1971 (c. 23) is amended as follows.
- (2) In section 16(3) (Circuit judges), for paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;”.
- (3) In section 21(2) (recorders), for the words from “he has a 10 year” to the end substitute “he satisfies the judicial-appointment eligibility condition on a 7-year basis.”
- (4) In section 24(1)(b) (assistant recorders), for the words from “any person who has a 10 year” to the end substitute “any person who satisfies the judicial-appointment eligibility condition on a 7-year basis.”

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- 10 (1) Paragraph 1(1)(a) of Schedule 3 to the Misuse of Drugs Act 1971 (c. 38) (tribunal chairmen) is amended as follows.
- (2) For sub-paragraph (i) substitute—
“(i) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In sub-paragraphs (ii) and (iii), for “7” substitute “5”.
- 11 (1) Paragraph 3(2) of Schedule A1 to the Consumer Credit Act 1974 (c. 39) (the panel of chairmen of the Consumer Credit Appeals Tribunal) is amended as follows.
- (2) For paragraph (a) substitute—
“(a) satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In paragraphs (b) and (c), for “seven” substitute “five”.
- 12 (1) Paragraph 4(1)(a) of Schedule 3 to the Industry Act 1975 (c. 68) (presidents of arbitration tribunals) is amended as follows.
- (2) For sub-paragraph (i) substitute—
“(i) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis; or”.
- (3) In sub-paragraph (ii), for “7” substitute “5”.
- 13 (1) The Supreme Court Act 1981 (c. 54) is amended as follows.
- (2) In section 10(3) (Lord Justice of Appeal and puisne judge of High Court), in paragraphs (b) and (c), for sub-paragraph (i) substitute—
“(i) he satisfies the judicial-appointment eligibility condition on a 7-year basis; or”.
- (3) For Schedule 2 (eligibility for appointment to certain offices) substitute—

“SCHEDULE 2

Sections 88 to 95

LIST OF OFFICES IN SENIOR COURTS FOR PURPOSES OF PART 4

PART 1

<i>Office</i>	<i>Persons qualified</i>
Official Solicitor	A person who has a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990).

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PART 2

<i>Office</i>	<i>Persons qualified</i>
Master, Queen’s Bench Division	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.
Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals	A person who satisfies the judicial-appointment eligibility condition on a 7-year basis.
Admiralty Registrar	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.
Master, Chancery Division	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.
Registrar in Bankruptcy of the High Court	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.
Taxing Master of the Senior Courts	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.
District judge of the principal registry of the Family Division	<ol style="list-style-type: none"> 1. A person who satisfies the judicial-appointment eligibility condition on a 5-year basis. 2. A district probate registrar who either— <ol style="list-style-type: none"> (a) is of at least 5 years' standing, or (b) has, during so much of the 5 years immediately preceding his appointment as he has not been a district probate registrar, served as a civil servant in the principal registry or a district probate registry. 3. A civil servant who has served at least 7 years in the principal registry or a district probate registry.

PART 3

<i>Office</i>	<i>Persons qualified</i>
District probate registrar	<ol style="list-style-type: none"> 1. A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.

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<i>Office</i>	<i>Persons qualified</i>
	2. A civil servant who has served at least 5 years in the principal registry of the Family Division or a district probate registry.”
(4) Part 2 of the Schedule substituted by sub-paragraph (3) of this paragraph shall have effect until the coming into force of section 45(6) of the Mental Capacity Act 2005 (c. 9) as if it also contained the following entry—	
“Master of the Court of Protection	A person who satisfies the judicial-appointment eligibility condition on a 5-year basis.”
(5) At any time before the coming into force of section 59(1) of the Constitutional Reform Act 2005 (c. 4) (renaming of Supreme Court), the references to the Senior Courts in the Schedule substituted by sub-paragraph (3) of this paragraph are to be read as references to the Supreme Court.	
14	In section 130(2) of the Representation of the People Act 1983 (c. 2) (election court), for paragraph (a) substitute— “ <i>(a)</i> unless he satisfies the judicial-appointment eligibility condition on a 7-year basis; or”.
15	In section 9 of the County Courts Act 1984 (c. 28) (district judges and deputy district judges), for the words from “he has” to the end substitute “he satisfies the judicial-appointment eligibility condition on a 5-year basis.”
16	(1) Paragraph 5 of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985 (c. 17) (umpires and deputy umpires) is amended as follows. (2) For paragraph (a) substitute— “ <i>(a)</i> he satisfies the judicial-appointment eligibility condition on a 7-year basis;”.
	(3) In paragraphs (b) and (c), for “10” substitute “7”.
17	(1) Paragraph 2 of Schedule 4 to the Transport Act 1985 (c. 67) is amended as follows. (2) In sub-paragraph (2) (president of Transport Tribunal)— (a) for paragraph (a) substitute— “ <i>(a)</i> a person who satisfies the judicial-appointment eligibility condition on a 7-year basis; or”, and (b) in paragraph (b), for “10” substitute “7”.
	(3) In sub-paragraph (2A) (chairmen)— (a) for paragraph (a) substitute— “ <i>(a)</i> a person who satisfies the judicial-appointment eligibility condition on a 5-year basis; or”, and (b) in paragraph (b), for “7” substitute “5”.
18	(1) Section 12(5) of the Animals (Scientific Procedures) Act 1986 (c. 14) (person appointed to receive representations) is amended as follows. (2) For paragraph (a) substitute—

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- “(a) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In paragraphs (b) and (c), for “7” substitute “5”.
- 19 (1) Paragraph 1(1)(a) of Schedule 7 to the Insolvency Act 1986 (c. 45) (members of Insolvency Practitioners Tribunal) is amended as follows.
- (2) For sub-paragraph (i) substitute—
- “(i) satisfy the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In sub-paragraph (ii), for “7” substitute “5”.
- 20 (1) Section 145(3) of the Copyright, Designs and Patents Act 1988 (c. 48) (chairman and deputy chairman of Copyright tribunal) is amended as follows.
- (2) For paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In paragraphs (b) and (c), for “7” substitute “5”.
- 21 In section 41 of the Courts and Legal Services Act 1990 (c. 41) (Conveyancing Appeal Tribunals), for subsection (7) substitute—
- “(7) A person is eligible for appointment as Chairman of a Tribunal only if he satisfies the judicial-appointment eligibility condition on a 5-year basis.”
- 22 (1) The Child Support Act 1991 (c. 48) is amended as follows.
- (2) In section 22(2) (Child Support Commissioners)—
- (a) for paragraph (a) substitute—
- “(a) satisfy the judicial-appointment eligibility condition on a 7-year basis; or”, and
- (b) in paragraph (b), for “10” substitute “7”.
- (3) In section 23(2) (Child Support Commissioners for Northern Ireland), for “10” substitute “7”.
- (4) In paragraph 4(2)(a) of Schedule 4 (Deputy Child Support Commissioners)—
- (a) for “have a 10 year general qualification” substitute “satisfy the judicial-appointment eligibility condition on a 7-year basis”, and
- (b) for “10” in the second place where it occurs substitute “7”.
- (5) In paragraph 8(d)(i) of Schedule 4 (Deputy Child Support Commissioners for Northern Ireland), in the substituted paragraph 4(2)(a), for “10” substitute “7”.
- 23 In Schedule 1B to the Charities Act 1993 (c. 10) (which is inserted by Schedule 3 to the Charities Act 2006 (c. 50)), in paragraph 1(3) (President or legal member of Charity Tribunal), for the words from “he has” to the end substitute “he satisfies the judicial-appointment eligibility condition on a 5-year basis.”
- 24 (1) Schedule 12 to the Value Added Tax Act 1994 (c. 23) is amended as follows.
- (2) In paragraph 2(2) (President of VAT and duties tribunals)—
- (a) for paragraph (a) substitute—

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- “(a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;”, and
- (b) in paragraphs (b) and (c), for “10” substitute “7”.
- (3) In paragraph 7(4) (panel of chairmen)—
- (a) for paragraph (a) substitute—
- “(a) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis; or”, and
- (b) in paragraph (b) and in the words after that paragraph, for “7” substitute “5”.
- 25 (1) Section 77(2) of the Trade Marks Act 1994 (c. 26) (persons appointed to decide appeals from registrar) is amended as follows.
- (2) For paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In paragraphs (b) and (c), for “7” substitute “5”.
- 26 (1) Sections 96(7) and 264(6) of the Merchant Shipping Act 1995 (c. 21) (arbitrators) are amended as follows.
- (2) For paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;”.
- (3) In paragraphs (b) and (c), for “10” substitute “7”.
- 27 In paragraph 1(1)(a) of Schedule 6 to the Police Act 1996 (c. 16) (legally qualified member of Police Appeals Tribunals), for the words from “have a seven” to “1990” substitute “satisfy the judicial-appointment eligibility condition on a 5-year basis”.
- 28 In section 334(1) of the Education Act 1996 (c. 56) (President and members of chairmen’s panel of Special Educational Needs and Disability Tribunal), for the words from “has” to the end substitute “satisfies the judicial-appointment eligibility condition on a 5-year basis.”
- 29 (1) The Social Security Act 1998 (c. 14) is amended as follows.
- (2) In section 5(2) (President of appeal tribunals)—
- (a) for paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis; or”, and
- (b) in paragraph (b), for “10” substitute “7”.
- (3) In section 7(2) (constitution of appeal tribunals), for paragraph (a) substitute—
- “(a) be a solicitor of the Senior Courts of England and Wales, a barrister in England and Wales or have a qualification that is specified under subsection (6A); or”.
- (4) In section 7, after subsection (6) insert—
- “(6A) The Lord Chancellor may by order specify a qualification for the purposes of subsection (2)(a) above.
- (6B) Subsections (2) to (4), (9) and (10) of section 51 of the Tribunals, Courts and Enforcement Act 2007 (contents of orders under subsection (1) of that

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section, and cessation of effect of such orders) shall apply for the purposes of subsection (6A) above as they apply for the purposes of subsection (1) of that section, but as if the reference in subsection (3) of that section to section 50 of that Act were a reference to this section.

(6C) For the purposes of subsection (2)(a) above, a person shall be taken first to become a barrister—

- (a) when the person completes pupillage in connection with becoming a barrister, or
- (b) in the case of a person not required to undertake pupillage in connection with becoming a barrister, when the person is called to the Bar of England and Wales.

(6D) For the purposes of subsection (2)(a) above, a person shall be taken not to be a solicitor or a barrister, or not to have a qualification specified under subsection (6A) above, if as a result of disciplinary proceedings he is prevented from practising as a solicitor or (as the case may be) as a barrister or as a holder of the specified qualification.”

(5) In section 80 (parliamentary control of regulations), after subsection (3) insert—

“(4) No order shall be made by the Lord Chancellor under section 7(6A) above unless a draft of the statutory instrument containing the order has been laid before Parliament and been approved by a resolution of each House of Parliament.”

(6) In paragraph 1(1) of Schedule 4 (Social Security Commissioners), for the words from “have” to “standing” substitute “satisfy the judicial-appointment eligibility condition on a 7-year basis or advocates or solicitors in Scotland of at least 7 years' standing”.

(7) In paragraph 1(2) of that Schedule (deputy Commissioners)—

- (a) for paragraph (a) substitute—
 - “(a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis; or”, and
- (b) in paragraphs (b) and (c), for “10” substitute “7”.

(8) At any time before the coming into force of section 59(1) of the Constitutional Reform Act 2005 (c. 4) (renaming of Supreme Court), the reference to the Senior Courts in the section 7(2)(a) substituted by sub-paragraph (3) is to be read as a reference to the Supreme Court.

30 (1) Section 6(5) of the Data Protection Act 1998 (c. 29) (chairman and deputy chairmen of Information Tribunal) is amended as follows.

(2) For paragraph (a) substitute—

- “(a) persons who satisfy the judicial-appointment eligibility condition on a 5-year basis,”.

(3) In paragraphs (b) and (c), for “7” substitute “5”.

31 In paragraph 2(2) of the Schedule to the Protection of Children Act 1999 (c. 14) (President and members of chairmen’s panel of Tribunal), for the words from “has” to the end substitute “satisfies the judicial-appointment eligibility condition on a 5-year basis.”

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- 32 (1) Paragraph 11 of Schedule 7 to the Immigration and Asylum Act 1999 (c. 33) (President and other members of Immigration Services Tribunal) is amended as follows.
- (2) For paragraph (a) substitute—
- “*(a)* he satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In paragraphs (b) and (c), for “7” substitute “5”.
- 33 (1) Paragraph 1(1) of Schedule 3 to the Regulation of Investigatory Powers Act 2000 (c. 23) (members of tribunal) is amended as follows.
- (2) For paragraph (b) substitute—
- “*(b)* a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;”.
- (3) In paragraphs (c) and (d), for “ten” substitute “seven”.
- 34 (1) Schedule 13 to the Financial Services and Markets Act 2000 (c. 8) is amended as follows.
- (2) In paragraph 2(5) (President of Financial Services and Markets Tribunal)—
- (a) for paragraph (a) substitute—
- “*(a)* satisfies the judicial-appointment eligibility condition on a 7-year basis;”, and
- (b) in paragraphs (b) and (c)(i) and (ii), for “ten” substitute “7”.
- (3) In paragraph 3(2) (panel of chairmen)—
- (a) for paragraph (a) substitute—
- “*(a)* he satisfies the judicial-appointment eligibility condition on a 5-year basis;”, and
- (b) in paragraphs (b) and (c)(i) and (ii), for “seven” substitute “5”.
- 35 (1) The Land Registration Act 2002 (c. 9) is amended as follows.
- (2) In section 107(2) (Adjudicator to Her Majesty’s Land Registry), for the words from “have” to the end substitute “satisfy the judicial-appointment eligibility condition on a 7-year basis.”
- (3) In paragraph 4(2) of Schedule 9 (delegation by adjudicator of non-administrative functions to staff), for the words from “has” to the end substitute “satisfies the judicial-appointment eligibility condition on a 7-year basis.”
- 36 (1) Paragraph 1 of Schedule 2 to the Enterprise Act 2002 (c. 40) is amended as follows.
- (2) In sub-paragraph (1) (President of Competition Appeal Tribunal)—
- (a) for paragraph (a) substitute—
- “*(a)* he satisfies the judicial-appointment eligibility condition on a 7-year basis;”, and
- (b) in paragraphs (b) and (c), for “10” substitute “7”.
- (3) In sub-paragraph (2) (chairmen)—
- (a) for paragraph (a) substitute—
- “*(a)* he satisfies the judicial-appointment eligibility condition on a 5-year basis;”, and

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- (b) in paragraphs (b) and (c), for “7” substitute “5”.
- 37 (1) Paragraph 2(1) of Schedule 4 to the Nationality, Immigration and Asylum Act 2002 (c. 41) (members of Asylum and Immigration Tribunal) is amended as follows.
- (2) For paragraph (a) substitute—
- “(a) satisfies the judicial-appointment eligibility condition on a 5-year basis,”.
- (3) In paragraphs (b) and (c), for “seven” substitute “5”.
- 38 (1) The Courts Act 2003 (c. 39) is amended as follows.
- (2) In section 22(1) (District Judges (Magistrates' Courts)), for “has a 7 year general qualification” substitute “satisfies the judicial-appointment eligibility condition on a 5-year basis”.
- (3) In section 24(1) (Deputy District Judges (Magistrates' Courts)), for “has a 7 year general qualification” substitute “satisfies the judicial-appointment eligibility condition on a 5-year basis”.
- 39 In section 81(2)(a) of the Traffic Management Act 2004 (c. 18) (adjudicators), for the words from “have” to the end substitute “satisfy the judicial-appointment eligibility condition on a 5-year basis;”.
- 40 (1) Schedule 4 to the Pensions Act 2004 (c. 35) is amended as follows.
- (2) In paragraph 1(2) (panel of chairmen of Pensions Regulator Tribunal)—
- (a) for paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis,” and
- (b) in paragraphs (b), (c) and (d), for “7” substitute “5”.
- (3) In paragraph 2(5) (President or Deputy President)—
- (a) for paragraph (a) substitute—
- “(a) satisfies the judicial-appointment eligibility condition on a 7-year basis,” and
- (b) in paragraphs (b), (c) and (d), for “10” substitute “7”.
- 41 (1) Section 25 of the Constitutional Reform Act 2005 (c. 4) (judges of the Supreme Court) is amended as follows.
- (2) In subsection (1), for paragraph (b) and the word “or” immediately preceding it substitute—
- “(b) satisfied the judicial-appointment eligibility condition on a 15-year basis, or
- (c) been a qualifying practitioner for a period of at least 15 years.”
- (3) In subsection (2), omit paragraph (a).
- 42 In paragraph 1(2) of Schedule 3 to the Education Act 2005 (c. 18) (Chairman of tribunal hearing appeals under section 27 of that Act), for the words from “have a” to the end substitute “satisfy the judicial-appointment eligibility condition on a 5-year basis.”
- 43 (1) Paragraph 2 of Schedule 8 to the Gambling Act 2005 (c. 19) (President and members of Gambling Appeals Tribunal) is amended as follows.

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- (2) For paragraph (a) substitute—
- “(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis.”.
- (3) In paragraphs (b) and (c), for “seven” substitute “5”.
- 44 (1) Schedule 13 to the National Health Service Act 2006 (c. 41) is amended as follows.
- (2) For paragraph 3 (President and Deputy President of Family Health Services Appeal Authority) substitute—
- “3 (1) A person is eligible to be appointed as the President only if he satisfies the judicial-appointment eligibility condition on a 7-year basis.
- (2) A person is eligible to be appointed as a Deputy President only if he satisfies the judicial-appointment eligibility condition on a 5-year basis.”
- (3) In paragraph 6(2)(a) (other members), for “with a 7 year general qualification (construed as in paragraph 3)” substitute “who satisfy the judicial-appointment eligibility condition on a 5-year basis”.
- (4) In paragraph 9 (composition of panels), for the words from “must” to the end substitute “must satisfy the judicial-appointment eligibility condition on a 5-year basis.”

PART 2

AMENDMENTS RELATING TO ENACTMENTS ALREADY REPEALED

- 45 (1) This Part of this Schedule contains amendments of enactments that have already been repealed by provisions of other Acts.
- (2) In each case—
- (a) the repealing provision is specified in relation to the enactment being amended, and
- (b) the amendment has effect only until the repealing provision is fully commenced in relation to the enactment amended.
- 46 (1) In section 6 of the Appellate Jurisdiction Act 1876 (c. 59) (Lords of Appeal in Ordinary)—
- (a) for the words from “for not less than fifteen” to the end of paragraph (a) substitute—
- “(a) a person who satisfies the judicial-appointment eligibility condition on a 15-year basis;”, and
- (b) at the beginning of each of paragraphs (b) and (c) insert “for not less than fifteen years.”.
- (2) In relation to the enactment referred to in sub-paragraph (1), the repealing provision is paragraph 9 of Schedule 17 to the Constitutional Reform Act 2005 (c. 4).
- 47 (1) In section 28(2) of the Courts-Martial (Appeals) Act 1951 (c. 46) (Judge Advocate of Her Majesty’s Fleet)—
- (a) for paragraph (a) substitute—
- “(a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;”, and

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- (b) in paragraphs (b) and (c), for “10” (in each place where it occurs) substitute “7”.
- (2) In section 84B(2) of each of the [Army Act 1955 \(3 & 4 Eliz. 2 c. 18\)](#) and the [Air Force Act 1955 \(3 & 4 Eliz. 2 c. 19\)](#) (judge advocates), for paragraph (a) substitute—
- “**(a)** a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (3) In section 103B(5) of each of those Acts (qualified officers in field general courts-martial), for paragraph (a) substitute—
- “**(a)** a person who is a barrister or solicitor in England and Wales;”.
- (4) In section 53B(2) of the [Naval Discipline Act 1957 \(c. 53\)](#) (judge advocates), for paragraph (a) substitute—
- “**(a)** a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;”.
- (5) In relation to the enactments referred to in sub-paragraphs (1) to (4), the repealing provision is Schedule 17 to the [Armed Forces Act 2006 \(c. 52\)](#).
- 48 (1) In section 29(2)(a) of the [Betting, Gaming and Lotteries Act 1963 \(c. 2\)](#) (chairman of Levy Appeal Tribunal)—
- (a) for sub-paragraph (i) substitute—
- “**(i)** a person who satisfies the judicial-appointment eligibility condition on a 5-year basis; or”, and
- (b) in sub-paragraph (ii), for “7” substitute “5”.
- (2) In relation to the enactment referred to in sub-paragraph (1), the repealing provision is section 356(3)(f) of the [Gambling Act 2005 \(c. 19\)](#).
- 49 (1) In section 17(1)(a) of the [Commons Registration Act 1965 \(c. 64\)](#) (Commons Commissioners), for the words from “persons” to “1990,” substitute “persons who satisfy the judicial-appointment eligibility condition on a 5-year basis”.
- (2) In relation to the enactment referred to in sub-paragraph (1), the repealing provision is Part 1 of Schedule 6 to the [Commons Act 2006 \(c. 26\)](#).
- 50 (1) In section 73(4) of the [Road Traffic Act 1991 \(c. 40\)](#) (parking adjudicator), for the words from “have” to the end substitute “satisfy the judicial-appointment eligibility condition on a 5-year basis.”
- (2) In relation to the enactment referred to in sub-paragraph (1), the repealing provision is Part 1 of Schedule 12 to the [Traffic Management Act 2004 \(c. 18\)](#).

SCHEDULE 11

Section 56

DISTRICT JUDGES AND DEPUTY DISTRICT JUDGES

Supreme Court Act 1981 (c. 54)

- 1 The Supreme Court Act 1981 is amended as set out in paragraphs 2 and 3.
- 2 In section 100 (district judges), after subsection (4) insert—

Status: This is the original version (as it was originally enacted).

“(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 (1) Section 102 (deputy district judges) is amended as follows.

(2) For subsections (1) and (2) (appointment of deputy district judges to district registries) substitute—

“(1) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business in the High Court, he may appoint a person to be a deputy district judge.

(1A) A person is qualified for appointment under subsection (1) only if the person—

- (a) is qualified for appointment as a district judge, or
- (b) holds, or has held, the office of district judge.

(1B) The Lord Chancellor may not appoint a person under subsection (1) without the concurrence of the Lord Chief Justice if the person—

- (a) holds the office of district judge, or
- (b) ceased to hold the office of district judge within two years ending with the date when the appointment takes effect.

(1C) Section 85 of the Constitutional Reform Act 2005 (c. 4) (selection of certain office holders) does not apply to an appointment to which subsection (1B) applies.”

(3) In subsection (3) (former district judge may be appointed as deputy even though too old to be appointed as a district judge, but no appointment by virtue of the subsection may extend beyond age 75), for the words from the beginning to “by virtue of this subsection” substitute “No appointment to which subsection (1B) applies”.

(4) For subsection (4) (powers of deputy district judges) substitute—

“(4A) The Lord Chief Justice, after consulting the Lord Chancellor—

- (a) may assign a deputy district judge appointed under this section to one or more district registries;
- (b) may change an assignment so as to assign the deputy district judge to a different district registry or registries (or to no district registry).

(4B) A deputy district judge appointed under this section and assigned to a district registry has, while acting under his assignment, the same jurisdiction as a district judge assigned to that registry.

(4C) Every deputy district judge appointed under this section is, by virtue of his office, capable of acting as a district judge in any district registry to which he is not assigned, but may act in a district registry to which he is not assigned only in accordance with arrangements made by or on behalf of the Lord Chief Justice.”

(5) 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 (1B) or (4A).”

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- 4 (1) This paragraph applies to a person holding office as a deputy district judge under section 102 of the Supreme Court Act 1981 (c. 54) by virtue of an appointment made before the commencement of paragraph 3 (“the commencement date”).
- (2) If the person had held the office of district judge before his appointment, the person is to be treated after the commencement date as if section 102(1B) of that Act had applied to his appointment (and had been complied with).
- (3) The person is to be treated after the commencement date as assigned under section 102(4A) of that Act to the district registry for which he was appointed.

