

Prisons and Courts Bill

[AS AMENDED IN PUBLIC BILL COMMITTEE]

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[AS AMENDED IN PUBLIC BILL COMMITTEE]

TO

Make provision about prisons; make provision about practice and procedure in courts and tribunals, organisation of courts and tribunals, functions of the judiciary and of courts and tribunals and their staff, appointment and deployment of the judiciary, and functions of the Judicial Appointments Commission; and make provision about whiplash claims.

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

PART 1

PRISONS

Purpose of prisons etc; Her Majesty’s Chief Inspector and Inspectorate of Prisons

1 Prisons: purpose, and role of Secretary of State

- (1) The Prison Act 1952 is amended as follows. 5
(2) For sections 1 to 4 substitute—

“Purpose of prisons

A1 Purpose of prisons

In giving effect to sentences or orders of imprisonment or detention imposed by courts, prisons must aim to— 10
(a) protect the public,
(b) reform and rehabilitate offenders,
(c) prepare prisoners for life outside prison, and
(d) maintain an environment that is safe and secure.

*Role of the Secretary of State in relation to prisons***1 General control over prisons**

- (1) The Secretary of State has overall responsibility for prisons.
- (2) The Secretary of State may do anything necessary for the maintenance of prisons and prisoners, including – 5
- (a) appointing officers and other staff, and
- (b) entering into contracts.”
- (3) In section 5 (annual report of the Secretary of State) –
- (a) in subsection (1) for “every prison” substitute “prisons”;
- (b) for subsection (2) substitute – 10
- “(2) The report must set out the extent to which prisons are meeting the purpose mentioned in section A1.”

2 Her Majesty’s Chief Inspector and Inspectorate of Prisons

- (1) The Prison Act 1952 is amended as follows.
- (2) Before section 5A insert – 15

*“Her Majesty’s Chief Inspector and Inspectorate of Prisons***5ZA Her Majesty’s Chief Inspector and Inspectorate of Prisons**

- (1) Her Majesty may appoint a person to be Chief Inspector of Prisons.
- (2) The Chief Inspector is to be paid such salary and allowances as the Secretary of State may determine. 20
- (3) The Chief Inspector of Prisons, together with the staff who carry out functions on behalf of the Chief Inspector, are to be known as Her Majesty’s Inspectorate of Prisons.
- (4) Her Majesty’s Inspectorate of Prisons may carry out any of the functions of the Chief Inspector, other than the functions mentioned in – 25
- (a) section 5C(1) (urgent notification of significant concerns), and
- (b) paragraph 2 of Schedule A2 (certification to court of obstruction).
- (5) The provisions in this Act about Her Majesty’s Chief Inspector of Prisons and Her Majesty’s Inspectorate of Prisons are in accordance with the objective of OPCAT. 30
- (6) In subsection (5) –
- “OPCAT” means the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment adopted on 18th December 2002 at the fifty-seventh session of the General Assembly of the United Nations by resolution A/RES/57/199; 35
- “the objective of OPCAT” means the objective of establishing a system of regular visits undertaken by independent international and national bodies to places where people are 40

deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.”

(3) After section 5ZA insert –

“5ZB Further provision about the Chief Inspector and Inspectorate

Schedule A1 to this Act (which makes further provision about the Chief Inspector) has effect.” 5

(4) After section 5ZB insert –

“5ZC Powers of entry etc

Schedule A2 to this Act (which makes provision about powers of entry) has effect.” 10

(5) In section 5A –

- (a) omit subsections (1), (6) and (7);
- (b) in subsection (5A), after “(5)” insert “and Schedule A2”;
- (c) in subsection (5B), after “(5)” insert “and Schedule A2”;
- (d) after subsection (5C) insert – 15

“(5D) Paragraph 1 of Schedule A2 (powers to enter and require information) applies to the areas of courts and the vehicles mentioned in subsection (5C) –

- (a) as if a reference to prisons were a reference to those areas or vehicles, 20
- (b) as if a reference to prisoners detained in a prison were a reference to prisoners detained in such areas or transported in such vehicles, and
- (c) with any other necessary modifications.

(5E) But – 25

- (a) before exercising the power conferred by paragraph 1(1) of that Schedule (power to enter) in relation to a court area mentioned in subsection (5C), the Chief Inspector must notify the Lord Chief Justice (or a person nominated by the Lord Chief Justice), and 30
- (b) before exercising the power conferred by paragraph 1(2) of that Schedule (power to require information) in relation to information which is –
 - (i) held by a judicial office holder, or
 - (ii) forms part of the court record, 35the Chief Inspector must obtain the consent of the Lord Chief Justice (or a person nominated by the Lord Chief Justice).

(5F) In subsection (5E) –

the “court record” comprises information contained in – 40

- (a) any document filed with, or otherwise placed in the custody of, a court for the purposes of proceedings in a particular cause or matter, or
- (b) any document created by a court or a member of the administrative staff of a court for the 45

- purposes of proceedings in a particular cause or matter;
- “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.”
- (e) for the section heading substitute “General reporting requirements: prisons, immigration detention facilities and courts”. 5
- (6) After section 5A insert –
- “5B Additional reporting requirements in relation to prisons**
- (1) The Chief Inspector must publish, or arrange for the publication of, all reports relating to prisons made to the Secretary of State under section 5A (but see paragraph 3 of Schedule A2). 10
- (2) In preparing a section 5A(2) report, the Chief Inspector must have regard to section A1 (purpose of prisons).
- (3) In preparing a section 5A(2) report, the Chief Inspector must also consider the effectiveness of the leadership provided in relation to the prison by – 15
- (a) the governor or director of the prison,
- (b) the prison officers, and
- (c) any other persons the Chief Inspector considers relevant.
- (4) Where a section 5A(2) report contains recommendations to the Secretary of State, the Secretary of State must publish a response to the recommendations before the end of the period of 90 days beginning with the date on which the report was published. 20
- (5) In this section –
- “prison officer” includes a prisoner custody officer within the meaning of Part 4 of the Criminal Justice Act 1991; 25
- “section 5A(2) report” means a report of the Chief Inspector under section 5A(2) following the inspection of a prison (or part of one).
- 5C Prisons giving rise to significant concerns** 30
- (1) Where –
- (a) the Chief Inspector has inspected, or arranged for the inspection of, a prison,
- (b) the inspection has caused the Chief Inspector to have significant concerns about the treatment of prisoners or the conditions in the prison, and 35
- (c) the Chief Inspector considers that those concerns need to be notified to and addressed by the Secretary of State as a matter of urgency,
- the Chief Inspector must give a notification to the Secretary of State describing the concerns (referred to in this section as “an urgent notification”). 40
- (2) Where the Chief Inspector gives an urgent notification to the Secretary of State, the Chief Inspector must also publish, or arrange for the publication of, the notification (but see paragraph 3 of Schedule A2). 45

- (3) The Secretary of State must publish a response to an urgent notification within 28 days beginning with the date on which the Chief Inspector published the notification.
- (4) The response must set out the actions that the Secretary of State has taken, or proposes to take, in response to the concerns described in the notification.” 5
- (7) After Schedule A1 (further provision about Her Majesty’s Chief Inspector of Prisons) insert –

“SCHEDULE A2

POWERS OF ENTRY ETC. 10

Powers to enter prisons and require information

- 1 (1) The Chief Inspector may enter any prison.
- (2) The Chief Inspector may