County Courts Act 1984 (c. 28)

- 5 The County Courts Act 1984 is amended as set out in paragraphs 6 to 9.
- 6 In section 6 (district judges), 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 (2).”
- 7 (1) Section 8 (deputy district judges) is amended as follows.
- (2) For subsection (1) (appointment and powers of deputy district judges) substitute—
- “(1) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business in the county courts, he may appoint a person to be a deputy district judge.
- (1ZA) A person is qualified for appointment under subsection (1) only if the person—
- (a) is qualified for appointment as a district judge, or
- (b) holds, or has held, the office of district judge.
- (1ZB) The Lord Chancellor may not appoint a person under subsection (1) without the concurrence of the Lord Chief Justice if the person—
- (a) holds the office of district judge, or
- (b) ceased to hold the office of district judge within two years ending with the date when the appointment takes effect.
- (1ZC) Section 85 of the Constitutional Reform Act 2005 (c. 4) (selection of certain office holders) does not apply to an appointment to which subsection (1ZB) applies.”
- (3) In subsection (1A)(a) (duration of appointment as deputy district judge of person who previously held office as district judge), for “if he has previously held office as a district judge,” substitute “if subsection (1ZB) applies to the appointment.”
- (4) After subsection (1A) insert—
- “(1B) The Lord Chief Justice, after consulting the Lord Chancellor—
- (a) may assign a deputy district judge appointed under this section to one or more districts;
- (b) may change an assignment so as to assign the deputy district judge to a different district or districts (or to no district).

Status: This is the original version (as it was originally enacted).

(1C) A deputy district judge appointed under this section and assigned to a district has, while acting under his assignment, the same powers as if he were a district judge assigned to the district.

(1D) Every deputy district judge appointed under this section is, by virtue of his office, capable of acting as a district judge in any district to which he is not assigned, but may act in a district to which he is not assigned only in accordance with arrangements made by or on behalf of the Lord Chief Justice.”

(5) 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 (1ZB) or (1B).”

8 In section 9 (qualifications for appointment as a district judge, or as a deputy district judge for a county court district)—

(a) omit “, or deputy district judge”, and

(b) in the heading, after “Qualifications” insert “for appointment as district judge”.

9 In section 147(1) (interpretation of Act), in the definition of “officer” (which provides that “officer”, in relation to a county court, includes a district judge or deputy district judge of that court), for the words after “means” and before “and any clerk” substitute “any district judge or deputy district judge assigned to that court”.

10 (1) This paragraph applies to a person holding office as a deputy district judge under section 8 of the County Courts Act 1984 (c. 28) by virtue of an appointment made before the commencement of paragraph 7 (“the commencement date”).

(2) If the person had held the office of district judge before his appointment, the person is to be treated after the commencement date as if section 8(1ZB) of that Act had applied to his appointment (and had been complied with).

(3) If sub-paragraph (2) does not apply, the person is to be treated after the commencement date as appointed under section 8(1) of that Act.

(4) The person is to be treated after the commencement date as assigned under section 8(1B) of that Act to the county court district for which he was appointed.

Judicial Pensions and Retirement Act 1993 (c. 8)

11 The Judicial Pensions and Retirement Act 1993 is amended as follows.

12 In section 26(7) (certain offices for which retirement date is age 75), for paragraph (g) (certain deputy district judges) substitute—

“(g) hold office as a deputy district judge if either section 102(1B) of that Act (former district judge appointed as deputy in the High Court) or section 8(1ZB) of the County Courts Act 1984 (former district judge appointed as deputy in the county courts) applied to the appointment;”.

13 (1) Schedule 5 (“the relevant offices” for the purposes of the retirement provisions) is amended as follows.

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- (2) In the entry for a deputy district judge appointed under section 102 of the Supreme Court Act 1981, for the words after “except in a case where” substitute “subsection (1B) of that section applied to the appointment of the person in question”.
- (3) In the entry for a deputy district judge appointed under section 8 of the County Courts Act 1984, for the words after “except in a case where” substitute “subsection (1ZB) of that section applied to the appointment of the person in question”.

Courts Act 2003 (c. 39)

- 14 In section 64(2) of the Courts Act 2003 (power to alter listed judicial titles), in the entry for a deputy district judge for a county court district, for “for a county court district” substitute “appointed under section 8 of the County Courts Act 1984”.

Constitutional Reform Act 2005 (c. 4)

- 15 In Part 2 of Schedule 14 to the Constitutional Reform Act 2005 (certain offices to which appointments are made by the Lord Chancellor)—
 - (a) in the entry for a deputy district judge in a district registry of the High Court, omit “in a district registry of the High Court”, and
 - (b) in the entry for a deputy district judge for a county court district, omit “for a county court district”.

SCHEDULE 12

Section 62(1)

TAKING CONTROL OF GOODS

PART 1

INTRODUCTORY

The procedure

- 1 (1) Using the procedure in this Schedule to recover a sum means taking control of goods and selling them to recover that sum in accordance with this Schedule and regulations under it.
- (2) In this Schedule a power to use the procedure to recover a particular sum is called an “enforcement power”.
- (3) The following apply in relation to an enforcement power.
- (4) “Debt” means the sum recoverable.
- (5) “Debtor” means the person liable to pay the debt or, if two or more persons are jointly or jointly and severally liable, any one or more of them.
- (6) “Creditor” means the person for whom the debt is recoverable.

Enforcement agents

- 2 (1) In this Schedule “enforcement agent” means an individual authorised by section 63(2) to act as an enforcement agent.
- (2) Only an enforcement agent may take control of goods and sell them under an enforcement power.
- (3) An enforcement agent, if he is not the person on whom an enforcement power is conferred, may act under the power only if authorised by that person.
- (4) In relation to goods taken control of by an enforcement agent under an enforcement power, references to the enforcement agent are references to any person for the time being acting as an enforcement agent under the power.

General interpretation

- 3 (1) In this Schedule—
- “amount outstanding” is defined in paragraph 50(3);
 - “control” (except in paragraph 5(4)(a)) means control under an enforcement power;
 - “controlled goods” means goods taken control of that—
 - (a) have not been sold or abandoned,
 - (b) if they have been removed, have not been returned to the debtor (unless subject to a controlled goods agreement), and
 - (c) if they are goods of another person, have not been returned to that person;
 - “controlled goods agreement” has the meaning given by paragraph 13(4);
 - “co-owner” in relation to goods of the debtor means a person other than the debtor who has an interest in the goods, but only if the enforcement agent—
 - (a) knows that the person has an interest in the particular goods, or
 - (b) would know, if he made reasonable enquiries;
 - “the court”, unless otherwise stated, and subject to rules of court, means—
 - (a) the High Court, in relation to an enforcement power under a writ of the High Court;
 - (b) a county court, in relation to an enforcement power under a warrant issued by a county court;
 - (c) in any other case, a magistrates' court;
 - “disposal” and related expressions, in relation to securities, are to be read in accordance with paragraph 48(2);
 - “exempt goods” means goods that regulations exempt by description or circumstances or both;
 - “goods” means property of any description, other than land;
 - “interest” means a beneficial interest;
 - “money” means money in sterling or another currency;
 - “premises” means any place, and in particular includes—
 - (a) a vehicle, vessel, aircraft or hovercraft;
 - (b) a tent or movable structure;

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“securities” includes bills of exchange, promissory notes, bonds, specialties and securities for money.

- (2) In this Schedule—
- (a) references to goods of the debtor or another person are references to goods in which the debtor or that person has an interest, but
 - (b) references to goods of the debtor do not include references to trust property in which either the debtor or a co-owner has an interest not vested in possession.

PART 2

THE PROCEDURE

Binding property in the debtor's goods

- 4 (1) For the purposes of any enforcement power, the property in all goods of the debtor, except goods that are exempt goods for the purposes of this Schedule or are protected under any other enactment, becomes bound in accordance with this paragraph.
- (2) Where the power is conferred by a writ issued from the High Court the writ binds the property in the goods from the time when it is received by the person who is under a duty to endorse it.
- (3) Where the power is conferred by a warrant to which section 99 of the County Courts Act 1984 (c. 28) or section 125ZA of the Magistrates' Courts Act 1980 (c. 43) applies, the warrant binds the property in the goods from the time when it is received by the person who is under a duty to endorse it under that section.
- (4) Where sub-paragraphs (2) and (3) do not apply but notice is given to the debtor under paragraph 7(1), the notice binds the property in the goods from the time when the notice is given.

Effect of property in goods being bound

- 5 (1) An assignment or transfer of any interest of the debtor's in goods while the property in them is bound for the purposes of an enforcement power—
- (a) is subject to that power, and
 - (b) does not affect the operation of this Schedule in relation to the goods, except as provided by paragraph 61 (application to assignee or transferee).
- (2) Sub-paragraph (1) does not prejudice the title to any of the debtor's goods that a person acquires—
- (a) in good faith,
 - (b) for valuable consideration, and
 - (c) without notice.
- (3) For the purposes of sub-paragraph (2)(a), a thing is to be treated as done in good faith if it is in fact done honestly (whether it is done negligently or not).
- (4) In sub-paragraph (2)(c) “notice” means—
- (a) where the property in the goods is bound by a writ or warrant, notice that the writ or warrant, or any other writ or warrant by virtue of which the goods of the debtor might be seized or otherwise taken control of, had been received

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- by the person who was under a duty to endorse it and that goods remained bound under it;
- (b) where the property in the goods is bound by notice under paragraph 7(1), notice that that notice had been given and that goods remained bound under it.
- (5) In sub-paragraph (4)(a) “endorse” in relation to a warrant to which section 99 of the County Courts Act 1984 (c. 28) or section 125ZA of the Magistrates' Courts Act 1980 (c. 43) applies, means endorse under that section.

Time when property ceases to be bound

- 6 (1) For the purposes of any enforcement power the property in goods of the debtor ceases to be bound in accordance with this paragraph.
- (2) The property in any goods ceases to be bound—
- (a) when the goods are sold;
- (b) in the case of money used to pay any of the amount outstanding, when it is used.
- (3) The property in all goods ceases to be bound when any of these happens—
- (a) the amount outstanding is paid, out of the proceeds of sale or otherwise;
- (b) the instrument under which the power is exercisable ceases to have effect;
- (c) the power ceases to be exercisable for any other reason.

Notice of enforcement

- 7 (1) An enforcement agent may not take control of goods unless the debtor has been given notice.
- (2) Regulations must state—
- (a) the minimum period of notice;
- (b) the form of the notice;
- (c) what it must contain;
- (d) how it must be given;
- (e) who must give it.
- (3) The enforcement agent must keep a record of the time when the notice is given.
- (4) If regulations authorise it, the court may order in prescribed circumstances that the notice given may be less than the minimum period.
- (5) The order may be subject to conditions.

Time limit for taking control

- 8 (1) An enforcement agent may not take control of goods after the prescribed period.
- (2) The period may be prescribed by reference to the date of notice of enforcement or of any writ or warrant conferring the enforcement power or any other date.
- (3) Regulations may provide for the period to be extended or further extended by the court in accordance with the regulations.

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Goods which may be taken

- 9 An enforcement agent may take control of goods only if they are—
- (a) on premises that he has power to enter under this Schedule, or
 - (b) on a highway.
- 10 An enforcement agent may take control of goods only if they are goods of the debtor.
- 11 (1) Subject to paragraphs 9 and 10 and to any other enactment under which goods are protected, an enforcement agent—
- (a) may take control of goods anywhere in England and Wales;
 - (b) may take control of any goods that are not exempt.
- (2) Regulations may authorise him to take control of exempt goods in prescribed circumstances, if he provides the debtor with replacements in accordance with the regulations.

Value of goods taken

- 12 (1) Unless sub-paragraph (2) applies, an enforcement agent may not take control of goods whose aggregate value is more than—
- (a) the amount outstanding, and
 - (b) an amount in respect of future costs, calculated in accordance with regulations.
- (2) An enforcement agent may take control of goods of higher value on premises or on a highway, only to the extent necessary, if there are not enough goods of a lower value within a reasonable distance—
- (a) on a highway, or
 - (b) on premises that he has power to enter under this Schedule, either under paragraph 14 or under an existing warrant.
- (3) For the purposes of this paragraph goods are above a given value only if it is or ought to be clear to the enforcement agent that they are.
- (4) Sub-paragraph (1) does not affect the power to keep control of goods if they rise in value once they have been taken.

Ways of taking control

- 13 (1) To take control of goods an enforcement agent must do one of the following—
- (a) secure the goods on the premises on which he finds them;
 - (b) if he finds them on a highway, secure them on a highway, where he finds them or within a reasonable distance;
 - (c) remove them and secure them elsewhere;
 - (d) enter into a controlled goods agreement with the debtor.
- (2) Any liability of an enforcement agent (including criminal liability) arising out of his securing goods on a highway under this paragraph is excluded to the extent that he acted with reasonable care.
- (3) Regulations may make further provision about taking control in any of the ways listed in sub-paragraph (1), including provision—
- (a) determining the time when control is taken;

- (b) prohibiting use of any of those ways for goods by description or circumstances or both.
- (4) A controlled goods agreement is an agreement under which the debtor—
 - (a) is permitted to retain custody of the goods,
 - (b) acknowledges that the enforcement agent is taking control of them, and
 - (c) agrees not to remove or dispose of them, nor to permit anyone else to, before the debt is paid.

Entry without warrant

- 14
- (1) An enforcement agent may enter relevant premises to search for and take control of goods.
 - (2) Where there are different relevant premises this paragraph authorises entry to each of them.
 - (3) This paragraph authorises repeated entry to the same premises, subject to any restriction in regulations.
 - (4) If the enforcement agent is acting under section 72(1) (CRAR), the only relevant premises are the demised premises.
 - (5) If he is acting under section 121A of the Social Security Administration Act 1992 (c. 5), premises are relevant if they are the place, or one of the places, where the debtor carries on a trade or business.
 - (6) Otherwise premises are relevant if the enforcement agent reasonably believes that they are the place, or one of the places, where the debtor—
 - (a) usually lives, or
 - (b) carries on a trade or business.

Entry under warrant

- 15
- (1) If an enforcement agent applies to the court it may issue a warrant authorising him to enter specified premises to search for and take control of goods.
 - (2) Before issuing the warrant the court must be satisfied that all these conditions are met—
 - (a) an enforcement power has become exercisable;
 - (b) there is reason to believe that there are goods on the premises that the enforcement power will be exercisable to take control of if the warrant is issued;
 - (c) it is reasonable in all the circumstances to issue the warrant.
 - (3) The warrant authorises repeated entry to the same premises, subject to any restriction in regulations.

Re-entry

- 16
- (1) This paragraph applies where goods on any premises have been taken control of and have not been removed by the enforcement agent.

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- (2) The enforcement agent may enter the premises to inspect the goods or to remove them for storage or sale.
- (3) This paragraph authorises repeated entry to the same premises.

General powers to use reasonable force

- 17 Where paragraph 18 or 19 applies, an enforcement agent may if necessary use reasonable force to enter premises or to do anything for which the entry is authorised.
- 18 This paragraph applies if these conditions are met—
- (a) the enforcement agent has power to enter the premises under paragraph 14 or 16 or under a warrant under paragraph 15;
 - (b) he is acting under an enforcement power conferred by a warrant of control under section 76(1) of the Magistrates' Courts Act 1980 (c. 43) for the recovery of a sum adjudged to be paid by a conviction;
 - (c) he is entitled to execute the warrant by virtue of section 125A (civilian enforcement officers) or 125B (approved enforcement agencies) of that Act.
- 19 (1) This paragraph applies if these conditions are met—
- (a) the enforcement agent has power to enter the premises under paragraph 16;
 - (b) he reasonably believes that the debtor carries on a trade or business on the premises;
 - (c) he is acting under an enforcement power within sub-paragraph (2).
- (2) The enforcement powers are those under any of the following—
- (a) a writ or warrant of control issued for the purpose of recovering a sum payable under a High Court or county court judgment;
 - (b) section 61(1) of the Taxes Management Act 1970 (c. 9);
 - (c) section 121A(1) of the Social Security Administration Act 1992 (c. 5);
 - (d) section 51(A1) of the Finance Act 1997 (c. 16);
 - (e) paragraph 1A of Schedule 12 to the Finance Act 2003 (c. 14).

Application for power to use reasonable force

- 20 (1) This paragraph applies if an enforcement agent has power to enter premises under paragraph 14 or 16 or under a warrant under paragraph 15.
- (2) If the enforcement agent applies to the court it may issue a warrant which authorises him to use, if necessary, reasonable force to enter the premises or to do anything for which entry is authorised.
- 21 (1) This paragraph applies if an enforcement agent is applying for power to enter premises under a warrant under paragraph 15.
- (2) If the enforcement agent applies to the court it may include in the warrant provision authorising him to use, if necessary, reasonable force to enter the premises or to do anything for which entry is authorised.
- 22 (1) The court may not issue a warrant under paragraph 20 or include provision under paragraph 21 unless it is satisfied that prescribed conditions are met.

- (2) A warrant under paragraph 20 or provision included under paragraph 21 may require any constable to assist the enforcement agent to execute the warrant.

Other provisions about powers of entry

- 23 Paragraphs 24 to 30 apply where an enforcement agent has power to enter premises under paragraph 14 or 16 or under a warrant under paragraph 15.
- 24 (1) The power to enter and any power to use force are subject to any restriction imposed by or under regulations.
- (2) A power to use force does not include power to use force against persons, except to the extent that regulations provide that it does.
- 25 (1) The enforcement agent may enter and remain on the premises only within prescribed times of day.
- (2) Regulations may give the court power in prescribed circumstances to authorise him to enter or remain on the premises at other times.
- (3) The authorisation—
- (a) may be by order or in a warrant under paragraph 15;
- (b) may be subject to conditions.
- 26 (1) The enforcement agent must on request show the debtor and any person who appears to him to be in charge of the premises evidence of—
- (a) his identity, and
- (b) his authority to enter the premises.
- (2) The request may be made before the enforcement agent enters the premises or while he is there.
- 27 (1) The enforcement agent may take other people onto the premises.
- (2) They may assist him in exercising any power, including a power to use force.
- (3) They must not remain on the premises without the enforcement agent.
- (4) The enforcement agent may take any equipment onto the premises.
- (5) He may leave equipment on the premises if he leaves controlled goods there.
- 28 (1) After entering the premises the enforcement agent must provide a notice for the debtor giving information about what the enforcement agent is doing.
- (2) Regulations must state—
- (a) the form of the notice;
- (b) what information it must give.
- (3) Regulations may prescribe circumstances in which a notice need not be provided after re-entry to premises.
- (4) If the debtor is on the premises when the enforcement agent is there, the enforcement agent must give him the notice then.
- (5) If the debtor is not there, the enforcement agent must leave the notice in a conspicuous place on the premises.

- (6) If the enforcement agent knows that there is someone else there or that there are other occupiers, a notice he leaves under sub-paragraph (5) must be in a sealed envelope addressed to the debtor.
- 29 If the premises are occupied by any person apart from the debtor, the enforcement agent must leave at the premises a list of any goods he takes away.
- 30 The enforcement agent must leave the premises as effectively secured as he finds them.

Goods on a highway

- 31 (1) If the enforcement agent applies to the court it may issue a warrant which authorises him to use, if necessary, reasonable force to take control of goods on a highway.
- (2) The court may not issue a warrant unless it is satisfied that prescribed conditions are met.
- (3) The warrant may require any constable to assist the enforcement agent to execute it.
- (4) The power to use force is subject to any restriction imposed by or under regulations.
- (5) The power to use force does not include power to use force against persons, except to the extent that regulations provide that it does.
- 32 (1) The enforcement agent may not exercise any power under this Schedule on a highway except within prescribed times of day.
- (2) Regulations may give the court power in prescribed circumstances to authorise him to exercise a power at other times.
- (3) The authorisation may be subject to conditions.
- 33 (1) If the enforcement agent takes control of goods on a highway or enters a vehicle on a highway with the intention of taking control of goods, he must provide a notice for the debtor giving information about what he is doing.
- (2) Regulations must state—
- (a) the form of the notice;
- (b) what information it must give.
- (3) If the debtor is present when the enforcement agent is there, the enforcement agent must give him the notice then.
- (4) Otherwise the enforcement agent must deliver the notice to any relevant premises (as defined by paragraph 14) in a sealed envelope addressed to the debtor.

Inventory

- 34 (1) If an enforcement agent takes control of goods he must provide the debtor with an inventory of them as soon as reasonably practicable.
- (2) But if there are co-owners of any of the goods, the enforcement agent must instead provide the debtor as soon as reasonably practicable with separate inventories of goods owned by the debtor and each co-owner and an inventory of the goods without a co-owner.

- (3) The enforcement agent must as soon as reasonably practicable provide the co-owner of any of the goods with—
 - (a) the inventory of those goods, and
 - (b) a copy of the notice under paragraph 28.
- (4) Regulations must state—
 - (a) the form of an inventory, and
 - (b) what it must contain.

Care of goods removed

- 35 (1) An enforcement agent must take reasonable care of controlled goods that he removes from the premises or highway where he finds them.
- (2) He must comply with any provision of regulations about their care while they remain controlled goods.

Valuation

- 36 (1) Before the end of the minimum period, the enforcement agent must—
 - (a) make or obtain a valuation of the controlled goods in accordance with regulations;
 - (b) give the debtor, and separately any co-owner, an opportunity to obtain an independent valuation of the goods.
- (2) In this paragraph “minimum period” means the period specified by regulations under—
 - (a) paragraph 49, in the case of securities;
 - (b) paragraph 39, in any other case.

Best price

- 37 (1) An enforcement agent must sell or dispose of controlled goods for the best price that can reasonably be obtained in accordance with this Schedule.
- (2) That does not apply to money that can be used for paying any of the outstanding amount, unless the best price is more than its value if used in that way.

Sale

- 38 Paragraphs 39 to 42 apply to the sale of controlled goods, except where—
 - (a) the controlled goods are securities, or
 - (b) the sale is by exchange of one currency for another.
- 39 (1) The sale must not be before the end of the minimum period except with the agreement of the debtor and any co-owner.
- (2) Regulations must specify the minimum period.
- 40 (1) Before the sale, the enforcement agent must give notice of the date, time and place of the sale to the debtor and any co-owner.
- (2) Regulations must state—

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- (a) the minimum period of notice;
 - (b) the form of the notice;
 - (c) what it must contain (besides the date, time and place of sale);
 - (d) how it must be given.
- (3) The enforcement agent may replace a notice with a new notice, subject to any restriction in regulations.
- (4) Any notice must be given within the permitted period.
- (5) Unless extended the permitted period is 12 months beginning with the day on which the enforcement agent takes control of the goods.
- (6) Any extension must be by agreement in writing between the creditor and debtor before the end of the period.
- (7) They may extend the period more than once.
- 41 (1) The sale must be by public auction unless the court orders otherwise.
- (2) The court may make an order only on an application by the enforcement agent.
- (3) Regulations may make provision about the types of sale the court may order.
- (4) In an application for an order under sub-paragraph (2) the enforcement agent must state whether he has reason to believe that an enforcement power has become exercisable by another creditor against the debtor or a co-owner.
- (5) If the enforcement agent states that he does, the court may not consider the application until notice of it has been given to the other creditor in accordance with regulations (or until the court is satisfied that an enforcement power is not exercisable by the other creditor against the debtor or a co-owner).
- 42 Regulations may make further provision about the sale of controlled goods, including in particular—
- (a) requirements for advertising;
 - (b) provision about the conduct of a sale.

Place of sale

- 43 (1) Regulations may make provision about the place of sale of controlled goods.
- (2) They may prescribe circumstances in which the sale may be held on premises where goods were found by the enforcement agent.
- (3) Except where the regulations provide otherwise, the sale may not be held on those premises without the consent of the occupier.
- (4) Paragraphs 44 to 46 apply if the sale may be held on those premises.
- 44 (1) The enforcement agent and any person permitted by him—
- (a) may enter the premises to conduct or attend the sale;
 - (b) may bring equipment onto the premises for the purposes of the sale.
- (2) This paragraph authorises repeated entry to the premises.
- (3) If necessary the enforcement agent may use reasonable force to enable the sale to be conducted and any person to enter under this paragraph.

- 45 (1) The enforcement agent must on request show the debtor and any person who appears to him to be in charge of the premises evidence of—
- (a) his identity, and
 - (b) his authority to enter and hold the sale on the premises.
- (2) The request may be made before the enforcement agent enters the premises or while he is there.
- 46 The enforcement agent must leave the premises as effectively secured as he finds them.

Holding and disposal of securities

- 47 Paragraphs 48 and 49 apply to securities as controlled goods.
- 48 (1) Regulations may make provision about how securities are to be held and disposed of.
- (2) In this Schedule, references to disposal include, in relation to securities, realising the sums secured or made payable by them, suing for the recovery of those sums or assigning the right to sue for their recovery.
- (3) Regulations may in particular make provision for purposes corresponding to those for which provision is made in this Schedule in relation to the disposal of other controlled goods.
- (4) The power to make regulations under this paragraph is subject to paragraph 49.
- 49 (1) The creditor may sue in the name of the debtor, or in the name of any person in whose name the debtor might have sued, for the recovery of any sum secured or made payable by securities, when the time of payment arrives.
- (2) Before any proceedings under sub-paragraph (1) are commenced or the securities are otherwise disposed of, the enforcement agent must give notice of the disposal to the debtor and any co-owner.
- (3) Regulations must state—
- (a) the minimum period of notice;
 - (b) the form of the notice;
 - (c) what it must contain;
 - (d) how it must be given.
- (4) The enforcement agent may replace a notice with a new notice, subject to any restriction in regulations.
- (5) Any notice must be given within the permitted period.
- (6) Unless extended the permitted period is 12 months beginning with the time of payment.
- (7) Any extension must be by agreement in writing between the creditor and debtor before the end of the period.
- (8) They may extend the period more than once.

Application of proceeds

- 50 (1) Proceeds from the exercise of an enforcement power must be used to pay the amount outstanding.
- (2) Proceeds are any of these—
- (a) proceeds of sale or disposal of controlled goods;
 - (b) money taken in exercise of the power, if paragraph 37(1) does not apply to it.
- (3) The amount outstanding is the sum of these—
- (a) the amount of the debt which remains unpaid (or an amount that the creditor agrees to accept in full satisfaction of the debt);
 - (b) any amounts recoverable out of proceeds in accordance with regulations under paragraph 62 (costs).
- (4) If the proceeds are less than the amount outstanding, which amounts in sub-paragraph (3)(a) and (b) must be paid, and how much of any amount, is to be determined in accordance with regulations.
- (5) If the proceeds are more than the amount outstanding, the surplus must be paid to the debtor.
- (6) If there is a co-owner of any of the goods, the enforcement agent must—
- (a) first pay the co-owner a share of the proceeds of those goods proportionate to his interest;
 - (b) then deal with the rest of the proceeds under sub-paragraphs (1) to (5).
- (7) Regulations may make provision for resolving disputes about what share is due under sub-paragraph (6)(a).

Passing of title

- 51 (1) A purchaser of controlled goods acquires good title, with two exceptions.
- (2) The exceptions apply only if the goods are not the debtor's at the time of sale.
- (3) The first exception is where the purchaser, the creditor, the enforcement agent or a related party has notice that the goods are not the debtor's.
- (4) The second exception is where a lawful claimant has already made an application to the court claiming an interest in the goods.
- (5) A lawful claimant in relation to goods is a person who has an interest in them at the time of sale, other than an interest that was assigned or transferred to him while the property in the goods was bound for the purposes of the enforcement power.
- (6) A related party is any person who acts in exercise of an enforcement power, other than the creditor or enforcement agent.
- (7) "The court" has the same meaning as in paragraph 60.

Abandonment of goods other than securities

- 52 Paragraphs 53 and 54 apply to controlled goods other than—
- (a) securities;
 - (b) money to which paragraph 37(1) does not apply.

- 53 (1) Controlled goods are abandoned if the enforcement agent does not give the debtor or any co-owner notice under paragraph 40 (notice of sale) within the permitted period.
- (2) Controlled goods are abandoned if they are unsold after a sale of which notice has been given in accordance with that paragraph.
- (3) Regulations may prescribe other circumstances in which controlled goods are abandoned.
- 54 (1) If controlled goods are abandoned then, in relation to the enforcement power concerned, the following apply—
- (a) the enforcement power ceases to be exercisable;
- (b) as soon as reasonably practicable the enforcement agent must make the goods available for collection by the debtor, if he removed them from where he found them.
- (2) Regulations may make further provision about arrangements under sub-paragraph (1)(b), including in particular provision about the disposal of goods uncollected after a prescribed period.
- (3) Where the enforcement power was under a writ or warrant, sub-paragraph (1) does not affect any power to issue another writ or warrant.

Abandonment of securities

- 55 Paragraphs 56 and 57 apply to securities as controlled goods.
- 56 (1) Securities are abandoned if the enforcement agent does not give the debtor or any co-owner notice under paragraph 49 (notice of disposal) within the permitted period.
- (2) Securities are abandoned if they are not disposed of in accordance with a notice of disposal under that paragraph.
- (3) Regulations may prescribe other circumstances in which securities are abandoned.
- 57 (1) If securities are abandoned then, in relation to the enforcement power concerned, the following apply—
- (a) the enforcement power ceases to be exercisable;
- (b) as soon as reasonably practicable the enforcement agent must make the securities available for collection by the debtor, if he removed them from where he found them.
- (2) Where the enforcement power was under a writ or warrant, sub-paragraph (1) does not affect any power to issue another writ or warrant.

Payment of amount outstanding

- 58 (1) This paragraph applies where the debtor pays the amount outstanding in full—
- (a) after the enforcement agent has taken control of goods, and
- (b) before they are sold or abandoned.
- (2) If the enforcement agent has removed the goods he must as soon as reasonably practicable make them available for collection by the debtor.
- (3) No further step may be taken under the enforcement power concerned.

- (4) For the purposes of this paragraph the amount outstanding is reduced by the value of any controlled goods consisting of money required to be used to pay that amount, and sub-paragraph (2) does not apply to that money.
- 59 (1) This paragraph applies if a further step is taken despite paragraph 58(3).
- (2) The enforcement agent is not liable unless he had notice, when the step was taken, that the amount outstanding had been paid in full.
- (3) Sub-paragraph (2) applies to a related party as to the enforcement agent.
- (4) If the step taken is sale of any of the goods the purchaser acquires good title unless, at the time of sale, he or the enforcement agent had notice that the amount outstanding had been paid in full.
- (5) A person has notice that the amount outstanding has been paid in full if he would have found it out if he had made reasonable enquiries.
- (6) Sub-paragraphs (2) to (4) do not affect any right of the debtor or a co-owner to a remedy against any person other than the enforcement agent or a related party.
- (7) In this paragraph, “related party” has the meaning given by paragraph 65(4).

Third party claiming goods

- 60 (1) This paragraph applies where a person makes an application to the court claiming that goods taken control of are his and not the debtor's.
- (2) After receiving notice of the application the enforcement agent must not sell the goods, or dispose of them (in the case of securities), unless directed by the court under this paragraph.
- (3) The court may direct the enforcement agent to sell or dispose of the goods if the applicant fails to make, or to continue to make, the required payments into court.
- (4) The required payments are—
- (a) payment on making the application (subject to sub-paragraph (5)) of an amount equal to the value of the goods, or to a proportion of it directed by the court;
 - (b) payment, at prescribed times (on making the application or later), of any amounts prescribed in respect of the enforcement agent's costs of retaining the goods.
- (5) If the applicant makes a payment under sub-paragraph (4)(a) but the enforcement agent disputes the value of the goods, any underpayment is to be—
- (a) determined by reference to an independent valuation carried out in accordance with regulations, and
 - (b) paid at the prescribed time.
- (6) If sub-paragraph (3) does not apply the court may still direct the enforcement agent to sell or dispose of the goods before the court determines the applicant's claim, if it considers it appropriate.
- (7) If the court makes a direction under sub-paragraph (3) or (6)—
- (a) paragraphs 38 to 49, and regulations under them, apply subject to any modification directed by the court;

- (b) the enforcement agent must pay the proceeds of sale or disposal into court.
- (8) In this paragraph “the court”, subject to rules of court, means—
- (a) the High Court, in relation to an enforcement power under a writ of the High Court;
 - (b) a county court, in relation to an enforcement power under a warrant issued by a county court;
 - (c) in any other case, the High Court or a county court.

Application to assignee or transferee

- 61 (1) This Schedule applies as follows where an interest of the debtor’s in goods is assigned or transferred while the property in the goods is bound for the purposes of an enforcement power, and the enforcement agent—
- (a) knows that the assignee or transferee has an interest in the particular goods, or
 - (b) would know, if he made reasonable enquiries.
- (2) These apply as if the assignee or transferee were a co-owner of the goods with the debtor—
- (a) paragraph 34 (inventory);
 - (b) paragraph 36 (valuation);
 - (c) paragraphs 39 to 41 (sale);
 - (d) paragraph 59(6) (remedies after payment of amount outstanding).
- (3) If the interest of the assignee or transferee was acquired in good faith, for valuable consideration and without notice, paragraph 50(6) applies as if “co-owner” included the assignee or transferee.
- (4) If the interest of the assignee or transferee was not acquired in good faith, for valuable consideration and without notice, the enforcement agent must pay any surplus under paragraph 50(5) to the assignee or transferee and to the debtor (if he retains an interest).
- (5) If the surplus is payable to two or more persons it must be paid in shares proportionate to their interests.
- (6) Paragraph 5(3) and (4) (“good faith” and “notice”) apply for the purposes of this paragraph.

Costs

- 62 (1) Regulations may make provision for the recovery by any person from the debtor of amounts in respect of costs of enforcement-related services.
- (2) The regulations may provide for recovery to be out of proceeds or otherwise.
- (3) The amount recoverable under the regulations in any case is to be determined by or under the regulations.
- (4) The regulations may in particular provide for the amount, if disputed, to be assessed in accordance with rules of court.

- (5) “Enforcement-related services” means anything done under or in connection with an enforcement power, or in connection with obtaining an enforcement power, or any services used for the purposes of a provision of this Schedule or regulations under it.

Limitation of liability for sale or payment of proceeds

- 63 (1) Any liability of an enforcement agent or related party to a lawful claimant for the sale of controlled goods is excluded except in two cases.
- (2) The first exception is where at the time of the sale the enforcement agent had notice that the goods were not the debtor's, or not his alone.
- (3) The second exception is where before sale the lawful claimant had made an application to the court claiming an interest in the goods.
- (4) A lawful claimant in relation to goods is a person who has an interest in them at the time of sale, other than an interest that was assigned or transferred to him while the property in the goods was bound for the purposes of the enforcement power.
- 64 (1) Any liability of an enforcement agent or related party to a lawful claimant for paying over proceeds is excluded except in two cases.
- (2) The first exception is where at the time of the payment he had notice that the goods were not the debtor's, or not his alone.
- (3) The second exception is where before that time the lawful claimant had made an application to the court claiming an interest in the goods.
- (4) A lawful claimant in relation to goods is a person who has an interest in them at the time of sale.
- 65 (1) Paragraphs 63 and 64—
- (a) do not affect the liability of a person other than the enforcement agent or a related party;
- (b) do not apply to the creditor if he is the enforcement agent.
- (2) The following apply for the purposes of those paragraphs.
- (3) The enforcement agent or a related party has notice of something if he would have found it out if he had made reasonable enquiries.
- (4) A related party is any person who acts in exercise of an enforcement power, other than the creditor or enforcement agent.
- (5) “The court” has the same meaning as in paragraph 60.

Remedies available to the debtor

- 66 (1) This paragraph applies where an enforcement agent—
- (a) breaches a provision of this Schedule, or
- (b) acts under an enforcement power under a writ, warrant, liability order or other instrument that is defective.
- (2) The breach or defect does not make the enforcement agent, or a person he is acting for, a trespasser.

Status: This is the original version (as it was originally enacted).

- (3) But the debtor may bring proceedings under this paragraph.
- (4) Subject to rules of court, the proceedings may be brought—
 - (a) in the High Court, in relation to an enforcement power under a writ of the High Court;
 - (b) in a county court, in relation to an enforcement power under a warrant issued by a county court;
 - (c) in any other case, in the High Court or a county court.
- (5) In the proceedings the court may—
 - (a) order goods to be returned to the debtor;
 - (b) order the enforcement agent or a related party to pay damages in respect of loss suffered by the debtor as a result of the breach or of anything done under the defective instrument.
- (6) A related party is either of the following (if different from the enforcement agent)—
 - (a) the person on whom the enforcement power is conferred,
 - (b) the creditor.
- (7) Sub-paragraph (5) is without prejudice to any other powers of the court.
- (8) Sub-paragraph (5)(b) does not apply where the enforcement agent acted in the reasonable belief—
 - (a) that he was not breaching a provision of this Schedule, or
 - (b) (as the case may be) that the instrument was not defective.
- (9) This paragraph is subject to paragraph 59 in the case of a breach of paragraph 58(3).

Remedies available to the creditor

- 67 If a debtor wrongfully interferes with controlled goods and the creditor suffers loss as a result, the creditor may bring a claim against the debtor in respect of the loss.

Offences

- 68 (1) A person is guilty of an offence if he intentionally obstructs a person lawfully acting as an enforcement agent.
- (2) A person is guilty of an offence if he intentionally interferes with controlled goods without lawful excuse.
- (3) A person guilty of an offence under this paragraph is liable on summary conviction to—
 - (a) imprisonment for a term not exceeding 51 weeks, or
 - (b) a fine not exceeding level 4 on the standard scale, or
 - (c) both.
- (4) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in sub-paragraph (3)(a) to 51 weeks is to be read as a reference to 6 months.

Status: This is the original version (as it was originally enacted).

Relation to insolvency provisions

- 69 This Schedule is subject to sections 183, 184 and 346 of the Insolvency Act 1986 (c. 45).

SCHEDULE 13

Section 62(3)

TAKING CONTROL OF GOODS: AMENDMENTS

Inclosure Act 1773 (c. 81)

- 1 The Inclosure Act 1773 is amended as follows.
- 2 (1) Section 4 (expenses how to be defrayed) is amended as follows.
- (2) For “levied by distress and sale of the goods and chattels of” substitute “recovered, by using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods), from”.
- (3) Omit the words from “rendering” to the end.
- 3 (1) Section 16 (assessments to be levied for the improving of wastes where there are stinted commons) is amended as follows.
- (2) For “levied by distress and sale of the goods and chattels of” substitute “recovered, by using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods), from”.
- (3) Omit the words from “rendering” to the end.

Oaths Act 1775 (c. 39)

- 4 In the Oaths Act 1775 (justices to administer oaths for levying penalties etc.) at the end insert—
- “In this Act references to making a distress include references to using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover a sum.”

Sale of Farming Stock Act 1816 (c. 50)

- 5 The Sale of Farming Stock Act 1816 ceases to have effect.

Judgments Act 1838 (c. 110)

- 6 In the Judgments Act 1838 omit section 12 (sheriff may seize money, banknotes, etc.).

Lands Clauses Consolidation Act 1845 (c. 18)

- 7 (1) In section 91 of the Lands Clauses Consolidation Act 1845 (proceedings in case of refusal to deliver possession of lands) for “levied by distress” substitute “recovered by using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods),”.

(2) This paragraph extends only to England and Wales.

Inclosure Act 1845 (c. 118)

- 8 The Inclosure Act 1845 is amended as follows.
- 9 In section 151 (recovery of share of expenses) for “levied by distress” substitute “recovered by using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods).”
- 10 In section 159 (recovery of penalties and forfeitures) for the words from “to levy” to the end substitute “to recover such penalties and forfeitures by using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods).”

Railways Clauses Act 1863 (c. 92)

- 11 The Railways Clauses Act 1863 is amended as follows.
- 12 In section 33 (recovery of money by distress) at the end insert—
- “In this section as it applies in England and Wales—
- (a) for “levied by distress” substitute “recovered using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods)”;
- (b) for “warrant of distress” substitute “warrant of control”.”
- 13 In section 34 (several names in one warrant) at the end insert—
- “In this section as it applies in England and Wales for “warrant of distress” substitute “warrant of control”.”

Summary Jurisdiction (Process) Act 1881 (c. 24)

- 14 The Summary Jurisdiction (Process) Act 1881 is amended as follows.
- 15 In section 5 (provision as to execution of process) after “warrant of distress” in the first place insert “or warrant of control”.
- 16 In section 8 (definitions) after “warrant of distress,” insert “any warrant of control”.

Bills of Sale Act (1878) Amendment Act 1882 (c. 43)

- 17 The Bills of Sale Act (1878) Amendment Act 1882 is amended as follows.
- 18 In section 7 (bill of sale with power to seize except in certain events to be void), in paragraph (2) after “distrained” insert “, or taken control of using the power in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.”.
- 19 In section 14 (bill of sale not to protect chattels against poor and parochial rates), after “warrant” insert “, or subject to a warrant of control”.

Sheriffs Act 1887 (c. 55)

- 20 In section 20 of the Sheriffs Act 1887 (fees and poundage), after subsection (2) insert—

Status: This is the original version (as it was originally enacted).

“(2A) Subsection (2) does not apply to the execution of process under a power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods).”

Deeds of Arrangement Act 1914 (c. 47)

21 In section 17 of the Deeds of Arrangement Act 1914 (preferential payment to creditor an offence), after “by distress” insert “or by using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods),”.

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

22 (1) Section 6 of the Maintenance Orders (Facilities for Enforcement) Act 1920 (mode of enforcing orders) is amended as follows.

(2) In subsection (3), after “distress” insert “, control”.

(3) After subsection (3) insert—

“(4) For the purposes of its execution under subsection (3) in England and Wales, a warrant of distress has effect as a warrant of control.

(5) For the purposes of its execution under subsection (3) elsewhere than in England and Wales, a warrant of control has effect as a warrant of distress.”

Agricultural Credits Act 1928 (c. 43)

23 In section 8 of the Agricultural Credits Act 1928 (supplemental provisions about agricultural charges), in subsection (7) after “distress for” insert “, or the exercise of a power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover,”.

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

24 In section 2 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (general restrictions on execution and other remedies), in subsection (2)(a) after “the levying of distress;” insert—

“using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods);”.

Agriculture (Miscellaneous Provisions) Act 1954 (c. 39)

25 In section 5 of the Agriculture (Miscellaneous Provisions) Act 1954 (power of Agricultural Land Tribunal to award costs), in subsection (3) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

Criminal Justice Act 1961 (c. 39)

26 In section 39 of the Criminal Justice Act 1961 (interpretation) after subsection (1) insert—

Status: This is the original version (as it was originally enacted).

“(1ZA) In the definition of “default” in subsection (1) the reference to want of sufficient distress to satisfy a fine or other sum includes a reference to circumstances where—

- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the fine or other sum from a person, but
- (b) it appears, after an attempt has been made to exercise the power, that the person’s goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).”

Compulsory Purchase Act 1965 (c. 56)

27 The Compulsory Purchase Act 1965 is amended as follows.

28 (1) Section 13 (refusal to give possession to acquiring authority) is amended as follows.

(2) In subsection (4) for “levied by distress” substitute “recovered by using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods)”.

(3) Omit subsection (5).

29 Omit section 29 (irregularities in proceedings under the Act).

Criminal Justice Act 1967 (c. 80)

30 In section 104 of the Criminal Justice Act 1967 (general provisions as to interpretation) after subsection (1) insert—

“(1A) In the definition of “sentence of imprisonment” in subsection (1) the reference to want of sufficient distress to satisfy a sum includes a reference to circumstances where—

- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the sum from a person, but
- (b) it appears, after an attempt has been made to exercise the power, that the person’s goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).”

Sea Fisheries Act 1968 (c. 77)

31 In section 12 of the Sea Fisheries Act 1968 (recovery of fines imposed on master etc. or crew), in subsection (3)—

- (a) for “warrants of distress” substitute “warrants), as they apply to warrants of the kinds mentioned there,”;
- (b) omit the words from “as they apply” to the end.

Taxes Management Act 1970 (c. 9)

32 The Taxes Management Act 1970 is amended as follows.

33 (1) Section 61 (distrainment by collectors) is amended as follows.

(2) In subsection (1), after “the collector may” insert “—

Status: This is the original version (as it was originally enacted).

- (a) in England and Wales, use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover that sum;
- (b) in Northern Ireland.”.

(3) After subsection (1) insert—

“(1A) Subsections (2) to (6) apply to distraint under subsection (1)(b).”

34 In section 62 (priority of claim for tax) at the end insert—

“(4) This section does not extend to England and Wales.”

Administration of Justice Act 1970 (c. 31)

35 In section 41 of the Administration of Justice Act 1970 (recovery of costs and compensation awarded by magistrates etc.) in subsection (3) for “writ of fieri facias” substitute “writ of control”.

Attachment of Earnings Act 1971 (c. 32)

36 In section 3 of the Attachment of Earnings Act 1971 (application for order and conditions of court’s power to make it), in subsection (4)(b), for “distress” substitute “taking control of goods”.

Criminal Justice Act 1972 (c. 71)

37 In section 66 of the Criminal Justice Act 1972 (interpretation etc.), in subsection (2) omit the words from ““sentence of imprisonment”” to the end.

Rehabilitation of Offenders Act 1974 (c. 53)

38 In section 1 of the Rehabilitation of Offenders Act 1974 (rehabilitated persons and spent convictions) after subsection (3) insert—

“(3A) In subsection (3)(a), the reference to want of sufficient distress to satisfy a fine or other sum includes a reference to circumstances where—

- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the fine or other sum from a person, but
- (b) it appears, after an attempt has been made to exercise the power, that the person’s goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).”

Patents Act 1977 (c. 37)

39 The Patents Act 1977 is amended as follows.

40 In section 41 (amount of compensation of employees), in subsection (9) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

41 In section 61 (proceedings for infringement of patent), in subsection (7)(a) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

- 42 In section 93 (enforcement of orders for costs), in paragraph (a) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.
- 43 In section 107 (costs and expenses in proceedings before the comptroller), in subsection (2) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

Customs and Excise Management Act 1979 (c. 2)

- 44 In section 149 of the Customs and Excise Management Act 1979 (non-payment of penalties etc: maximum terms of imprisonment) after subsection (1) insert—
- “(1A) In subsection (1)(b) as it applies to a magistrates' court in England or Wales the reference to default of sufficient distress to satisfy the amount of the penalty is a reference to want of sufficient goods to satisfy the amount, within the meaning given by section 79(4) of the Magistrates' Courts Act 1980.”

Magistrates' Courts Act 1980 (c. 43)

- 45 The Magistrates' Courts Act 1980 is amended as follows.
- 46 (1) Section 76 (enforcement of sums adjudged to be paid) is amended as follows.
- (2) In subsection (1) for “issue a warrant of distress for the purpose of levying the sum” substitute “issue a warrant of control for the purpose of recovering the sum”.
- (3) In subsection (2)(a)—
- (a) for “warrant of distress” substitute “warrant of control”;
- (b) for “satisfy the sum with the costs and charges of levying the sum” substitute “pay the amount outstanding, as defined by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007”.
- (4) In subsection (2)(b) for “warrant of distress” substitute “warrant of control”.
- 47 In section 77 (postponement of issue of warrant), in subsection (1) for “warrant of distress” substitute “warrant of control”.
- 48 (1) Section 79 (release from custody and reduction of detention on payment) is amended as follows.
- (2) In subsection (1)—
- (a) for “distress” in the first place substitute “goods”;
- (b) for “and distress” substitute “,or (as the case may be) on the payment of the amount outstanding,”.
- (3) In subsection (2)—
- (a) for “distress” in the first place substitute “goods”;
- (b) for the words from “to so much of the said sum” to the end substitute “—
- (a) to the amount outstanding at the time the period of detention was imposed, if the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) had been used for recovering the sum;
- (b) otherwise, to so much of the sum as was due at that time.”
- (4) After subsection (3) insert—

Status: This is the original version (as it was originally enacted).

“(4) In this Act, references to want of sufficient goods to satisfy a sum of money are references to circumstances where—

- (a) a warrant of control has been issued for the sum to be recovered from a person, but
- (b) it appears on the return to the warrant that the person’s money and goods are insufficient to pay the amount outstanding.

(5) In this section, “the amount outstanding” has the meaning given by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.”

49 In section 80 (application of money found on defaulter to satisfy sum adjudged), in subsection (2) for “distress” substitute “goods”.

50 In section 81 (enforcement of fines imposed on young offenders) in subsections (1) and (3) for “distress” substitute “goods”.

51 (1) Section 82 (restriction on power to impose imprisonment for default) is amended as follows.

(2) In subsection (3), for “distress” substitute “goods”.

(3) In subsection (4A)(a), for “warrant of distress” substitute “warrant of control”.

52 In section 87 (enforcement of payment of fines by High Court and county court) in subsection (1) for “writ of fieri facias” substitute “writ of control”.

53 (1) Section 87A (fines imposed on companies) is amended as follows.

(2) In subsection (1)(b), for “warrant of distress” substitute “warrant of control”.

(3) For subsection (1)(c) substitute—

“(c) it appears on the return to the warrant that the company’s money and goods are insufficient to pay the amount outstanding.”.

(4) At the end insert—

“(3) In this section, “the amount outstanding” has the meaning given by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.”

54 In section 88 (supervision pending payment) in subsections (4) and (6) for “distress” substitute “goods”.

55 In section 96 (civil debt: complaint for non-payment), in subsection (1) for “distress” substitute “goods”.

56 In section 120 (forfeiture of recognizance), in subsection (4) for “warrant of distress” substitute “warrant of control”.

57 (1) In section 125 (warrants) subsection (2) is amended as follows.

(2) For “warrant of distress”, in the first place, substitute “warrant of control”.

(3) Omit the words from “This subsection” to the end.

58 (1) Section 125A (civilian enforcement officers) is amended as follows.

(2) In subsection (3), for “distress” substitute “control”.

Status: This is the original version (as it was originally enacted).

- (3) In subsection (3A), for “distress” substitute “control”.
- (4) In subsection (4), for “against whom distress is levied” substitute “, in the case of a warrant of control, against whom the warrant is issued”.
- 59 In section 125B (execution by approved enforcement agency), in subsection (4) for “against whom distress is levied” substitute “, in the case of a warrant of control, against whom the warrant is issued”.
- 60 In section 125CA (power to make disclosure order), in subsection (2) for “distress” substitute “control”.
- 61 (1) Section 125D (execution by person not in possession of warrant) is amended as follows.
- (2) Omit subsection (3)(c).
- (3) In subsection (4), for “against whom distress is levied” substitute “, in the case of a warrant of control, against whom the warrant is issued”.
- 62 In section 133 (consecutive terms of imprisonment) in subsections (4) and (5) for “distress” substitute “goods”.
- 63 (1) Section 150 (interpretation) is amended as follows.
- (2) In subsection (1) in the definitions of “impose imprisonment” and “sentence”, for “distress” substitute “goods”.
- (3) After subsection (3) insert—
- “(3A) References in this Act to want of sufficient goods to satisfy a fine or other sum of money have the meaning given by section 79(4).”
- 64 Omit section 151.
- 65 In Schedule 4A (powers of authorised officers executing warrants), omit paragraph 3.

Supreme Court Act 1981 (c. 54)

- 66 (1) Section 43ZA of the Supreme Court Act 1981 (power of High Court to vary committal in default) is amended as follows.
- (2) In subsection (1) for “distress” in both places substitute “goods”.
- (3) After subsection (2) insert—
- “(3) In subsection (1) references to want of sufficient goods to satisfy a sum are references to circumstances where—
- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the sum from a person, but
- (b) it appears, after an attempt has been made to exercise the power, that the person’s goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).”

Status: This is the original version (as it was originally enacted).

British Fishing Boats Act 1983 (c. 8)

- 67 In section 5 of the British Fishing Boats Act 1983 (recovery of fines), in subsection (3)—
- (a) for “warrants of distress” substitute “warrants), as they apply to warrants of the kinds mentioned there,”;
 - (b) omit the words from “as they apply” to the end.

County Courts Act 1984 (c. 28)

- 68 The County Courts Act 1984 is amended as follows.
- 69 (1) Section 85 (execution of judgments or orders for payment of money) is amended as follows.
- (2) In subsection (1), for the words from “by execution” to the end substitute “under a warrant under subsection (2).”
 - (3) In subsection (2)—
 - (a) for “warrant of execution in the nature of a writ of fieri facias” substitute “warrant of control”;
 - (b) for the words from “levy” to the end substitute “use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover the money payable under the judgment or order.”
 - (4) After that subsection insert—

“(2A) The person to whom a warrant under subsection (2) must be directed is to be determined in accordance with arrangements made by a person authorised by or on behalf of the Lord Chancellor.”
 - (5) Omit subsection (3).
- 70 (1) Section 86 (execution of orders for payment by instalments) is amended as follows.
- (2) In subsection (1) for “execution on the order” substitute “a warrant of control to recover any of that sum”.
 - (3) In subsection (2)—
 - (a) for “execution is to issue” substitute “a warrant of control is to be issued”;
 - (b) for “execution may issue” substitute “a warrant of control may be issued”.
 - (4) In subsection (3)—
 - (a) for “execution or successive executions may issue” substitute “a warrant or successive warrants of control may be issued”;
 - (b) for the words from “no execution” to “it issues” substitute “no warrant of control may be issued unless when it is issued”.
- 71 (1) Section 87 (execution to be superseded on payment) is amended as follows.
- (2) In subsection (1)—
 - (a) for “warrant of execution” substitute “warrant of control”;
 - (b) for “levied” substitute “recovered”.
 - (3) Omit subsection (2).

Status: This is the original version (as it was originally enacted).

- (4) For the heading “Execution to be superseded on payment” substitute “Indorsement of amount on warrant”.
- 72 Omit sections 89 to 91.
- 73 In section 92 (penalty for rescuing goods seized), after subsection (2) insert—
- “*(3) This section does not apply in the case of goods seized under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.*”
- 74 Omit sections 93 to 100.
- 75 In section 101 (interpleader by district judge), after subsection (3) insert—
- “*(4) This section does not apply in the case of goods seized under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.*”
- 76 Omit sections 102 and 103.
- 77 In section 104 (information as to writs and warrants of execution) in subsection (2) for “A bailiff of a county court” substitute “The person to whom a warrant issued by a county court is directed”.
- 78 Omit section 123.
- 79 (1) Section 124 (liability of bailiff for neglect to levy execution) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from “a bailiff” to “the execution” substitute “a county court issues a warrant of execution, control, possession or delivery and the person to whom it is directed loses the opportunity of executing it”;
- (b) for “judge of that court” substitute “district judge”.
- (3) In subsection (2)—
- (a) for “the bailiff” substitute “that person”;
- (b) for “execution” substitute “warrant was”.
- 80 In section 125 (irregularity in executing warrants) in subsection (1) after “but” insert “, except in the case of a warrant of control (to which Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 applies),”.
- 81 (1) Section 126 (actions against bailiffs acting under warrants) is amended as follows.
- (2) In subsection (3) omit the words from “but” to the end.
- (3) In subsection (4)—
- (a) after “section” insert ““bailiff” in relation to a warrant means the person to whom the warrant is directed, and”;
- (b) omit ““bailiff””;
- (c) for “a bailiff” substitute “that person”.
- (4) After subsection (4) insert—
- “*(5) This section does not apply to an action for anything done under a power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.*”
- 82 In section 147 (interpretation) in subsection (1) omit the definition of “bailiff”.

Status: This is the original version (as it was originally enacted).

Finance Act 1984 (c. 43)

83 In the Finance Act 1984 omit section 16 (unpaid car tax and VAT: distress).

Gas Act 1986 (c. 44)

84 In paragraph 29 of Schedule 2B to the Gas Act 1986 (gas meters and fittings not to be subject to distress) in sub-paragraph (1)(a) after “liable” insert “to be taken control of under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, or”.

Insolvency Act 1986 (c. 45)

85 In section 436 of the Insolvency Act 1986 (expressions used generally) insert in the appropriate place—

““distress” includes use of the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, and references to levying distress, seizing goods and related expressions shall be construed accordingly;”.

Dartford-Thurrock Crossing Act 1988 (c. 20)

86 (1) Section 15 of the Dartford-Thurrock Crossing Act 1988 (termination: supplementary provisions) is amended as follows.

(2) In subsection (2)—

- (a) after “distress” in the first place insert “or any power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods)”;
- (b) after “levied” insert “or that power was exercised”.

(3) In subsection (3) after “levied” insert “or the power there mentioned was exercisable”.

Local Government Finance Act 1988 (c. 41)

87 The Local Government Finance Act 1988 is amended as follows.

88 After section 62 insert—

“62A Recovery by taking control of goods

Where a liability order has been made against a person under regulations under Schedule 9, the billing authority may use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover the amount in respect of which the order was made, to the extent that it remains unpaid.”

89 (1) Schedule 9 (non-domestic rating: administration) is amended as follows.

(2) In paragraph 1 for “recovery” substitute “the recovery, otherwise than under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods),”.

(3) In paragraph 3—

- (a) omit sub-paragraph (2)(b);

Status: This is the original version (as it was originally enacted).

- (b) in sub-paragraph (4)(b), after “method” in the second place insert “provided for in section 62A above or”.

Electricity Act 1989 (c. 29)

- 90 In paragraph 11 of Schedule 6 to the Electricity Act 1989 (electrical plant etc not to be liable to be taken in execution), in sub-paragraph (2)(b) after “liable” insert “to be taken control of under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, or”.

Companies Act 1989 (c. 40)

- 91 In section 180 of the Companies Act 1989 (proceedings against market property by unsecured creditors) in subsection (1) after “levied,” insert “and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) may be exercised,”.

New Roads and Street Works Act 1991 (c. 22)

- 92 (1) Paragraph 3 of Schedule 1 to the New Roads and Street Works Act 1991 (recovery of property taken in distress etc.) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) after “distress” in the first place insert “or under any power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods)”;
- (b) after “levied” insert “or that power was exercised”.
- (3) In sub-paragraph (2)—
- (a) For “This” substitute “Sub-paragraph (1)”;
- (b) after “levied” insert “or the power mentioned there was exercisable”.

Child Support Act 1991 (c. 48)

- 93 The Child Support Act 1991 is amended as follows.
- 94 (1) Section 35 (enforcement of liability orders by distress) is amended as follows.
- (2) In the heading for “distress” substitute “taking control of goods”.
- (3) In subsection (1) for the words from “levy” to the end substitute “use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover the amount in respect of which the order was made, to the extent that it remains unpaid.”
- (4) Omit subsections (2) to (8).
- 95 In section 39A (commitment to prison and disqualification from driving), in subsection (1)(a), for “levy an amount by distress under this Act” substitute “recover an amount by virtue of section 35(1)”.
- 96 In section 40 (commitment to prison) for subsection (4)(a)(i) substitute—
- “(i) the amount outstanding, as defined by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods); and”.

Status: This is the original version (as it was originally enacted).

- 97 In section 40B (disqualification from driving: further provision) for subsection (3) (a) substitute—
- “(a) the amount outstanding, as defined by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods); and”.

Water Industry Act 1991 (c. 56)

- 98 In section 179 of the Water Industry Act 1991 (vesting of works in undertaker), in subsection (4)(b) after “liable” insert “to be taken control of under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, or”.

Water Resources Act 1991 (c. 57)

- 99 In Schedule 15 to the Water Resources Act 1991 (supplemental provisions with respect to drainage charges), in paragraph 12(2)(b) for “warrant of distress” substitute “warrant of control”.

Land Drainage Act 1991 (c. 59)

- 100 In section 54 of the Land Drainage Act 1991 (powers for enforcing payment of drainage rates), in subsection (2)(b) for “warrant of distress” substitute “warrant of control”.

Social Security Administration Act 1992 (c. 5)

- 101 The Social Security Administration Act 1992 is amended as follows.
- 102 In section 71 (overpayments: general), in subsection (10)(a) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.
- 103 In section 75 (overpayments of housing benefit), in subsection (7)(a) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.
- 104 (1) Section 121A (recovery of contributions etc in England and Wales) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b) after “relates” insert “(“the sums due”);
- (b) for the words from “distrain” to the end substitute “use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover the sums due”.
- (3) Omit subsections (2) to (8) and (10).

Local Government Finance Act 1992 (c. 14)

- 105 The Local Government Finance Act 1992 is amended as follows.
- 106 In section 14 (administration, penalties and enforcement), after subsection (3) insert—
- “(4) Where a liability order has been made against a person under regulations under Schedule 4, the billing authority concerned may use the procedure

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in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover the amount in respect of which the order was made, to the extent that it remains unpaid.”

- 107 (1) Schedule 4 (enforcement: England and Wales) is amended as follows.
- (2) In paragraph 1(1) and (2) after “recovery” insert “, otherwise than under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods),”.
- (3) In paragraph 5 (attachment of earnings etc)—
- (a) in sub-paragraph (1A)(a) for “; and” substitute “(unless paragraph (b) applies);”;
- (b) in sub-paragraph (1A)(b) for sub-paragraph (i) and the words before it substitute—
- “(b) where a person authorised to act under the power conferred by section 14(4) (power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007) has reported to the authority concerned that he was unable (for whatever reason) to find sufficient goods of the debtor to pay the amount outstanding—
- (i) the amount outstanding at the time when the attachment of earnings order is made, and”;
- (c) at the end insert—
- “(9) In this paragraph “the amount outstanding” has the meaning given by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.”
- (4) Omit paragraph 7 (distress).
- (5) In paragraph 8 (commitment to prison)—
- (a) in sub-paragraph (1)(a)—
- (i) omit the words from “an authority” to “paragraph 7 above”;
- (ii) for the words from “the person” to “levy the amount” substitute “there are insufficient goods to satisfy an amount under section 14(4)”;
- (b) after sub-paragraph (1) insert—
- “(1A) In sub-paragraph (1) the reference to insufficient goods to satisfy an amount under section 14(4) is a reference to circumstances where a person authorised to act under the power conferred by section 14(4) (power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007) has reported to the authority concerned that he was unable (for whatever reason) to find sufficient goods of the debtor to pay the amount outstanding.”;
- (c) for sub-paragraph (2)(a) substitute—
- “(a) the amount outstanding at the time when the warrant of commitment is issued; and”;
- (d) at the end insert—
- “(4) In this paragraph “the amount outstanding” has the meaning given by paragraph 50(3) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.”

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- (6) In paragraph 12 (relationship between remedies) in sub-paragraph (1)—
- (a) omit paragraph (c);
 - (b) in paragraph (d), for “distress” substitute “the power conferred by section 14(4)”;
 - (c) in paragraph (e), for “distress” substitute “exercise of the power conferred by section 14(4)”;
 - (d) in paragraph (f), for “distress” substitute “exercise of the power conferred by section 14(4)”.
- (7) Omit paragraph 19 (3).

Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

108 Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992 (collective bargaining: recognition) is amended as follows.

- 109 (1) Paragraph 19E is amended as follows.
- (2) In sub-paragraph (5) for “by execution issued from that court” substitute “under section 85 of the County Courts Act 1984”.
 - (3) In sub-paragraph (6) for the words from the beginning to “carried out” substitute “Where a warrant of control is issued under section 85 of the 1984 Act to recover an amount in accordance with sub-paragraph (5), the power conferred by the warrant is exercisable”.

- 110 (1) Paragraph 28 is amended as follows.
- (2) In sub-paragraph (6) for “by execution issued from that court” substitute “under section 85 of the County Courts Act 1984”.
 - (3) In sub-paragraph (6A) for the words from the beginning to “carried out” substitute “Where a warrant of control is issued under section 85 of the 1984 Act to recover an amount in accordance with sub-paragraph (6), the power conferred by the warrant is exercisable”.

- 111 (1) Paragraph 120 is amended as follows.
- (2) In sub-paragraph (6) for “by execution issued from that court” substitute “under section 85 of the County Courts Act 1984”.
 - (3) In sub-paragraph (6A) for the words from the beginning to “carried out” substitute “Where a warrant of control is issued under section 85 of the 1984 Act to recover an amount in accordance with sub-paragraph (6), the power conferred by the warrant is exercisable”.

Railways Act 1993 (c. 43)

112 In section 27 of the Railways Act 1993 (transfer of franchise assets and shares), in subsection (6) after “levied” insert “and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 may be exercised”.

Finance Act 1994 (c. 9)

113 (1) The Finance Act 1994 is amended as follows.

114 After section 10 insert—

“10A Breaches of controlled goods agreements

- (1) This section applies where an enforcement agent acting under the power conferred by section 51(A1) of the Finance Act 1997 (power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007) has entered into a controlled goods agreement with the person against whom the power is exercisable (“the person in default”).
- (2) In this section, “controlled goods agreement” has the meaning given by paragraph 13(4) of that Schedule.
- (3) Subject to subsection (4) below, if the person in default removes or disposes of goods (or permits their removal or disposal) in breach of the controlled goods agreement, he is liable to a penalty equal to half of the unpaid duty or other amount recoverable under section 51(A1) of the Finance Act 1997.
- (4) The person in default shall not be liable to a penalty under subsection (3) above if he satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the breach in question.
- (5) This section extends only to England and Wales.”

115 In section 11 (breaches of walking possession agreements), for subsection (5) substitute—

“(5) This section extends only to Northern Ireland.”

116 (1) Schedule 7 (insurance premium tax) is amended as follows.

(2) After paragraph 18 insert—

- “18A (1) This paragraph applies where an enforcement agent acting under the power conferred by section 51(A1) of the Finance Act 1997 (power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007) has entered into a controlled goods agreement with the person against whom the power is exercisable (“the person in default”).
- (2) In this paragraph, “controlled goods agreement” has the meaning given by paragraph 13(4) of that Schedule.
 - (3) Subject to sub-paragraph (4) below, if the person in default removes or disposes of goods (or permits their removal or disposal) in breach of the controlled goods agreement, he is liable to a penalty equal to half of the tax or other amount recoverable under section 51(A1) of the Finance Act 1997.
 - (4) The person in default shall not be liable to a penalty under sub-paragraph (3) above if he satisfies the Commissioners or, on appeal, an appeal tribunal, that there is a reasonable excuse for the breach in question.
 - (5) This paragraph extends only to England and Wales.”

(3) In paragraph 19, for sub-paragraph (5) substitute—

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“(5) This paragraph extends only to Northern Ireland.”

Value Added Tax Act 1994 (c. 23)

- 117 The Value Added Tax Act 1994 is amended as follows.
- 118 In section 48 (VAT representatives), in subsection (7A) after “enforcement” insert “by taking control of goods or, in Northern Ireland,”.
- 119 After section 67 (failure to notify and unauthorised invoices) insert—

“67A Breach of controlled goods agreement

- (1) This section applies where an enforcement agent acting under the power conferred by section 51(A1) of the Finance Act 1997 (power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007) has entered into a controlled goods agreement with the person against whom the power is exercisable (“the person in default”).
- (2) In this section, “controlled goods agreement” has the meaning given by paragraph 13(4) of that Schedule.
- (3) Subject to subsection (4) below, if the person in default removes or disposes of goods (or permits their removal or disposal) in breach of the controlled goods agreement, he is liable to a penalty equal to half of the VAT or other amount recoverable under section 51(A1) of the Finance Act 1997.
- (4) The person in default shall not be liable to a penalty under subsection (3) above if he satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the breach in question.
- (5) This section extends only to England and Wales.”
- 120 In section 68 (breach of walking possession agreements) for subsection (5) substitute—
- “(5) This section extends only to Northern Ireland.”

Pensions Act 1995 (c. 26)

- 121 In section 10 of the Pensions Act 1995 (civil penalties), in subsection (8A)(a) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

Finance Act 1996 (c. 8)

- 122 Schedule 5 to the Finance Act 1996 (landfill tax) is amended as follows.
- 123 After paragraph 23 insert—

“Controlled Goods Agreements

- 23A (1) This paragraph applies where an enforcement agent acting under the power conferred by section 51(A1) of the Finance Act 1997 (power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007) has entered into a controlled goods agreement

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with the person against whom the power is exercisable (“the person in default”).

- (2) In this paragraph, “controlled goods agreement” has the meaning given by paragraph 13(4) of that Schedule.
- (3) If the person in default removes or disposes of goods (or permits their removal or disposal) in breach of the controlled goods agreement, he is liable to a penalty equal to half of the tax or other amount recoverable under section 51(A1) of the Finance Act 1997.
- (4) The person in default shall not be liable to a penalty under sub-paragraph (3) above if he satisfies the Commissioners or, on appeal, an appeal tribunal, that there is a reasonable excuse for the breach in question.
- (5) This paragraph extends only to England and Wales.”

124 In paragraph 24, for sub-paragraph (4) substitute—

“(4) This paragraph extends only to Northern Ireland.”

Employment Tribunals Act 1996 (c. 17)

125 In section 15 of the Employment Tribunals Act 1996 (enforcement), in subsection (1) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

Finance Act 1997 (c. 16)

126 (1) Section 51 of the Finance Act 1997 (enforcement by distress) is amended as follows.

(2) Before subsection (1) insert—

“(A1) The Commissioners may, in England and Wales, use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover any of these that a person refuses or neglects to pay—

- (a) any amount of relevant tax due from him;
- (b) any amount recoverable as if it were relevant tax due from him.”

(3) In subsection (1) after “by regulations” insert “not having effect in England and Wales or Scotland”.

(4) Omit subsection (7).

Social Security (Recovery of Benefits) Act 1997 (c. 27)

127 In section 7 of the Social Security (Recovery of Benefits) Act 1997 (recovery of payments due under section 6), in subsection (4) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

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National Minimum Wage Act 1998 (c. 39)

- 128 In section 21 of the National Minimum Wage Act 1998 (financial penalty for non-compliance), in subsection (5)(a) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

Road Traffic (NHS Charges) Act 1999 (c. 3)

- 129 In section 5 of the Road Traffic (NHS Charges) Act 1999 (recovery of NHS charges), in subsection (4) (so far as it continues to have effect) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

Greater London Authority Act 1999 (c. 29)

- 130 In section 216 of the Greater London Authority Act 1999 (protection of key system assets), in subsection (4) after “levied” insert “and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) may be exercised”.

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

- 131 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- 132 (1) Section 78 (limit on magistrates' courts' power to impose imprisonment etc.) is (until its repeal by the Criminal Justice Act 2003 (c. 44) comes into force) amended as follows.
- (2) In subsection (4) for “distress” substitute “goods”.
- (3) After subsection (4) insert—
- “**(4A)** In subsection (4) the reference to want of sufficient goods to satisfy a fine is a reference to circumstances where—
- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the fine from a person, but
- (b) it appears, after an attempt has been made to exercise the power, that the person’s goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).”
- 133 (1) Section 163 (general definition) is amended as follows.
- (2) The existing words become subsection (1).
- (3) After that subsection insert—
- “**(2)** In the definition of “sentence of imprisonment” in subsection (1) the reference to want of sufficient distress to satisfy a sum includes a reference to circumstances where—
- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the sum from a person, but
- (b) it appears, after an attempt has been made to exercise the power, that the person’s goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).”

Financial Services and Markets Act 2000 (c. 8)

- 134 In Schedule 17 to the Financial Services and Markets Act 2000 (the ombudsman scheme), in paragraph 16(a) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

Finance Act 2000 (c. 17)

- 135 Schedule 6 to the Finance Act 2000 (climate change levy) is amended as follows.
136 After paragraph 89 insert—

“Controlled goods agreements

- 89A (1) This paragraph applies where an enforcement agent acting under the power conferred by section 51(A1) of the Finance Act 1997 (power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007) has entered into a controlled goods agreement with the person against whom the power is exercisable (“the person in default”).
- (2) In this paragraph, “controlled goods agreement” has the meaning given by paragraph 13(4) of that Schedule.
- (3) Subject to sub-paragraph (4), if the person in default removes or disposes of goods (or permits their removal or disposal) in breach of the controlled goods agreement, he is liable to a penalty equal to half of the levy or other amount recoverable under section 51(A1) of the Finance Act 1997.
- (4) The person in default shall not be liable to a penalty under sub-paragraph (3) above if he satisfies the Commissioners or, on appeal, an appeal tribunal, that there is a reasonable excuse for the breach in question.
- (5) This paragraph extends only to England and Wales.”

- 137 In paragraph 90 for sub-paragraph (5) substitute—

“(5) This paragraph extends only to Northern Ireland.”

Postal Services Act 2000 (c. 26)

- 138 In section 104 of the Postal Services Act 2000 (inviolability of mails), in subsection (2) after paragraph (b) insert—
“(ba) in England and Wales, being taken control of under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007,”.

Finance Act 2001 (c. 9)

- 139 Schedule 5 to the Finance Act 2001 (aggregates levy: recovery and interest) is amended as follows.
140 After paragraph 14 insert—

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“Controlled goods agreements

- 14A (1) This paragraph applies where an enforcement agent acting under the power conferred, by virtue of paragraph 14 above, by section 51(A1) of the Finance Act 1997 (power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007) has entered into a controlled goods agreement with the person against whom the power is exercisable (“the person in default”).
- (2) In this paragraph, “controlled goods agreement” has the meaning given by paragraph 13(4) of that Schedule.
- (3) Subject to sub-paragraph (4), if the person in default removes or disposes of goods (or permits their removal or disposal) in breach of the controlled goods agreement, he is liable to a penalty equal to half of the levy or other amount recoverable under section 51(A1) of the Finance Act 1997.
- (4) The person in default shall not be liable to a penalty under sub-paragraph (3) above if he satisfies the Commissioners or, on appeal, an appeal tribunal, that there is a reasonable excuse for the breach in question.
- (5) This paragraph extends only to England and Wales.”

141 In paragraph 15 for sub-paragraph (5) substitute—

“(5) This paragraph extends only to Northern Ireland.”

Proceeds of Crime Act 2002 (c. 29)

- 142 The Proceeds of Crime Act 2002 is amended as follows.
- 143 In section 58 (restraint orders: restrictions), in subsection (2) after “levied” insert “, and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) may be exercised,”.
- 144 In section 59 (enforcement receivers: restrictions), in subsection (2) after “levied” insert “, and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) may be exercised,”.
- 145 In section 60 (Director’s receivers: restrictions), in subsection (2) after “levied” insert “, and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) may be exercised,”.
- 146 In section 253 (interim receiving orders: restriction on proceedings and remedies) in subsection (1)(b) after “levied” insert “, and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) may be exercised,”.

Finance Act 2003 (c. 14)

- 147 (1) Schedule 12 to the Finance Act 2003 (stamp duty land tax: collection and recovery of tax) is amended as follows.
- (2) After paragraph 1 insert—

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“Recovery of tax by taking control of goods

1A In England and Wales, if a person neglects or refuses to pay the sum charged, the collector may use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) to recover the sum.”

(3) In paragraph 2(1) omit “England and Wales or”.

Courts Act 2003 (c. 39)

148 The Courts Act 2003 is amended as follows.

149 In Part 9 of Schedule 5 (operation of collection orders after increase imposed), in paragraph 38(1)(a), for “warrant of distress” substitute “warrant of control”.

150 In Schedule 6 (discharge of fines by unpaid work), in paragraph 2(1)(a)(i), for “warrant of distress” substitute “warrant of control”.

151 (1) Schedule 7 (High Court writs of execution) is amended as follows.

(2) In paragraph 4, after sub-paragraph (1) insert—

“(1A) But it is subject to Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 in the case of a writ conferring power to use the procedure in that Schedule.”

(3) For paragraph 6 substitute—

“6 (1) Paragraph 7 applies to any writ of execution against goods which is issued from the High Court.

(2) Paragraphs 8 to 11—

(a) do not apply to any writ that confers power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, but

(b) apply to any other writ of execution against goods which is issued from the High Court.”

(4) Omit paragraph 8(5).

Health and Social Care (Community Health and Standards) Act 2003 (c. 43)

152 In section 155 of the Health and Social Care (Community Health and Standards) Act 2003 (recovery of NHS charges), in subsection (7) for “by execution issued from the county court” substitute “under section 85 of the County Courts Act 1984”.

Criminal Justice Act 2003 (c. 44)

153 The Criminal Justice Act 2003 is amended as follows.

154 (1) Section 154 (general limit on magistrates' power to impose imprisonment) is amended as follows.

(2) In subsections (4) and (6) for “distress” substitute “goods”.

(3) After subsection (7) insert—

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“(8) In this section references to want of sufficient goods to satisfy a fine or other sum of money have the meaning given by section 79(4) of the Magistrates' Courts Act 1980.”

155 In section 305 (interpretation of Part 12) after subsection (1) insert—

“(1A) In the definition of “sentence of imprisonment” in subsection (1) the reference to want of sufficient distress to satisfy a sum includes a reference to circumstances where—

- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the sum from a person, but
- (b) it appears, after an attempt has been made to exercise the power, that the person's goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).”

Traffic Management Act 2004 (c. 18)

156 In the Traffic Management Act 2004 omit—

- (a) section 82(3)(a);
- (b) section 83.

Income Tax Act 2007 (c. 3)

157 In section 955(4) of the Income Tax Act 2007 (proceedings before set-off claim is made) after “attachment” insert “or under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods)”.

SCHEDULE 14

Section 86

RENT ARREARS RECOVERY: AMENDMENTS

Distress for Rent Act 1689 (c. 5)

1 The Distress for Rent Act 1689 ceases to have effect.

Landlord and Tenant Act 1709 (c. 18)

2 In the Landlord and Tenant Act 1709 omit the following—

- (a) section 1;
- (b) sections 6 to 8.

Landlord and Tenant Act 1730 (c. 28)

3 In the Landlord and Tenant Act 1730 omit section 5.

Distress for Rent Act 1737 (c. 19)

4 In the Distress for Rent Act 1737 the following cease to have effect—

- (a) sections 1 to 10;

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- (b) sections 16 and 17;
- (c) section 19.

Deserted Tenements Act 1817 (c. 52)

5 The Deserted Tenements Act 1817 ceases to have effect.

Fines and Recoveries Act 1833 (c. 74)

- 6 (1) In section 67 of the Fines and Recoveries Act 1833 (assignees to recover rent of the lands of a bankrupt), for the words from “or may distrain” to “recovering of rent in arrear;” substitute “or, so far as the power under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) is exercisable to recover any of those rents and profits, may exercise that power, as if they were the landlord, on behalf of the creditors;”.
- (2) This paragraph does not extend to Northern Ireland.

Metropolitan Police Courts Act 1840 (c. 84)

7 The Metropolitan Police Courts Act 1840 ceases to have effect.

Execution Act 1844 (c. 96)

8 The Execution Act 1844 ceases to have effect.

Lands Clauses Consolidation Act 1845 (c. 18)

- 9 (1) In section 11 of the Lands Clauses Consolidation Act 1845 (payment of rents to be charged on tolls) omit the words from “or it shall be lawful” to the end.
- (2) This paragraph extends only to England and Wales.

Inclosure Act 1845 (c. 118)

10 In section 112 of the Inclosure Act 1845 (recovery of rents of allotment) for “by distress” substitute “under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery)”.

Markets and Fairs Clauses Act 1847 (c. 14)

- 11 (1) Section 38 of the Markets and Fairs Clauses Act 1847 (recovery of stallage, rents or tolls) is amended as follows.
- (2) The existing words become subsection (1).
- (3) After “England” insert “(subject to subsection (2))”.
- (4) After subsection (1) insert—
- “(2) Subsection (1) does not apply to the levying of rent in respect of premises in England and Wales to the extent that the power under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) is exercisable to recover such rent.

Status: This is the original version (as it was originally enacted).

(3) Where that power is exercisable to recover such rent, either the undertakers or their lessee, if not the landlord for the purposes of section 72(1) of that Act, may exercise that power as if they or he were the landlord.”

(5) This paragraph extends only to England and Wales.

Sequestration Act 1849 (c. 67)

12 (1) Section 1 of the Sequestration Act 1849 (sequestrator enabled to sue etc. in his own name) is amended as follows.

(2) For “levy any distress” substitute “exercise the power under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery)”.

(3) Omit the words “levy” and “distress” in the second place where each occurs.

(4) Omit “levied”.

Landlord and Tenant Act 1851 (c. 25)

13 (1) The Landlord and Tenant Act 1851 ceases to have effect.

(2) This paragraph extends only to England and Wales.

Common Law Procedure Act 1852 (c. 76)

14 The Common Law Procedure Act 1852 is amended as follows.

15 In section 210 (proceedings in ejectment by landlord for non-payment of rent), for “and that no sufficient distress was to be found on the demised premises, countervailing the arrears then due” substitute “and that either of the conditions in section 210A was met in relation to the arrears”.

16 After that section insert—

“210A Conditions relating to commercial rent arrears recovery

(1) The first condition is that the power under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) was not exercisable to recover the arrears.

(2) The second condition is that there were not sufficient goods on the premises to recover the arrears by that power.”

Improvement of Land Act 1864 (c. 114)

17 (1) In section 64 of the Improvement of Land Act 1864 (interest on arrears of rentcharges), for the words from “a sufficient distress” to “charges of such distress” substitute “goods that would be sufficient to pay the amount outstanding under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods)”.

(2) This paragraph extends only to England and Wales.

Railway Rolling Stock Protection Act 1872 (c. 50)

- 18 (1) The Railway Rolling Stock Protection Act 1872 ceases to have effect.
(2) This paragraph extends only to England and Wales.

Law of Distress Amendment Act 1888 (c. 21)

- 19 The Law of Distress Amendment Act 1888 ceases to have effect.

Law of Distress Amendment Act 1908 (c. 53)

- 20 The Law of Distress Amendment Act 1908 ceases to have effect.

Law of Property Act 1925 (c. 20)

- 21 The Law of Property Act 1925 is amended as follows.
- 22 In section 109 (powers etc. of receiver appointed by mortgagee), in subsection (3), for “, distress” substitute “or under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery)”.
- 23 Section 121(2) ceases to have effect.
- 24 In section 150 (surrender of a lease, without prejudice to underleases with a view to the grant of a new lease), in subsection (5), for “by distress or” substitute “under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) or by”.
- 25 In section 162 (restrictions on the perpetuity rule) in subsection (1) omit paragraph (a).
- 26 In section 189 (indemnities against rents) omit subsection (1).
- 27 (1) Section 190 (equitable apportionment of rents and remedies for non-payment or breach of covenant) is amended as follows.
- (2) Omit subsection (2).
- (3) For subsections (4) and (5) substitute—
- “(4) Subsection (5) applies where—
- (a) any default is made in payment of the whole or part of a rent by the person (“the defaulter”) who, by reason of a charge or apportionment within subsection (3), is liable to pay it, and
- (b) the lessee for the time being of any other land comprised in the lease, in whom, as respects that land, the residue of the term or interest created by the lease is vested, (“the paying lessee”) pays or is required to pay the whole or part of the rent which ought to have been paid by the defaulter.
- (5) Section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) applies, subject to the other provisions of Chapter 2 of Part 3 of that Act, to the recovery by the paying lessee from the defaulter of the rent paid by the paying lessee which ought to have been paid by the defaulter, as if the paying lessee were the landlord, and the defaulter his tenant, under the lease.”

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- (4) In subsection (7) omit “owner or”.

Administration of Estates Act 1925 (c. 23)

28 (1) Section 26 of the Administration of Estates Act 1925 (rights of action by and against personal representative) is amended as follows.

(2) Omit subsection (3).

(3) For subsection (4) substitute—

“(4) To recover rent due or accruing to the deceased, a personal representative may exercise any power under section 72(1) (commercial rent arrears recovery) or 81 (right to rent from sub-tenant) of the Tribunals, Courts and Enforcement Act 2007 that would have been exercisable by the deceased if he had still been living.”

Leasehold Reform Act 1967 (c. 88)

29 In section 15 of the Leasehold Reform Act 1967 (terms of tenancy to be granted on extension), in subsection (3) for “distress, re-entry or otherwise” substitute “re-entry or otherwise (subject to section 85 of the Tribunals, Courts and Enforcement Act 2007)”.

Agriculture Act 1970 (c. 40)

30 In section 85 of the Agriculture Act 1970 (exemption for certain sales), in paragraph (d) after “warrant of distress” insert “or warrant of control”.

Rent (Agriculture) Act 1976 (c. 80)

31 Section 8 of the Rent (Agriculture) Act 1976 ceases to have effect.

Rent Act 1977 (c. 42)

32 The Rent Act 1977 is amended as follows

33 In section 141(5) (county court jurisdiction) (until its repeal by the Courts and Legal Services Act 1990 (c. 41) comes into force) for “sections 147 and” substitute “section”.

34 Section 147 ceases to have effect.

Limitation Act 1980 (c. 58)

35 The Limitation Act 1980 is amended as follows

36 In section 19 (time limit for actions to recover rent) for “or distress made” substitute “and the power conferred by section 72(1) of the Tribunals, Courts and Enforcement Act 2007 shall not be exercisable”.

37 In section 38 (interpretation) omit “rentcharges and” and “rent or”.

County Courts Act 1984 (c. 28)

- 38 The County Courts Act 1984 is amended as follows.
- 39 Section 116 ceases to have effect.
- 40 In section 139, for subsection (1)(c) substitute—
- “(c) the power under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery) is exercisable to recover the arrears; and
 - (d) there are not sufficient goods on the premises to recover the arrears by that power.”.

Agricultural Holdings Act 1986 (c. 5)

- 41 The Agricultural Holdings Act 1986 is amended as follows.
- 42 Omit sections 16 to 19.
- 43 In section 24 (restriction of landlord’s remedies for breach of contract of tenancy) omit “, by distress or otherwise”.

Insolvency Act 1986 (c. 45)

- 44 (1) Section 347 of the Insolvency Act 1986 (distress etc.) is amended as follows.
- (2) In subsection (1) for the words from the beginning to “available” substitute “CRAR (the power of commercial rent arrears recovery under section 72(1) of the Tribunals, Courts and Enforcement Act 2007) is exercisable where the tenant is an undischarged bankrupt”.
- (3) In subsection (2)—
- (a) for the words from the beginning to “goods and effects of” substitute “Where CRAR has been exercised to recover rent from”;
 - (b) for “that distress” substitute “CRAR”;
 - (c) for “the distress was levied” substitute “goods were taken control of under CRAR”.
- (4) In subsection (5) for the words from the beginning to “upon” substitute “CRAR is not exercisable at any time after the discharge of a bankrupt against”.
- (5) Omit subsections (6) and (7).
- (6) Omit subsection (11).

Housing Act 1988 (c. 50)

- 45 Omit section 19 of the Housing Act 1988.

Water Industry Act 1991 (c. 56)

- 46 In section 179 of the Water Industry Act 1991 (vesting of works in undertaker) in subsection (4)(b) omit “or to the landlord’s remedy for rent”.

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Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

- 47 In section 57 of the Leasehold Reform, Housing and Urban Development Act 1993 (terms on which new lease is to be granted), in subsection (2)(b)(ii) for “distress, re-entry or otherwise” substitute “re-entry or otherwise (subject to section 85 of the Tribunals, Courts and Enforcement Act 2007)”.

Constitutional Reform Act 2005 (c. 4)

- 48 In Schedule 7 to the Constitutional Reform Act 2005 (protected functions of the Lord Chancellor), in paragraph 4, omit the entry for the Law of Distress Amendment Act 1888.

SCHEDULE 15

Section 91

ATTACHMENT OF EARNINGS ORDERS: DEDUCTIONS AT FIXED RATES

PART 1

MAIN AMENDMENTS

Introduction

- 1 This Schedule amends the Attachment of Earnings Act 1971 (c. 32).

Amendment of section 6: Effect and contents of order

- 2 (1) For section 6(1)(a) (instruction to employer to make deductions from debtor’s earnings) substitute—
- “(a) to make periodical deductions from the debtor’s earnings, as specified in the order; and”.
- (2) After section 6(1) insert—
- “(1A) If a county court makes an attachment of earnings order to secure payment of a judgment debt, the order must specify that periodical deductions are to be made in accordance with the fixed deductions scheme.
- (1B) If a court (whether a county court or another court) makes any other attachment of earnings order, the order must specify that periodical deductions are to be made in accordance with Part 1 of Schedule 3.”
- (3) In section 6(5) (order to specify normal deduction and protected earnings rates), for “the order” substitute “a Schedule 3 deductions order”.

Insertion of new section 6A

- 3 After section 6 insert—

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“6A The fixed deductions scheme

- (1) In this Act “fixed deductions scheme” means any scheme that the Lord Chancellor makes which specifies the rates and frequencies at which deductions are to be made under attachment of earnings orders so as to secure the repayment of judgment debts.
- (2) The Lord Chancellor is to make the fixed deductions scheme by regulations.
- (3) The power to make regulations under subsection (2) is exercisable by statutory instrument.
- (4) The Lord Chancellor may not make a statutory instrument containing the first regulations under subsection (2) unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (5) A statutory instrument containing any subsequent regulations under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.”

Amendment of section 9: Variation, lapse and discharge of orders

4 After section 9(1) (power of court to vary order) insert—

“(1A) Subsection (1) is subject to Schedule 3A (which deals with the variation of certain attachment of earnings orders by changing the basis of deductions).”

Insertion of new section 9A

5 After section 9 insert—

“9A Suspension of fixed deductions orders

- (1) A county court must make an order suspending a fixed deductions order if the court is satisfied of either or both of the following—
 - (a) that the fixed deductions order requires periodical deductions to be made at a rate which is not appropriate;
 - (b) that the fixed deductions order requires periodical deductions to be made at times which are not appropriate.
- (2) The county court is to make the suspension order on the following terms—
 - (a) if the condition in subsection (1)(a) is met: on terms specifying the rate at which the debtor must make repayments (whether higher or lower than the rate at which the order requires the deductions to be made);
 - (b) if the condition in subsection (1)(b) is met: on terms specifying the times at which the debtor must make repayments;
 - (c) if either or both conditions are met: on any additional terms that the court thinks appropriate.
- (3) If the employer is given notice of the suspension order, the employer must cease to make the deductions required by the fixed deductions order; but the

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employer is under no liability for non-compliance before seven days have elapsed since service of the notice.

- (4) A county court—
 - (a) must revoke the suspension order if any of the terms of the suspension order are broken;
 - (b) may revoke the suspension order in any other circumstances if the court thinks that it is appropriate to do so.
- (5) Rules of court may make provision as to the circumstances in which a county court may of its own motion—
 - (a) make a suspension order; or
 - (b) revoke a suspension order.
- (6) The suspension of a fixed deductions order under this section does not prevent the order from being treated as remaining in force subject to the provisions of this section.
- (7) This section is without prejudice to any other powers of a court to suspend attachment of earnings orders or to revoke the suspension of such orders.
- (8) In this section, in relation to a fixed deductions order, “repayments” means repayments of the judgment debt to which the order relates.”

Amendment of section 25: General interpretation

- 6 In section 25(1) (meaning of particular words and phrases) insert the following entries at the appropriate place—

““fixed deductions order” means an attachment of earnings order under which periodical deductions are to be made in accordance with the fixed deductions scheme;”;

““fixed deductions scheme” has the meaning given by section 6A(1);”;

““Schedule 3 deductions order” means an attachment of earnings order under which periodical deductions are to be made in accordance with Part 1 of Schedule 3;”;

““suspension order” means an order under section 9A suspending a fixed deductions order;”.

Insertion of new Schedule 3A

- 7 After Schedule 3 insert—

“SCHEDULE
3A

CHANGING THE BASIS OF DEDUCTIONS

PART 1

CHANGING TO THE FIXED DEDUCTIONS SCHEME

Introduction

- 1 This Part of this Schedule deals with the variation of a certain kind of attachment of earnings order — referred to as a Schedule 3 judgment debt order — by changing the basis of deductions.
- 2 A Schedule 3 judgment debt order is a Schedule 3 deductions order made by a county court to secure payment of a judgment debt.
- 3 References to variation of a Schedule 3 judgment debt order by changing the basis of deductions are references to the variation of the order so that it specifies that periodical deductions are to be made in accordance with the fixed deductions scheme.

Variation at discretion of court

- 4 (1) A county court may vary a Schedule 3 judgment debt order by changing the basis of deductions.
 - (2) The county court may make the variation—
 - (a) in consequence of an application made to the court, or
 - (b) of its own motion.
 - (3) The variation takes effect on the date that it is made.

Variation by court upon redirection

- 5 (1) A county court must vary a Schedule 3 judgment debt order by changing the basis of deductions if—
 - (a) the order lapses, and
 - (b) the county court directs the order to a person in accordance with section 9(4).
- (2) The variation must be made at the same time as the county court directs the order in accordance with section 9(4).
- (3) The variation takes effect on the date that it is made.

Automatic variation on changeover date

- 6 (1) On the changeover date, all Schedule 3 judgment debt orders are to be treated as if a county court had varied them by changing the basis of deductions.

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- (2) The variation takes effect on the changeover date.
- (3) The changeover date is the date which the Lord Chancellor specifies for the purposes of this paragraph.
- (4) The Lord Chancellor is to specify the changeover date in an order made by statutory instrument.
- (5) A statutory instrument containing an order under sub-paragraph (4) is subject to annulment in pursuance of a resolution of either House of Parliament.

Notice of variation still required

- 7 Section 9(2) (service by court of notice of variation) applies to the variation of an order under this Part of this Schedule (including variation in accordance with paragraph 6) as it applies to any other variation of an attachment of earnings order.

PART 2

CHANGING FROM THE FIXED DEDUCTIONS SCHEME

Introduction

- 8 This Part of this Schedule deals with the variation of fixed deductions orders by changing the basis of deductions.
- 9 References to variation of a fixed deductions order by changing the basis of deductions are references to the variation of the order so that it specifies that periodical deductions are to be made in accordance with Part 1 of Schedule 3.

General prohibition on changing from the fixed deductions basis

- 10 A court may not vary a fixed deductions order by changing the basis of deductions unless the variation is in accordance with this Part of this Schedule.

Fixed deductions order directed to secure payments under an administration order

- 11 (1) A county court must vary a fixed deductions order by changing the basis of deductions if, under section 5, the county court directs the order to take effect as an order to secure payments required by an administration order.
- (2) The variation must be made at the same time as the county court gives that direction under section 5.
- (3) The variation takes effect on the date that it is made.

- (4) Section 9(2) (service by court of notice of variation) applies to the variation of an order under this paragraph as it applies to any other variation of an attachment of earnings order.”

PART 2

CONSEQUENTIAL AMENDMENTS

Amendment of section 5: Securing payments under administration order

- 8 In section 5(3) (power of county court to direct existing attachment of earnings order to secure administration order), for the words in brackets substitute “(with the variation required by paragraph 11 of Schedule 3A and such other variations, if any, as the court thinks appropriate)”.

Amendment of section 14: Power of court to obtain information

- 9 In section 14(1) (power of court to order debtor and employer to provide specified information), for “an attachment of earnings order” substitute “a Schedule 3 deductions order”.

- 10 After section 14(1) insert—

“(1A) Where in any proceedings a county court has power to make a fixed deductions order, the court may order the debtor to give to the court, within a specified period, a statement signed by him of—

- (a) the name and address of any person by whom earnings are paid to him; and
- (b) specified particulars for enabling the debtor to be identified by any employer of his.”

- 11 In section 14(2) (powers of court after attachment of earnings order has been made), for the words from “Where” to “in force—” substitute “At any time when a Schedule 3 deductions order is in force, the court or the fines officer, as the case may be, may—”.

- 12 After section 14(2) insert—

“(2A) At any time when a fixed deductions order is in force, the court may—

- (a) make such an order as is described in subsection (1A) above; and
- (b) order the debtor to attend before it on a day and at a time specified in the order to give the information described in subsection (1A) above.”

- 13 In section 14(4) (rules of court about notice of application for attachment or earnings order), for the words from “give” to “the application.” substitute “, within such period and in such manner as may be prescribed, give the court a statement in accordance with subsection (4A) or (4B).”

- 14 After section 14(4) insert—

“(4A) In a case where the attachment of earnings order would, if made, be a Schedule 3 deductions order, the debtor must give a statement in writing of—

- (a) the matters specified in subsection (1)(a) above, and

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- (b) any other prescribed matters which are, or may be, relevant under section 6 of this Act to the determination of the normal deduction rate and the protected earnings rate to be specified in any attachment of earnings order made on the application.

(4B) In a case where the attachment of earnings order would, if made, be a fixed deductions order, the debtor must give a statement in writing of the matters specified in subsection (1A) above.”

- 15 In section 14(5) (certain statements in proceedings for making or varying etc attachment of earnings orders deemed to be evidence of facts stated), after “subsection (1)(a) or (b)” insert “or (1A)”.

Amendment of section 15: Obligation of debtor and employer to notify changes

- 16 (1) Section 15(1) is amended as follows.
- (2) In paragraph (b) (obligation to notify of court of earnings under new employment) at the beginning insert “if the order is a Schedule 3 deductions order,”.
 - (3) In paragraph (c) (obligation of employer to notify court of debtor’s new employment and earnings) for “and include” insert “and, if the order is a Schedule 3 deductions order, include”.

Amendment of section 17: Consolidated attachment orders

- 17 (1) Section 17(3) (rules of court made in connection with consolidated attachment orders) is amended as follows.
- (2) In paragraph (b) (rules relating to powers of court to which order etc transferred), after “vary” insert “, suspend”.
 - (3) In paragraph (e) (rules modifying or excluding statutory provisions), after “provisions of this Act” insert “, the fixed deductions scheme”.
- 18 After section 17(3) insert—
- “(4) Section 6(1A) applies to a consolidated attachment order which a county court makes to secure the payment of two or more judgment debts even if, immediately before the order is made, one or more of those debts is secured by a Schedule 3 deductions order.”

Amendment of section 23: Enforcement provisions

- 19 Section 23 is amended as follows.
- 20 In subsection (1) (failure of debtor to attend hearing)—
- (a) for the words from “notice of an application” to “such an order” substitute “relevant notice,”;
 - (b) for “for any hearing of the application” substitute “in the notice for any hearing,”.
- 21 After subsection (1) insert—
- “(1ZA) In subsection (1) “relevant notice” means any of the following—

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- (a) notice of an application to a county court to make, vary or suspend an attachment of earnings order;
 - (b) notice that a county court is, of its own motion, to consider making, varying or suspending an attachment of earnings order.”
- 22 In subsection (2)(c) and (f) (offences related to attachment of earnings orders)—
- (a) after “section 14(1)” insert “or (1A)”.
 - (b) after “attachment of earnings order” insert “or suspension order”.

SCHEDULE 16

Section 106

ADMINISTRATION ORDERS: CONSEQUENTIAL AMENDMENTS

Attachment of Earnings Act 1971 (c. 32)

- 1 (1) Section 4 of the Attachment of Earnings Act 1971 (extension of power to make administration order) is amended as follows.
- (2) For subsections (2) and (2A) substitute—
- “(2) The court may make an administration order in respect of the debtor’s estate if, after receipt of the list referred to in subsection (1)(b) above, the court is satisfied that the conditions in sections 112B(2) to (7) of the County Courts Act 1984 (conditions to power to make administration orders) are met in relation to the debtor.”
- (3) In subsection (4) for “section 112” substitute “section 112J”.

Magistrates' Courts Act 1980 (c. 43)

- 2 (1) Schedule 6A to the Magistrates' Courts Act 1980 (fines that may be altered under section 143 of the 1980 Act) is amended as follows.
- (2) Insert the following entry at the appropriate place in the entries relating to the County Courts Act 1984 (c. 28)—

“Section 112N(1) (administration orders: failure to provide information) £250”

Insolvency Act 1986 (c. 45)

- 3 (1) Section 429 of the Insolvency Act 1986 (disabilities on revocation of administration order against an individual) is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1) This section applies if a county court revokes an administration order made in respect of an individual (“the debtor”) on one of the relevant grounds.
- (2) The court may, at the time it revokes the administration order, make an order directing that this section and section 12 of the Company Directors

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Disqualification Act 1986 shall apply to the debtor for such period, not exceeding one year, as may be specified in the order.

- (2A) Each of the following is a relevant ground—
- (a) the debtor had failed to make two payments (whether consecutive or not) required by the order;
 - (b) at the time the order was made—
 - (i) the total amount of the debtor’s qualifying debts was more than the prescribed maximum for the purposes of Part 6 of the 1984 Act, but
 - (ii) because of information provided, or not provided, by the debtor, that amount was thought to be less than, or the same as, the prescribed maximum.”

(3) In subsection (3) for “a person” in the first place substitute “an individual”.

(4) In subsection (4) for “a person” substitute “an individual”.

(5) In subsection (5) for “person” substitute “individual”.

- 4 (1) Section 440 (extent: Scotland) is amended as follows.
- (2) In subsection (2)(c) (provisions in the third Group of Parts that do not extend to Scotland) for “section 429(1) and (2)” substitute “section 429(1) to (2A)”.

Company Directors Disqualification Act 1986 (c. 46)

- 5 (1) Section 12 of the Company Directors Disqualification Act 1986 (failure to pay under county court administration order) is amended as follows.
- (2) For the title of the section substitute “Disabilities on revocation of administration order”.
- (3) Omit subsection (1).
- (4) In subsection (2), for the words from “that section” to “429(2)(b)” substitute “section 429 of the Insolvency Act applies by virtue of an order under subsection (2) of that section”.

Courts and Legal Services Act 1990 (c. 41)

- 6 Omit section 13 of the Courts and Legal Services Act 1990.

Charities Act 1993 (c. 10)

- 7 (1) Section 72 of the Charities Act 1993 (persons disqualified for being trustees of a charity) is amended as follows.
- (2) In subsection (1)(f), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order).”

Pensions Act 1995 (c. 26)

- 8 (1) Section 29 of the Pensions Act 1995 (persons disqualified for being trustees of a trust scheme) is amended as follows.

- (2) In subsection (1)(f), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order).”

Police Act 1996 (c. 16)

- 9 (1) The Police Act 1996 is amended as follows.
- (2) In paragraph 11 of Schedule 2 (disqualification for being appointed as or being member of a police authority), in sub-paragraph (1)(c), for “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order); or”.
- (3) In paragraph 7 of Schedule 2A (disqualification for being appointed as or being member of the Metropolitan Police Authority), in sub-paragraph (1)(c), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order); or”.

Housing Act 1996 (c. 52)

- 10 (1) Paragraph 4 of Schedule 1 to the Housing Act 1996 (power to remove director, trustee etc. of registered social landlord) is amended as follows.
- (2) In sub-paragraph (2)(c), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order);”.

Police Act 1997 (c. 50)

- 11 (1) The Police Act 1997 is amended as follows.
- (2) In section 91 (the Commissioners), in subsection (7)(b), for “section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order)” substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order)”.
- (3) In paragraph 3 of Schedule 2 (disqualification for being appointed as or being member of a Service Authority), in sub-paragraph (1)(c), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order); or”.

Criminal Justice and Police Act 2001 (c. 16)

- 12 (1) Paragraph 3 of Schedule 3 to the Criminal Justice and Police Act 2001 (persons disqualified for being appointed as or being member of the Central Police Training and Development Authority) is amended as follows.
- (2) In sub-paragraph (1)(b), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order); or”.

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Police Reform Act 2002 (c. 30)

- 13 (1) Schedule 2 to the Police Reform Act 2002 (the Independent Police Complaints Commission) is amended as follows.
- (2) In paragraph 1(5) (grounds for removal of chairman), in paragraph (e)(ii), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order);”.
- (3) In paragraph 2(6) (grounds for removal of ordinary members), in paragraph (e)(ii), for the words from “section 429(2)(b)” to the end substitute “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order);”.

Railways and Transport Safety Act 2003 (c. 20)

- 14 (1) Paragraph 7 of Schedule 4 to the Railways and Transport Safety Act 2003, (eligibility for appointment as member of British Transport Police Authority) is amended as follows.
- (2) In sub-paragraph (3)(c), for “section 429(2)(b)” substitute “section 429(2)”.

Courts Act 2003 (c. 39)

- 15 (1) Section 98 of the Courts Act 2003 (register of judgments and orders) is amended as follows.
- (2) In subsection (1)(c) (administration orders) for “section 112” substitute “Part 6”.

SCHEDULE 17

Section 108(1)

PART 7A OF THE INSOLVENCY ACT 1986

“PART 7A

DEBT RELIEF ORDERS

Preliminary

251A Debt relief orders

- (1) An individual who is unable to pay his debts may apply for an order under this Part (“a debt relief order”) to be made in respect of his qualifying debts.
- (2) In this Part “qualifying debt” means (subject to subsection (3)) a debt which—
- (a) is for a liquidated sum payable either immediately or at some certain future time; and
 - (b) is not an excluded debt.
- (3) A debt is not a qualifying debt to the extent that it is secured.

- (4) In this Part “excluded debt” means a debt of any description prescribed for the purposes of this subsection.

Applications for a debt relief order

251B Making of application

- (1) An application for a debt relief order must be made to the official receiver through an approved intermediary.
- (2) The application must include—
- (a) a list of the debts to which the debtor is subject at the date of the application, specifying the amount of each debt (including any interest, penalty or other sum that has become payable in relation to that debt on or before that date) and the creditor to whom it is owed;
 - (b) details of any security held in respect of any of those debts; and
 - (c) such other information about the debtor’s affairs (including his creditors, debts and liabilities and his income and assets) as may be prescribed.
- (3) The rules may make further provision as to—
- (a) the form of an application for a debt relief order;
 - (b) the manner in which an application is to be made; and
 - (c) information and documents to be supplied in support of an application.
- (4) For the purposes of this Part an application is not to be regarded as having been made until—
- (a) the application has been submitted to the official receiver; and
 - (b) any fee required in connection with the application by an order under section 415 has been paid to such person as the order may specify.

251C Duty of official receiver to consider and determine application

- (1) This section applies where an application for a debt relief order is made.
- (2) The official receiver may stay consideration of the application until he has received answers to any queries raised with the debtor in relation to anything connected with the application.
- (3) The official receiver must determine the application by—
- (a) deciding whether to refuse the application;
 - (b) if he does not refuse it, by making a debt relief order in relation to the specified debts he is satisfied were qualifying debts of the debtor at the application date;
- but he may only refuse the application if he is authorised or required to do so by any of the following provisions of this section.
- (4) The official receiver may refuse the application if he considers that—
- (a) the application does not meet all the requirements imposed by or under section 251B;
 - (b) any queries raised with the debtor have not been answered to the satisfaction of the official receiver within such time as he may specify when they are raised;

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- (c) the debtor has made any false representation or omission in making the application or on supplying any information or documents in support of it.
- (5) The official receiver must refuse the application if he is not satisfied that—
- (a) the debtor is an individual who is unable to pay his debts;
 - (b) at least one of the specified debts was a qualifying debt of the debtor at the application date;
 - (c) each of the conditions set out in Part 1 of Schedule 4ZA is met.
- (6) The official receiver may refuse the application if he is not satisfied that each condition specified in Part 2 of Schedule 4ZA is met.
- (7) If the official receiver refuses an application he must give reasons for his refusal to the debtor in the prescribed manner.
- (8) In this section “specified debt” means a debt specified in the application.

251D Presumptions applicable to the determination of an application

- (1) The following presumptions are to apply to the determination of an application for a debt relief order.
- (2) The official receiver must presume that the debtor is an individual who is unable to pay his debts at the determination date if—
- (a) that appears to the official receiver to be the case at the application date from the information supplied in the application and he has no reason to believe that the information supplied is incomplete or inaccurate; and
 - (b) he has no reason to believe that, by virtue of a change in the debtor’s financial circumstances since the application date, the debtor may be able to pay his debts.
- (3) The official receiver must presume that a specified debt (of the amount specified in the application and owed to the creditor so specified) is a qualifying debt at the application date if—
- (a) that appears to him to be the case from the information supplied in the application; and
 - (b) he has no reason to believe that the information supplied is incomplete or inaccurate.
- (4) The official receiver must presume that the condition specified in paragraph 1 of Schedule 4ZA is met if—
- (a) that appears to him to be the case from the information supplied in the application;
 - (b) any prescribed verification checks relating to the condition have been made; and
 - (c) he has no reason to believe that the information supplied is incomplete or inaccurate.
- (5) The official receiver must presume that any other condition specified in Part 1 or 2 of Schedule 4ZA is met if—
- (a) that appears to him to have been the case as at the application date from the information supplied in the application and he has no reason to believe that the information supplied is incomplete or inaccurate;

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- (b) any prescribed verification checks relating to the condition have been made; and
 - (c) he has no reason to believe that, by virtue of a change in circumstances since the application date, the condition may no longer be met.
- (6) References in this section to information supplied in the application include information supplied to the official receiver in support of the application.
- (7) In this section “specified debt” means a debt specified in the application.

Making and effect of debt relief order

251E Making of debt relief orders

- (1) This section applies where the official receiver makes a debt relief order on determining an application under section 251C.
- (2) The order must be made in the prescribed form.
- (3) The order must include a list of the debts which the official receiver is satisfied were qualifying debts of the debtor at the application date, specifying the amount of the debt at that time and the creditor to whom it was then owed.
- (4) The official receiver must—
 - (a) give a copy of the order to the debtor; and
 - (b) make an entry for the order in the register containing the prescribed information about the order or the debtor.
- (5) The rules may make provision as to other steps to be taken by the official receiver or the debtor on the making of the order.
- (6) Those steps may include in particular notifying each creditor to whom a qualifying debt specified in the order is owed of—
 - (a) the making of the order and its effect,
 - (b) the grounds on which a creditor may object under section 251K, and
 - (c) any other prescribed information.
- (7) In this Part the date on which an entry relating to the making of a debt relief order is first made in the register is referred to as “the effective date”.

251F Effect of debt relief order on other debt management arrangements

- (1) This section applies if—
 - (a) a debt relief order is made, and
 - (b) immediately before the order is made, other debt management arrangements are in force in respect of the debtor.
- (2) The other debt management arrangements cease to be in force when the debt relief order is made.
- (3) In this section “other debt management arrangements” means—
 - (a) an administration order under Part 6 of the County Courts Act 1984;
 - (b) an enforcement restriction order under Part 6A of that Act;

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- (c) a debt repayment plan arranged in accordance with a debt management scheme that is approved under Chapter 4 of Part 5 of the Tribunals, Courts and Enforcement Act 2007.

251G Moratorium from qualifying debts

- (1) A moratorium commences on the effective date for a debt relief order in relation to each qualifying debt specified in the order (“a specified qualifying debt”).
- (2) During the moratorium, the creditor to whom a specified qualifying debt is owed—
 - (a) has no remedy in respect of the debt, and
 - (b) may not—
 - (i) commence a creditor’s petition in respect of the debt, or
 - (ii) otherwise commence any action or other legal proceedings against the debtor for the debt,
 except with the permission of the court and on such terms as the court may impose.
- (3) If on the effective date a creditor to whom a specified qualifying debt is owed has any such petition, action or other proceeding as mentioned in subsection (2)(b) pending in any court, the court may—
 - (a) stay the proceedings on the petition, action or other proceedings (as the case may be), or
 - (b) allow them to continue on such terms as the court thinks fit.
- (4) In subsection (2)(a) and (b) references to the debt include a reference to any interest, penalty or other sum that becomes payable in relation to that debt after the application date.
- (5) Nothing in this section affects the right of a secured creditor of the debtor to enforce his security.

251H The moratorium period

- (1) The moratorium relating to the qualifying debts specified in a debt relief order continues for the period of one year beginning with the effective date for the order, unless—
 - (a) the moratorium terminates early; or
 - (b) the moratorium period is extended by the official receiver under this section or by the court under section 251M.
- (2) The official receiver may only extend the moratorium period for the purpose of—
 - (a) carrying out or completing an investigation under section 251K;
 - (b) taking any action he considers necessary (whether as a result of an investigation or otherwise) in relation to the order; or
 - (c) in a case where he has decided to revoke the order, providing the debtor with the opportunity to make arrangements for making payments towards his debts.
- (3) The official receiver may not extend the moratorium period for the purpose mentioned in subsection (2)(a) without the permission of the court.
- (4) The official receiver may not extend the moratorium period beyond the end of the period of three months beginning after the end of the initial period of one year mentioned in subsection (1).

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- (5) The moratorium period may be extended more than once, but any extension (whether by the official receiver or by the court) must be made before the moratorium would otherwise end.
- (6) References in this Part to a moratorium terminating early are to its terminating before the end of what would otherwise be the moratorium period, whether on the revocation of the order or by virtue of any other enactment.

251I Discharge from qualifying debts

- (1) Subject as follows, at the end of the moratorium applicable to a debt relief order the debtor is discharged from all the qualifying debts specified in the order (including all interest, penalties and other sums which may have become payable in relation to those debts since the application date).
- (2) Subsection (1) does not apply if the moratorium terminates early.
- (3) Subsection (1) does not apply in relation to any qualifying debt which the debtor incurred in respect of any fraud or fraudulent breach of trust to which the debtor was a party.
- (4) The discharge of the debtor under subsection (1) does not release any other person from—
 - (a) any liability (whether as partner or co-trustee of the debtor or otherwise) from which the debtor is released by the discharge; or
 - (b) any liability as surety for the debtor or as a person in the nature of such a surety.
- (5) If the order is revoked by the court under section 251M after the end of the moratorium period, the qualifying debts specified in the order shall (so far as practicable) be treated as though subsection (1) had never applied to them.

Duties of debtor

251J Providing assistance to official receiver etc

- (1) The duties in this section apply to a debtor at any time after the making of an application by him for a debt relief order.
- (2) The debtor must—
 - (a) give to the official receiver such information as to his affairs,
 - (b) attend on the official receiver at such times, and
 - (c) do all such other things,as the official receiver may reasonably require for the purpose of carrying out his functions in relation to the application or, as the case may be, the debt relief order made as a result of the application.
- (3) The debtor must notify the official receiver as soon as reasonably practicable if he becomes aware of—
 - (a) any error in, or omission from, the information supplied to the official receiver in, or in support of, the application;
 - (b) any change in his circumstances between the application date and the determination date that would affect (or would have affected) the determination of the application.

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- (4) The duties under subsections (2) and (3) apply after (as well as before) the determination of the application, for as long as the official receiver is able to exercise functions of the kind mentioned in subsection (2).
- (5) If a debt relief order is made as a result of the application, the debtor must notify the official receiver as soon as reasonably practicable if—
 - (a) there is an increase in his income during the moratorium period applicable to the order;
 - (b) he acquires any property or any property is devolved upon him during that period;
 - (c) he becomes aware of any error in or omission from any information supplied by him to the official receiver after the determination date.
- (6) A notification under subsection (3) or (5) must give the prescribed particulars (if any) of the matter being notified.

Objections, investigations and revocation

251K Objections and investigations

- (1) Any person specified in a debt relief order as a creditor to whom a specified qualifying debt is owed may object to—
 - (a) the making of the order;
 - (b) the inclusion of the debt in the list of the debtor's qualifying debts; or
 - (c) the details of the debt specified in the order.
- (2) An objection under subsection (1) must be—
 - (a) made during the moratorium period relating to the order and within the prescribed period for objections;
 - (b) made to the official receiver in the prescribed manner;
 - (c) based on a prescribed ground;
 - (d) supported by any information and documents as may be prescribed;and the prescribed period mentioned in paragraph (a) must not be less than 28 days after the creditor in question has been notified of the making of the order.
- (3) The official receiver must consider every objection made to him under this section.
- (4) The official receiver may—
 - (a) as part of his consideration of an objection, or
 - (b) on his own initiative,carry out an investigation of any matter that appears to the official receiver to be relevant to the making of any decision mentioned in subsection (5) in relation to a debt relief order or the debtor.
- (5) The decisions to which an investigation may be directed are—
 - (a) whether the order should be revoked or amended under section 251L;
 - (b) whether an application should be made to the court under section 251M; or
 - (c) whether any other steps should be taken in relation to the debtor.
- (6) The power to carry out an investigation under this section is exercisable after (as well as during) the moratorium relating to the order.

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- (7) The official receiver may require any person to give him such information and assistance as he may reasonably require in connection with an investigation under this section.
- (8) Subject to anything prescribed in the rules as to the procedure to be followed in carrying out an investigation under this section, an investigation may be carried out by the official receiver in such manner as he thinks fit.

251L Power of official receiver to revoke or amend a debt relief order

- (1) The official receiver may revoke or amend a debt relief order during the applicable moratorium period in the circumstances provided for by this section.
- (2) The official receiver may revoke the order on the ground that—
 - (a) any information supplied to him by the debtor—
 - (i) in, or in support of, the application, or
 - (ii) after the determination date,was incomplete, incorrect or otherwise misleading;
 - (b) the debtor has failed to comply with a duty under section 251J;
 - (c) a bankruptcy order has been made in relation to the debtor; or
 - (d) the debtor has made a proposal under Part 8 (or has notified the official receiver of his intention to do so).
- (3) The official receiver may revoke the order on the ground that he should not have been satisfied—
 - (a) that the debts specified in the order were qualifying debts of the debtor as at the application date;
 - (b) that the conditions specified in Part 1 of Schedule 4ZA were met;
 - (c) that the conditions specified in Part 2 of that Schedule were met or that any failure to meet such a condition did not prevent his making the order.
- (4) The official receiver may revoke the order on the ground that either or both of the conditions in paragraphs 7 and 8 of Schedule 4ZA (monthly surplus income and property) are not met at any time after the order was made.

For this purpose those paragraphs are to be read as if references to the determination date were references to the time in question.

- (5) Where the official receiver decides to revoke the order, he may revoke it either—
 - (a) with immediate effect, or
 - (b) with effect from such date (not more than three months after the date of the decision) as he may specify.
- (6) In considering when the revocation should take effect the official receiver must consider (in the light of the grounds on which the decision to revoke was made and all the other circumstances of the case) whether the debtor ought to be given the opportunity to make arrangements for making payments towards his debts.
- (7) If the order has been revoked with effect from a specified date the official receiver may, if he thinks it appropriate to do so at any time before that date, revoke the order with immediate effect.

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- (8) The official receiver may amend a debt relief order for the purpose of correcting an error in or omission from anything specified in the order.
- (9) But subsection (8) does not permit the official receiver to add any debts that were not specified in the application for the debt relief order to the list of qualifying debts.
- (10) The rules may make further provision as to the procedure to be followed by the official receiver in the exercise of his powers under this section.

Role of the court

251M Powers of court in relation to debt relief orders

- (1) Any person may make an application to the court if he is dissatisfied by any act, omission or decision of the official receiver in connection with a debt relief order or an application for such an order.
- (2) The official receiver may make an application to the court for directions or an order in relation to any matter arising in connection with a debt relief order or an application for such an order.
- (3) The matters referred to in subsection (2) include, among other things, matters relating to the debtor's compliance with any duty arising under section 251J.
- (4) An application under this section may, subject to anything in the rules, be made at any time.
- (5) The court may extend the moratorium period applicable to a debt relief order for the purposes of determining an application under this section.
- (6) On an application under this section the court may dismiss the application or do one or more of the following—
 - (a) quash the whole or part of any act or decision of the official receiver;
 - (b) give the official receiver directions (including a direction that he reconsider any matter in relation to which his act or decision has been quashed under paragraph (a));
 - (c) make an order for the enforcement of any obligation on the debtor arising by virtue of a duty under section 251J;
 - (d) extend the moratorium period applicable to the debt relief order;
 - (e) make an order revoking or amending the debt relief order;
 - (f) make an order under section 251N; or
 - (g) make such other order as the court thinks fit.
- (7) An order under subsection (6)(e) for the revocation of a debt relief order—
 - (a) may be made during the moratorium period applicable to the debt relief order or at any time after that period has ended;
 - (b) may be made on the court's own motion if the court has made a bankruptcy order in relation to the debtor during that period;
 - (c) may provide for the revocation of the order to take effect on such terms and at such a time as the court may specify.

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- (8) An order under subsection (6)(e) for the amendment of a debt relief order may not add any debts that were not specified in the application for the debt relief order to the list of qualifying debts.

251N Inquiry into debtor's dealings and property

- (1) An order under this section may be made by the court on the application of the official receiver.
- (2) An order under this section is an order summoning any of the following persons to appear before the court—
- (a) the debtor;
 - (b) the debtor's spouse or former spouse or the debtor's civil partner or former civil partner;
 - (c) any person appearing to the court to be able to give information or assistance concerning the debtor or his dealings, affairs and property.
- (3) The court may require a person falling within subsection (2)(c)—
- (a) to provide a written account of his dealings with the debtor; or
 - (b) to produce any documents in his possession or under his control relating to the debtor or to the debtor's dealings, affairs or property.
- (4) Subsection (5) applies where a person fails without reasonable excuse to appear before the court when he is summoned to do so by an order under this section.
- (5) The court may cause a warrant to be issued to a constable or prescribed officer of the court—
- (a) for the arrest of that person, and
 - (b) for the seizure of any records or other documents in that person's possession.
- (6) The court may authorise a person arrested under such a warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until that person is brought before the court under the warrant or until such other time as the court may order.

Offences

251O False representations and omissions

- (1) A person who makes an application for a debt relief order is guilty of an offence if he knowingly or recklessly makes any false representation or omission in making the application or providing any information or documents to the official receiver in support of the application.
- (2) A person who makes an application for a debt relief order is guilty of an offence if—
- (a) he intentionally fails to comply with a duty under section 251J(3) in connection with the application; or
 - (b) he knowingly or recklessly makes any false representation or omission in providing any information to the official receiver in connection with such a duty or otherwise in connection with the application.

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- (3) It is immaterial for the purposes of an offence under subsection (1) or (2) whether or not a debt relief order is made as a result of the application.
- (4) A person in respect of whom a debt relief order is made is guilty of an offence if—
- (a) he intentionally fails to comply with a duty under section 251J(5) in connection with the order; or
 - (b) he knowingly or recklessly makes any false representation or omission in providing information to the official receiver in connection with such a duty or otherwise in connection with the performance by the official receiver of functions in relation to the order.
- (5) It is immaterial for the purposes of an offence under subsection (4)—
- (a) whether the offence is committed during or after the moratorium period; and
 - (b) whether or not the order is revoked after the conduct constituting the offence takes place.

251P Concealment or falsification of documents

- (1) A person in respect of whom a debt relief order is made is guilty of an offence if, during the moratorium period in relation to that order—
- (a) he does not provide, at the request of the official receiver, all his books, papers and other records of which he has possession or control and which relate to his affairs;
 - (b) he prevents the production to the official receiver of any books, papers or other records relating to his affairs;
 - (c) he conceals, destroys, mutilates or falsifies, or causes or permits the concealment, destruction, mutilation or falsification of, any books, papers or other records relating his affairs;
 - (d) he makes, or causes or permits the making of, any false entries in any book, document or record relating to his affairs; or
 - (e) he disposes of, or alters or makes any omission in, or causes or permits the disposal, altering or making of any omission in, any book, document or record relating to his affairs.
- (2) A person in respect of whom a debt relief order is made is guilty of an offence if—
- (a) he did anything falling within paragraphs (c) to (e) of subsection (1) during the period of 12 months ending with the application date; or
 - (b) he did anything falling within paragraphs (b) to (e) of subsection (1) after that date but before the effective date.
- (3) A person is not guilty of an offence under this section if he proves that, in respect of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.
- (4) In its application to a trading record subsection (2)(a) has effect as if the reference to 12 months were a reference to two years.
- (5) In subsection (4) “trading record” means a book, document or record which shows or explains the transactions or financial position of a person’s business, including—
- (a) a periodic record of cash paid and received,
 - (b) a statement of periodic stock-taking, and

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- (c) except in the case of goods sold by way of retail trade, a record of goods sold and purchased which identifies the buyer and seller or enables them to be identified.
- (6) It is immaterial for the purposes of an offence under this section whether or not the debt relief order in question is revoked after the conduct constituting the offence takes place (but no offence is committed under this section by virtue of conduct occurring after the order is revoked).

251Q Fraudulent disposal of property

- (1) A person in respect of whom a debt relief order is made is guilty of an offence if he made or caused to be made any gift or transfer of his property during the period between—
 - (a) the start of the period of two years ending with the application date; and
 - (b) the end of the moratorium period.
- (2) The reference in subsection (1) to making a transfer of any property includes causing or conniving at the levying of any execution against that property.
- (3) A person is not guilty of an offence under this section if he proves that, in respect of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.
- (4) For the purposes of subsection (3) a person is to be taken to have proved that he had no such intent if—
 - (a) sufficient evidence is adduced to raise an issue as to whether he had such intent; and
 - (b) the contrary is not proved beyond reasonable doubt.
- (5) It is immaterial for the purposes of this section whether or not the debt relief order in question is revoked after the conduct constituting an offence takes place (but no offence is committed by virtue of conduct occurring after the order is revoked).

251R Fraudulent dealing with property obtained on credit

- (1) A person in respect of whom a debt relief order is made is guilty of an offence if during the relevant period he disposed of any property which he had obtained on credit and, at the time he disposed of it, had not paid for it.
- (2) Any other person is guilty of an offence if during the relevant period he acquired or received property from a person in respect of whom a debt relief order was made (the “debtor”) knowing or believing—
 - (a) that the debtor owed money in respect of the property, and
 - (b) that the debtor did not intend, or was unlikely to be able, to pay the money he so owed.
- (3) In subsections (1) and (2) “relevant period” means the period between—
 - (a) the start of the period of two years ending with the application date; and
 - (b) the determination date.
- (4) A person is not guilty of an offence under subsection (1) or (2) if the disposal, acquisition or receipt of the property was in the ordinary course of a business carried on by the debtor at the time of the disposal, acquisition or receipt.

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- (5) In determining for the purposes of subsection (4) whether any property is disposed of, acquired or received in the ordinary course of a business carried on by the debtor, regard may be had, in particular, to the price paid for the property.
- (6) A person is not guilty of an offence under subsection (1) if he proves that, in respect of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.
- (7) In this section references to disposing of property include pawning or pledging it; and references to acquiring or receiving property shall be read accordingly.
- (8) It is immaterial for the purposes of this section whether or not the debt relief order in question is revoked after the conduct constituting an offence takes place (but no offence is committed by virtue of conduct occurring after the order is revoked).

251S Obtaining credit or engaging in business

- (1) A person in respect of whom a debt relief order is made is guilty of an offence if, during the relevant period—
 - (a) he obtains credit (either alone or jointly with any other person) without giving the person from whom he obtains the credit the relevant information about his status; or
 - (b) he engages directly or indirectly in any business under a name other than that in which the order was made without disclosing to all persons with whom he enters into any business transaction the name in which the order was made.
- (2) For the purposes of subsection (1)(a) the relevant information about a person's status is the information that—
 - (a) a moratorium is in force in relation to the debt relief order,
 - (b) a debt relief restrictions order is in force in respect of him, or
 - (c) both a moratorium and a debt relief restrictions order is in force,as the case may be.
- (3) In subsection (1) “relevant period” means—
 - (a) the moratorium period relating to the debt relief order, or
 - (b) the period for which a debt relief restrictions order is in force in respect of the person in respect of whom the debt relief order is made,as the case may be.
- (4) Subsection (1)(a) does not apply if the amount of the credit is less than the prescribed amount (if any).
- (5) The reference in subsection (1)(a) to a person obtaining credit includes the following cases—
 - (a) where goods are bailed to him under a hire-purchase agreement, or agreed to be sold to him under a conditional sale agreement;
 - (b) where he is paid in advance (in money or otherwise) for the supply of goods or services.

251T Offences: supplementary

- (1) Proceedings for an offence under this Part may only be instituted by the Secretary of State or by or with the consent of the Director of Public Prosecutions.
- (2) It is not a defence in proceedings for an offence under this Part that anything relied on, in whole or in part, as constituting the offence was done outside England and Wales.
- (3) A person guilty of an offence under this Part is liable to imprisonment or a fine, or both (but see section 430).

Supplementary

251U Approved intermediaries

- (1) In this Part “approved intermediary” means an individual for the time being approved by a competent authority to act as an intermediary between a person wishing to make an application for a debt relief order and the official receiver.
- (2) In this section “competent authority” means a person or body for the time being designated by the Secretary of State for the purposes of granting approvals under this section.
- (3) Designation as a competent authority may be limited so as to permit the authority only to approve persons of a particular description.
- (4) The Secretary of State may by regulations make provision as to—
 - (a) the procedure for designating persons or bodies as competent authorities;
 - (b) descriptions of individuals who are ineligible to be approved under this section;
 - (c) the procedure for granting approvals under this section;
 - (d) the withdrawal of designations or approvals under this section;and provision made under paragraph (a) or (c) may include provision requiring the payment of fees.
- (5) The rules may make provision about the activities to be carried out by an approved intermediary in connection with an application for a debt relief order, which may in particular include—
 - (a) assisting the debtor in making the application;
 - (b) checking that the application has been properly completed;
 - (c) sending the application to the official receiver.
- (6) The rules may also make provision about other activities to be carried out by approved intermediaries.
- (7) An approved intermediary may not charge a debtor any fee in connection with an application for a debt relief order.
- (8) An approved intermediary is not liable to any person in damages for anything done or omitted to be done when acting (or purporting to act) as an approved intermediary in connection with a particular application by a debtor for a debt relief order.
- (9) Subsection (8) does not apply if the act or omission was in bad faith.
- (10) Regulations under subsection (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

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251V Debt relief restrictions orders and undertakings

Schedule 4ZB (which makes provision about debt relief restrictions orders and debt relief restrictions undertakings) has effect.

251W Register of debt relief orders etc

The Secretary of State must maintain a register of matters relating to—

- (a) debt relief orders;
- (b) debt relief restrictions orders; and
- (c) debt relief restrictions undertakings.

251X Interpretation

(1) In this Part—

“the application date”, in relation to a debt relief order or an application for a debt relief order, means the date on which the application for the order is made to the official receiver;

“approved intermediary” has the meaning given in section 251U(1);

“debt relief order” means an order made by the official receiver under this Part;

“debtor” means—

- (a) in relation to an application for a debt relief order, the applicant; and
- (b) in relation to a debt relief order, the person in relation to whom the order is made;

“debt relief restrictions order” and “debt relief restrictions undertaking” means an order made, or an undertaking accepted, under Schedule 4ZB;

“the determination date”, in relation to a debt relief order or an application for a debt relief order, means the date on which the application for the order is determined by the official receiver;

“the effective date” has the meaning given in section 251E(7);

“excluded debt” is to be construed in accordance with section 251A;

“moratorium” and “moratorium period” are to be construed in accordance with sections 251G and 251H;

“qualifying debt”, in relation to a debtor, has the meaning given in section 251A(2);

“the register” means the register maintained under section 251W;

“specified qualifying debt” has the meaning given in section 251G(1).

(2) In this Part references to a creditor specified in a debt relief order as the person to whom a qualifying debt is owed by the debtor include a reference to any person to whom the right to claim the whole or any part of the debt has passed, by assignment or operation of law, after the date of the application for the order.”

SCHEDULE 18

Section 108(2)

SCHEDULE 4ZA TO THE INSOLVENCY ACT 1986

“SCHEDULE 4ZA

CONDITIONS FOR MAKING A DEBT RELIEF ORDER

PART 1

CONDITIONS WHICH MUST BE MET

Connection with England and Wales

- 1 (1) The debtor—
 - (a) is domiciled in England and Wales on the application date; or
 - (b) at any time during the period of three years ending with that date—
 - (i) was ordinarily resident, or had a place of residence, in England and Wales; or
 - (ii) carried on business in England and Wales.
- (2) The reference in sub-paragraph (1)(b)(ii) to the debtor carrying on business includes—
 - (a) the carrying on of business by a firm or partnership of which he is a member;
 - (b) the carrying on of business by an agent or manager for him or for such a firm or partnership.

Debtor's previous insolvency history

- 2 The debtor is not, on the determination date—
 - (a) an undischarged bankrupt;
 - (b) subject to an interim order or voluntary arrangement under Part 8; or
 - (c) subject to a bankruptcy restrictions order or a debt relief restrictions order.
- 3 A debtor's petition for the debtor's bankruptcy under Part 9—
 - (a) has not been presented by the debtor before the determination date;
 - (b) has been so presented, but proceedings on the petition have been finally disposed of before that date; or
 - (c) has been so presented and proceedings in relation to the petition remain before the court at that date, but the court has referred the debtor under section 274A(2) for the purposes of making an application for a debt relief order.
- 4 A creditor's petition for the debtor's bankruptcy under Part 9—
 - (a) has not been presented against the debtor at any time before the determination date;
 - (b) has been so presented, but proceedings on the petition have been finally disposed of before that date; or

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- (c) has been so presented and proceedings in relation to the petition remain before the court at that date, but the person who presented the petition has consented to the making of an application for a debt relief order.
- 5 A debt relief order has not been made in relation to the debtor in the period of six years ending with the determination date.

Limit on debtor’s overall indebtedness

- 6 (1) The total amount of the debtor’s debts on the determination date, other than unliquidated debts and excluded debts, does not exceed the prescribed amount.
- (2) For this purpose an unliquidated debt is a debt that is not for a liquidated sum payable to a creditor either immediately or at some future certain time.

Limit on debtor’s monthly surplus income

- 7 (1) The debtor’s monthly surplus income (if any) on the determination date does not exceed the prescribed amount.
- (2) For this purpose “monthly surplus income” is the amount by which a person’s monthly income exceeds the amount necessary for the reasonable domestic needs of himself and his family.
- (3) The rules may—
- (a) make provision as to how the debtor’s monthly surplus income is to be determined;
 - (b) provide that particular descriptions of income are to be excluded for the purposes of this paragraph.

Limit on value of debtor’s property

- 8 (1) The total value of the debtor’s property on the determination date does not exceed the prescribed amount.
- (2) The rules may—
- (a) make provision as to how the value of a person’s property is to be determined;
 - (b) provide that particular descriptions of property are to be excluded for the purposes of this paragraph.

PART 2

OTHER CONDITIONS

- 9 (1) The debtor has not entered into a transaction with any person at an undervalue during the period between—
- (a) the start of the period of two years ending with the application date; and
 - (b) the determination date.
- (2) For this purpose a debtor enters into a transaction with a person at an undervalue if—

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- (a) he makes a gift to that person or he otherwise enters into a transaction with that person on terms that provide for him to receive no consideration;
 - (b) he enters into a transaction with that person in consideration of marriage or the formation of a civil partnership; or
 - (c) he enters into a transaction with that person for a consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by the individual.
- 10 (1) The debtor has not given a preference to any person during the period between—
- (a) the start of the period of two years ending with the application date; and
 - (b) the determination date.
- (2) For this purpose a debtor gives a preference to a person if—
- (a) that person is one of the debtor's creditors to whom a qualifying debt is owed or is a surety or guarantor for any such debt, and
 - (b) the debtor does anything or suffers anything to be done which (in either case) has the effect of putting that person into a position which, in the event that a debt relief order is made in relation to the debtor, will be better than the position he would have been in if that thing had not been done.”

SCHEDULE 19

Section 108(2)

SCHEDULE 4ZB TO THE INSOLVENCY ACT 1986

“SCHEDULE 4ZB

DEBT RELIEF RESTRICTIONS ORDERS AND UNDERTAKINGS

Debt relief restrictions order

- 1 (1) A debt relief restrictions order may be made by the court in relation to a person in respect of whom a debt relief order has been made.
- (2) An order may be made only on the application of—
- (a) the Secretary of State, or
 - (b) the official receiver acting on a direction of the Secretary of State.

Grounds for making order

- 2 (1) The court shall grant an application for a debt relief restrictions order if it thinks it appropriate to do so having regard to the conduct of the debtor (whether before or after the making of the debt relief order).
- (2) The court shall, in particular, take into account any of the following kinds of behaviour on the part of the debtor—
- (a) failing to keep records which account for a loss of property by the debtor, or by a business carried on by him, where the loss occurred in the period beginning two years before the application date for the debt relief order and ending with the date of the application for the debt relief restrictions order;
 - (b) failing to produce records of that kind on demand by the official receiver;

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- (c) entering into a transaction at an undervalue in the period beginning two years before the application date for the debt relief order and ending with the date of the determination of that application;
 - (d) giving a preference in the period beginning two years before the application date for the debt relief order and ending with the date of the determination of that application;
 - (e) making an excessive pension contribution;
 - (f) a failure to supply goods or services that were wholly or partly paid for;
 - (g) trading at a time, before the date of the determination of the application for the debt relief order, when the debtor knew or ought to have known that he was himself to be unable to pay his debts;
 - (h) incurring, before the date of the determination of the application for the debt relief order, a debt which the debtor had no reasonable expectation of being able to pay;
 - (i) failing to account satisfactorily to the court or the official receiver for a loss of property or for an insufficiency of property to meet his debts;
 - (j) carrying on any gambling, rash and hazardous speculation or unreasonable extravagance which may have materially contributed to or increased the extent of his inability to pay his debts before the application date for the debt relief order or which took place between that date and the date of the determination of the application for the debt relief order;
 - (k) neglect of business affairs of a kind which may have materially contributed to or increased the extent of his inability to pay his debts;
 - (l) fraud or fraudulent breach of trust;
 - (m) failing to co-operate with the official receiver.
- (3) The court shall also, in particular, consider whether the debtor was an undischarged bankrupt at some time during the period of six years ending with the date of the application for the debt relief order.
- (4) For the purposes of sub-paragraph (2)—
- “excessive pension contribution” shall be construed in accordance with section 342A;
 - “preference” shall be construed in accordance with paragraph 10(2) of Schedule 4ZA;
 - “undervalue” shall be construed in accordance with paragraph 9(2) of that Schedule.

Timing of application for order

- 3 An application for a debt relief restrictions order in respect of a debtor may be made—
- (a) at any time during the moratorium period relating to the debt relief order in question, or
 - (b) after the end of that period, but only with the permission of the court.

Duration of order

- 4 (1) A debt relief restrictions order—
- (a) comes into force when it is made, and

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- (b) ceases to have effect at the end of a date specified in the order.
- (2) The date specified in a debt relief restrictions order under sub-paragraph (1)(b) must not be—
 - (a) before the end of the period of two years beginning with the date on which the order is made, or
 - (b) after the end of the period of 15 years beginning with that date.

Interim debt relief restrictions order

- 5 (1) This paragraph applies at any time between—
 - (a) the institution of an application for a debt relief restrictions order, and
 - (b) the determination of the application.
- (2) The court may make an interim debt relief restrictions order if the court thinks that—
 - (a) there are prima facie grounds to suggest that the application for the debt relief restrictions order will be successful, and
 - (b) it is in the public interest to make an interim debt relief restrictions order.
- (3) An interim debt relief restrictions order may only be made on the application of—
 - (a) the Secretary of State, or
 - (b) the official receiver acting on a direction of the Secretary of State.
- (4) An interim debt relief restrictions order—
 - (a) has the same effect as a debt relief restrictions order, and
 - (b) comes into force when it is made.
- (5) An interim debt relief restrictions order ceases to have effect—
 - (a) on the determination of the application for the debt relief restrictions order,
 - (b) on the acceptance of a debt relief restrictions undertaking made by the debtor, or
 - (c) if the court discharges the interim debt relief restrictions order on the application of the person who applied for it or of the debtor.
- 6 (1) This paragraph applies to a case in which both an interim debt relief restrictions order and a debt relief restrictions order are made.
- (2) Paragraph 4(2) has effect in relation to the debt relief restrictions order as if a reference to the date of that order were a reference to the date of the interim debt relief restrictions order.

Debt relief restrictions undertaking

- 7 (1) A debtor may offer a debt relief restrictions undertaking to the Secretary of State.
- (2) In determining whether to accept a debt relief restrictions undertaking the Secretary of State shall have regard to the matters specified in paragraph 2(2) and (3).
- 8 A reference in an enactment to a person in respect of whom a debt relief restrictions order has effect (or who is “the subject of” a debt relief restrictions order) includes a reference to a person in respect of whom a debt relief restrictions undertaking has effect.

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- 9 (1) A debt relief restrictions undertaking—
- (a) comes into force on being accepted by the Secretary of State, and
 - (b) ceases to have effect at the end of a date specified in the undertaking.
- (2) The date specified under sub-paragraph (1)(b) must not be—
- (a) before the end of the period of two years beginning with the date on which the undertaking is accepted, or
 - (b) after the end of the period of 15 years beginning with that date.
- (3) On an application by the debtor the court may—
- (a) annul a debt relief restrictions undertaking;
 - (b) provide for a debt relief restrictions undertaking to cease to have effect before the date specified under sub-paragraph (1)(b).

Effect of revocation of debt relief order

- 10 Unless the court directs otherwise, the revocation at any time of a debt relief order does not —
- (a) affect the validity of any debt relief restrictions order, interim debt relief restrictions order or debt relief restrictions undertaking which is in force in respect of the debtor;
 - (b) prevent the determination of any application for a debt relief restrictions order, or an interim debt relief restrictions order, in relation to the debtor that was instituted before that time;
 - (c) prevent the acceptance of a debt relief restrictions undertaking that was offered before that time; or
 - (d) prevent the institution of an application for a debt relief restrictions order or interim debt relief restrictions order in respect of the debtor, or the offer or acceptance of a debt relief restrictions undertaking by the debtor, after that time.”

SCHEDULE 20

Section 108(3)

DEBT RELIEF ORDERS: CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS TO THE INSOLVENCY ACT 1986

- 1 The Insolvency Act 1986 (c. 45) is amended as follows.
- 2 (1) In section 31 (disqualification of bankrupt) in subsection (1)—
- (a) at the end of paragraph (a) (before “or”) insert—
 - “(aa) a moratorium period under a debt relief order applies in relation to him,”;
 - (b) in paragraph (b) after “order” insert “or a debt relief restrictions order”.
- (2) In the heading to that section after “**bankrupt**” insert “**or person in respect of whom a debt relief order is made**”.

3 After section 274 insert—

“274A Debtor who meets conditions for a debt relief order

- (1) This section applies where, on the hearing of a debtor’s petition—
 - (a) it appears to the court that a debt relief order would be made in relation to the debtor if, instead of presenting the petition, he had made an application under Part 7A; and
 - (b) the court does not appoint an insolvency practitioner under section 273.
- (2) If the court thinks it would be in the debtor’s interests to apply for a debt relief order instead of proceeding on the petition, the court may refer the debtor to an approved intermediary (within the meaning of Part 7A) for the purposes of making an application for a debt relief order.
- (3) Where a reference is made under subsection (2) the court shall stay proceedings on the petition on such terms and conditions as it thinks fit; but if following the reference a debt relief order is made in relation to the debtor the court shall dismiss the petition.”

4 In section 384(2) (meaning of prescribed amount)—

- (a) at the beginning of the list of provisions insert “section 251S(4);”;
- (b) in the list omit “and” after “section 361(2);” and
- (c) at the end of the list insert “paragraphs 6 to 8 of Schedule 4ZA.”

5 (1) Section 385(1) (definitions) is amended as follows.

- (2) In the definition of “the debtor”, before paragraph (a) insert—

“(za) in relation to a debt relief order or an application for such an order, has the same meaning as in Part 7A.”.
- (3) After the definition of “debtor’s petition” insert—

““debt relief order” means an order made by the official receiver under Part 7A;”.

6 (1) Section 390 (persons not qualified to act as insolvency practitioners) is amended as follows.

- (2) In subsection (4) after paragraph (a) insert—

“(aa) a moratorium period under a debt relief order applies in relation of him,”.
- (3) In subsection (5) after “order” insert “or a debt relief restrictions order”.

7 (1) Section 399 (appointment etc of official receivers) is amended as follows.

- (2) In subsection (1) for “or individual voluntary arrangement” (in both places) substitute “, individual voluntary arrangement, debt relief order or application for such an order”.
- (3) In subsection (4) for “or individual voluntary arrangement” substitute “, individual voluntary arrangement, debt relief order or application for such an order”.

8 In section 412(1) (individual insolvency rules) for “Parts VIII to XI” substitute “Parts 7A to 11”.

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- 9 (1) Section 415 (fees orders) is amended as follows.
- (2) In subsection (1) before paragraph (a) insert—
- “(za) the costs of persons acting as approved intermediaries under Part 7A.”.
- (3) In that subsection in paragraph (a) for “Parts VIII to XI” substitute “Parts 7A to 11”.
- 10 In section 415A (fees orders: general), before subsection (1) insert—
- “(A1) The Secretary of State—
- (a) may by order require a person or body to pay a fee in connection with the grant or maintenance of a designation of that person or body as a competent authority under section 251U, and
- (b) may refuse to grant, or may withdraw, any such designation where a fee is not paid.”
- 11 In section 418(1) (monetary limits)—
- (a) at the beginning of the list of provisions insert—
- “section 251S(4) (maximum amount of credit which a person in respect of whom a debt relief order is made may obtain without disclosure of his status);”;
- (b) at the end of the list of provisions insert—
- “paragraphs 6 to 8 of Schedule 4ZA (maximum amount of a person’s debts, monthly surplus income and property for purposes of obtaining a debt relief order);”.
- 12 (1) Section 426A (disqualification from Parliament) is amended as follows.
- (2) In subsection (1) after “bankruptcy restrictions order” insert “or a debt relief restrictions order”.
- (3) In subsection (5) after “interim order” insert “, or a debt relief restrictions order or an interim debt relief restrictions order.”.
- (4) In subsection (6) after “bankruptcy restrictions undertaking” insert “or a debt relief restrictions undertaking”.
- 13 (1) Section 426B (devolution) is amended as follows.
- (2) In subsection (1) after “Wales,” insert “or makes a debt relief restrictions order or interim debt relief restrictions order in respect of such a member.”.
- (3) In subsection (2) after “bankruptcy restrictions undertaking” insert “or a debt relief restrictions undertaking”.
- 14 (1) Schedule 9 is amended as follows.
- (2) In paragraph 1 for “Parts VIII to XI” substitute “Parts 7A to 11”.
- (3) In paragraph 5 for “Parts VIII to XI” substitute “Parts 7A to 11”.
- (4) In paragraph 6 for “Parts VIII to XI” substitute “Parts 7A to 11”.
- (5) After paragraph 7 insert—

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“Debt relief orders

- 7A Provision as to the manner in which the official receiver is to carry out his functions under Part 7A.
- 7B Provision as to the manner in which any requirement that may be imposed by the official receiver on a person under Part 7A is to take effect.
- 7C Provision modifying the application of Part 7A in relation to an individual who has died at a time when a moratorium period under a debt relief order applies in relation to him.

Debt relief restrictions orders and undertakings

- 7D Provision about debt relief restrictions orders, interim orders and undertakings, including provision about evidence.

Register of debt relief orders and debt relief restrictions orders etc

- 7E Provision about the register required to be maintained by section 251W and the information to be contained in it, including provision—
- (a) enabling the amalgamation of the register with another register;
 - (b) enabling inspection of the register by the public.”
- 15 (1) The Table in Schedule 10 (punishment of offences) is amended as follows.
- (2) In the entry relating to section 31, in the column describing the general nature of the offence, after “bankrupt” insert “or person in respect of whom a debt relief order is made”.
- (3) Insert the following entries after the entry relating to section 235(5)—

“251O(1)	False representations or omissions in making an application for a debt relief order.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251O(2)(a)	Failing to comply with duty in connection with an application for a debt relief order.	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory maximum, or both.
251O(2)(b)	False representations or omissions in connection with duty in relation to an application for a debt relief order.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251O(4)(a)	Failing to comply with duty in	1. On indictment	2 years or a fine, or both.

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	connection with a debt relief order.	2. Summary	12 months or the statutory maximum, or both.
251O(4)(b)	False representations or omissions in connection with a duty in relation to a debt relief order.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251P(1)	Failing to deliver books, records and papers to official receiver, concealing or destroying them or making false entries in them by person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251P(2)	Person in respect of whom debt relief order is made doing anything falling within paragraphs (c) to (e) of section 251P(1) during the period of 12 months ending with the application date or doing anything falling within paragraphs (b) to (e) of section 251P(1) after that date but before the effective date.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251Q(1)	Fraudulent disposal of property by person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory maximum, or both.
251R(1)	Disposal of property that is not paid for by person in respect of whom a debt relief order is made.	1. On indictment 2. Summary	7 years or a fine, or both. 12 months or the statutory maximum, or both.
251R(2)	Obtaining property in respect of which	1. On indictment	7 years or a fine, or both.

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	money is owed by a person in respect of whom a debt relief order is made.	2. Summary	12 months or the statutory maximum, or both.
251S(1)	Person in respect of whom a debt relief order is made obtaining credit or engaging in business without disclosing his status or name.	1. On indictment 2. Summary	2 years or a fine, or both. 12 months or the statutory maximum, or both.”

(4) In the application of those entries in relation to offences committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (limit on magistrates' court powers to impose imprisonment), the references in the fourth column to “12 months” are to be read as references to “6 months”.

PART 2

AMENDMENTS TO OTHER LEGISLATION

- 16 (1) Section 11(1) of the Company Directors Disqualification Act 1986 (c. 46) (undischarged bankrupts) (as substituted in relation to England and Wales by the Enterprise Act 2002 (c. 40)) is amended as follows.
- (2) At the end of paragraph (a) (before “or”) insert—
“(aa) a moratorium period under a debt relief order applies in relation to him,”.
- (3) In paragraph (b) after “bankruptcy restrictions order” insert “or a debt relief restrictions order”.
- 17 In section 183(2) of the Employment Rights Act 1996 (c. 18) (insolvency of an employer who is individual), in paragraph (a) before sub-paragraph (i) insert—
“(ai) a moratorium period under a debt relief order applies in relation to him,”.

SCHEDULE 21

Sections 111 and 113

REGULATIONS UNDER SECTIONS 111 AND 113

- 1 The first column of this table lists the matters referred to in sections 111(3) and 113(5).
- 2 A matter listed in the first column includes the aspects set out in the appropriate part of the second column.

<i>Matter about which particular provision may be made:</i>	<i>Including these aspects:</i>
1. The scheme operator.	(a) The constitution of the scheme operator.

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<i>Matter about which particular provision may be made:</i>	<i>Including these aspects:</i>
	<ul style="list-style-type: none"> (b) The governance of the scheme operator. (c) The size of the scheme operator's undertaking. (d) The financial standing of the scheme operator. (e) Whether or not a scheme operator is a profit-making organisation.
2. The terms of a debt management scheme.	<ul style="list-style-type: none"> (a) The non-business debtors to whom the scheme is open. (b) The kinds of debts which may be specified in a plan arranged in accordance with the scheme.
3. The operation of a debt management scheme.	<ul style="list-style-type: none"> (a) How decisions are made about whether debt repayment plans are to be arranged. (b) How debt repayment plans are arranged. (c) How decisions are made about the terms of debt repayment plans, including decisions about— <ul style="list-style-type: none"> (i) what payments will be required in relation to the specified debts; (ii) the amounts, times and recipients of payments; (iii) the duration of the plan. (d) The format of debt repayment plans. (e) When debt repayment plans begin to have effect. (f) How changes are to be made to debt repayment plans (including the specification of debts after a plan has been arranged). (g) How decisions are made about whether debt repayment plans are to be terminated. (h) How debt repayment plans are terminated.
4. Changes that affect the scheme operator.	
5. Changes to—	<ul style="list-style-type: none"> (a) Whether changes may be made.
(i) the terms of a debt management scheme;	<ul style="list-style-type: none"> (b) How changes are made.
(ii) the operation of a debt management scheme.	

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<i>Matter about which particular provision may be made:</i>	<i>Including these aspects:</i>
6. The transfer of the operation of a debt management scheme to another body.	(a) Whether the operation of the scheme may be transferred. (b) How the operation of the scheme is transferred.

SCHEDULE 22

Section 139

COMPULSORY PURCHASE: CONSEQUENTIAL AMENDMENTS

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

- 1 In Part 2 of Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1976 (compulsory purchase of rights: adaptation of 1965 Act), in paragraph 9 for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

Local Government, Planning and Land Act 1980 (c. 65)

- 2 In Part 4 of Schedule 28 to the Local Government, Planning and Land Act 1980 (acquisition of rights), in paragraph 23(4) for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

Highways Act 1980 (c. 66)

- 3 In Part 2 of Schedule 19 to the Highways Act 1980 (compulsory acquisition of rights: adaptation of 1965 Act), in paragraph 9 for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

Gas Act 1986 (c. 44)

- 4 In Part 2 of Schedule 3 to the Gas Act 1986 (compulsory acquisition of land and rights: procedure etc), in paragraph 10 for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

Channel Tunnel Act 1987 (c. 53)

- 5 In Part 3 of Schedule 5 to the Channel Tunnel Act 1987 (supplementary provisions as to acquisition of land), in paragraph 8(d) for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

Housing Act 1988 (c. 50)

- 6 In Part 3 of Schedule 10 to the Housing Act 1988 (acquisition of rights), in paragraph 23(2), for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

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Electricity Act 1989 (c. 29)

- 7 In Part 2 of Schedule 3 to the Electricity Act 1989 (compulsory acquisition of land and rights: procedure etc), in paragraph 11 for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

- 8 In Part 3 of Schedule 20 to the Leasehold Reform, Housing and Urban Development Act 1993 (acquisition of rights), in paragraph 23(2) for “sheriff’s warrant” substitute “enforcement officer’s or sheriff’s warrant”.

Channel Tunnel Rail Link Act 1996 (c. 61)

- 9 In Part 3 of Schedule 4 to the Channel Tunnel Rail Link Act 1996 (supplementary provisions as to acquisition of land), in paragraph 9(5), for “sheriff’s warrant” there is substituted “enforcement officer’s or sheriff’s warrant”.

Regional Development Agencies Act 1998 (c. 45)

- 10 In Part 2 of Schedule 5 to the Regional Development Agencies Act 1998 (acquisition of rights), in paragraph 5(2), for “sheriff’s warrant” there is substituted “enforcement officer’s or sheriff’s warrant”.

Postal Services Act 2000 (c. 26)

- 11 In Part 2 of Schedule 5 to the Postal Services Act 2000 (acquisition of land and rights: procedure etc), in paragraph 10, for “sheriff’s warrant” there is substituted “enforcement officer’s or sheriff’s warrant”.

SCHEDULE 23

Section 146

REPEALS

PART 1

TRIBUNALS AND INQUIRIES

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Taxes Management Act 1970 (c. 9)	<p>Sections 2 to 3A.</p> <p>In section 5(1), the words “General Commissioner or”.</p> <p>In section 6—</p> <p>(a) in subsection (1), the words “a General Commissioner or” and the words “, or before a General Commissioner”, and</p> <p>(b) subsection (2).</p> <p>In section 56(3), the words “the clerk to”.</p>

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<i>Reference</i>	<i>Extent of repeal or revocation</i>
	Section 115(4).
Superannuation Act 1972 (c. 11)	In Schedule 6, paragraph 77.
Finance Act 1972 (c. 41)	Section 130.
Consumer Credit Act 1974 (c. 39)	In Schedule A1, paragraph 11.
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 2— (a) the entry relating to the Council on Tribunals, and (b) the entry relating to the Scottish Committee of the Council on Tribunals.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1, in Part 2— (a) the entry relating to the Council on Tribunals, and (b) the entry relating to the Scottish Committee of the Council on Tribunals.
Race Relations Act 1976 (c. 74)	In Schedule 1A, in Part 2, the entry relating to the Council on Tribunals.
Estate Agents Act 1979 (c. 38)	Section 24(2).
Finance Act 1988 (c. 39)	Section 134(1).
Food Safety Act 1990 (c. 16)	In section 26(2)— (a) in paragraph (e), the words “or to a tribunal constituted in accordance with the regulations,” and (b) paragraph (f).
	Section 37(2)(a).
	Section 47.
Finance (No. 2) Act 1992 (c. 48)	In section 75(1), paragraph (a). In Schedule 16, paragraph 2.
Tribunals and Inquiries Act 1992 (c. 53)	Sections 1 to 5, 6(1) to (3), (6) and (7) and 8. In section 13— (a) subsection (2), and (b) in subsection (5)(c), the words “the reference in section 8(1) to the Foreign Compensation Commission and”. Section 14(1A). In section 16(1), in the definition of “decision”, “procedural rules” and “working”, the words “, “procedural rules” and “working””.
Judicial Pensions and Retirement Act 1993 (c. 8)	In Schedule 1, paragraph 19. In section 1(1), the word “and” at the end of paragraph (c).

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<i>Reference</i>	<i>Extent of repeal or revocation</i>
	Section 12(1)(b).
Employment Tribunals Act 1996 (c. 17)	Section 26. In section 27(1)— (a) in paragraph (b), the word “and” at the end, (b) paragraph (c), and (c) the words after “persons within paragraph (a) or (b)”.
Social Security Act 1998 (c. 14)	In Schedule 7, in paragraph 118(1), “subsection (3) of” and the words after “1992”.
Social Security Contributions (Transfer of Functions, Etc.) Act 1999 (c. 2)	In Schedule 7, paragraph 1.
Access to Justice Act 1999 (c. 22)	Sections 101 to 103.
Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)	In Schedule 6, in paragraph 1, the words “section 2(1) (appointment of General Commissioners)”.
Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc) Order 1999 (S.I. 1999/1747)	Schedule 9.
Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750)	In Schedule 1, the entry in respect of sections 2(3), 2(6) and 3(4) of the Taxes Management Act 1970.
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part 6, the entry relating to the Council on Tribunals and the entry relating to the Scottish Committee of the Council on Tribunals.
Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649)	Article 335(3).
Justice (Northern Ireland) Act 2002 (c. 26)	In each of Schedules 1 and 6, the entry relating to 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.
Nationality, Immigration and Asylum Act 2002 (c. 41)	In Schedule 4, paragraphs 9 and 10(b) and (c).
Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823)	Article 14.
Constitutional Reform Act 2005 (c. 4)	In Schedule 4, paragraph 64. In Schedule 5, in the amendment made by paragraph 122(5), and in the amendment made by paragraph 126(5), the entry relating

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<i>Reference</i>	<i>Extent of repeal or revocation</i>
	to 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.
	In Schedule 7, in Part A of the list in paragraph 4— (a) the entry for section 6(2), (8) and (9) of the Tribunals and Inquiries Act 1992, and (b) the entry for paragraph 7(4) of Schedule 5 to that Act.
	In Schedule 12, in paragraph 4(4)(a), the words “or no other except that of General Commissioner,”.
	In Schedule 14, in Part 2, the entry relating to General Commissioner for a division in England and Wales.
	In Schedule 14, in Part 3, the entry relating to members of panels appointed under section 6(1) of the Tribunals and Inquiries Act 1992.
Tribunals, Courts and Enforcement Act 2007 (c. 15)	In section 36(3)(a), the words “or 41(2)”. In Schedule 8, paragraph 26.

PART 2

JUDICIAL APPOINTMENTS

<i>Reference</i>	<i>Extent of repeal</i>
Courts and Legal Services Act 1990 (c. 41)	In Schedule 10— (a) paragraph 4, (b) in paragraph 6(1), the words “paragraph 13(1) of” and the words after “1947”, and (c) paragraphs 24, 26, 32, 49, 50(2)(b) and 57.
Judicial Pensions and Retirement Act 1993 (c. 8)	In Schedule 5— (a) in the entry for a deputy district judge appointed under section 102 of the Supreme Court Act 1981, the words “for a district registry”, and (b) in the entry for a deputy district judge appointed under section 8 of the County Courts Act 1984, the words “for a county court district”.

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<i>Reference</i>	<i>Extent of repeal</i>
Child Support Act 1991 (c. 48)	In section 54, the definition of “general qualification”.
Social Security Act 1998 (c. 14)	In Schedule 4, paragraph 1(3).
Enterprise Act 2002 (c. 40)	In Schedule 2, paragraph 1(4).
Constitutional Reform Act 2005 (c. 4)	Section 25(2)(a). In Schedule 3, paragraph 2(3). In Schedule 14, in Part 2— (a) in the entry relating to a deputy district judge in a district registry of the High Court, the words “in a district registry of the High Court”, and (b) in the entry relating to a deputy district judge for a county court district, the words “for a county court district”. In Schedule 14, in Part 3, the entries relating to— (a) Member of the Special Immigration Appeals Commission; (b) Chairman of the Special Immigration Appeals Commission; (c) Member of the Proscribed Organisations Appeal Commission; (d) Chairman of the Proscribed Organisations Appeal Commission; (e) Member of the Pathogens Access Appeal Commission; and (f) Chairman of the Pathogens Access Appeal Commission.

PART 3

ENFORCEMENT BY TAKING CONTROL OF GOODS

<i>Reference</i>	<i>Extent of repeal</i>
Inclosure Act 1773 (c. 81)	In section 4, the words from “rendering” to the end. In section 16, the words from “rendering” to the end.
Sale of Farming Stock Act 1816 (c. 50)	The whole Act.
Judgments Act 1838 (c. 110)	Section 12.
Compulsory Purchase Act 1965 (c. 56)	Section 13(5). Section 29.

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<i>Reference</i>	<i>Extent of repeal</i>
Sea Fisheries Act 1968 (c. 77)	In section 12(3), the words from “as they apply” to the end.
Criminal Justice Act 1972 (c. 71)	In section 66(2), the words from ““sentence of imprisonment”” to the end.
Magistrates' Courts Act 1980 (c. 43)	In section 125(2), the words from “This subsection” to the end. Section 125D(3)(c). Section 151. In Schedule 4A, paragraph 3.
British Fishing Boats Act 1983 (c. 8)	In section 5(3), the words from “as they apply” to the end.
County Courts Act 1984 (c. 28)	Section 85(3). Section 87(2). Sections 89 to 91. Sections 93 to 100. Sections 102 and 103. Section 123. In section 126— (a) in subsection (3) the words from “but” to the end; (b) in subsection (4) ““bailiff””. In section 147(1) the definition of “bailiff”.
Finance Act 1984 (c. 43)	Section 16.
Local Government Finance Act 1988 (c. 41)	In Schedule 9, paragraph 3(2)(b).
Child Support Act 1991 (c. 48)	Section 35(2) to (8).
Social Security Administration Act 1992 (c. 5)	Section 121A(2) to (8) and (10).
Local Government Finance Act 1992 (c. 14)	In Schedule 4— (a) paragraph 7; (b) in paragraph 8(1)(a) the words from “an authority” to “paragraph 7 above”; (c) paragraph 12(1)(c); (d) paragraph 19(3).
Finance Act 1997 (c. 16)	Section 51(7).
Courts Act 2003 (c. 39)	In Schedule 7, paragraph 8(5).
Traffic Management Act 2004 (c. 18)	Section 82(3)(a). Section 83.

Status: This is the original version (as it was originally enacted).

PART 4

RENT ARREARS RECOVERY

<i>Reference</i>	<i>Extent of repeal</i>
Distress for Rent Act 1689 (c. 5)	The whole Act.
Landlord and Tenant Act 1709 (c. 18)	Section 1. Sections 6 to 8.
Landlord and Tenant Act 1730 (c. 28)	Section 5.
Distress for Rent Act 1737 (c. 19)	Sections 1 to 10. Sections 16 and 17. Section 19.
Deserted Tenements Act 1817 (c. 52)	The whole Act.
Metropolitan Police Courts Act 1840 (c. 84)	The whole Act.
Execution Act 1844 (c. 96)	The whole Act.
Lands Clauses Consolidation Act 1845 (c. 18)	In section 11 the words from “or it shall be lawful” to the end.
Sequestration Act 1849 (c. 67)	In section 1 the words “levy” and “distress” in the second place where each occurs, and “levied”.
Landlord and Tenant Act 1851 (c. 25)	The whole Act.
Railway Rolling Stock Protection Act 1872 (c. 50)	The whole Act.
Law of Distress Amendment Act 1888 (c. 21)	The whole Act.
Law of Distress Amendment Act 1908 (c. 53)	The whole Act.
Law of Property Act 1925 (c. 20)	Section 121(2). Section 162(1)(a). Section 189(1). In section 190— (a) subsection (2); (b) in subsection (7), “owner or”.
Administration of Estates Act 1925 (c. 23)	Section 26(3).
Rent (Agriculture) Act 1976 (c. 80)	Section 8.
Rent Act 1977 (c. 42)	Section 147.
Limitation Act 1980 (c. 58)	In section 38, “rentcharges and” and “rent or”.
County Courts Act 1984 (c. 28)	Section 116.
Agricultural Holdings Act 1986 (c. 5)	Sections 16 to 19. In section 24, “ , by distress or otherwise,”.

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<i>Reference</i>	<i>Extent of repeal</i>
Insolvency Act 1986 (c. 45)	Section 347(6), (7) and (11).
Housing Act 1988 (c. 50)	Section 19.
Water Industry Act 1991 (c. 56)	In section 179(4)(b), “or to the landlord’s remedy for rent”.
Constitutional Reform Act 2005 (c. 4)	In Schedule 7, in the table in paragraph 4, the entry for the Law of Distress Amendment Act 1888.

PART 5

ADMINISTRATION ORDERS

<i>Reference</i>	<i>Extent of repeal</i>
Company Directors Disqualification Act 1986 (c. 46)	Section 12(1).
Courts and Legal Services Act 1990 (c. 41)	Section 13.

PART 6

APPEAL TRIBUNAL UNDER SECTION 28 OF THE REGISTERED DESIGNS ACT 1949: ABOLITION

<i>Reference</i>	<i>Extent of repeal</i>
Registered Designs Act 1949 (c. 88)	Section 28. In section 37(3), the words “or on the Appeal Tribunal” and the words from “and the Statutory Instruments Act 1946 shall apply” to the end. In section 44(1), the definition of “Appeal Tribunal”.
Administration of Justice Act 1969 (c. 58)	Section 24. In Schedule 1, the entry in respect of the Registered Designs Act 1949.
Administration of Justice Act 1970 (c. 31)	Section 10.
Patents Act 1977 (c. 37)	In Schedule 5, paragraph 5.
Copyright, Designs and Patents Act 1988 (c. 48)	Section 249(2). In Schedule 3, paragraph 17.
Constitutional Reform Act 2005 (c. 4)	In Schedule 4, paragraphs 37 and 66.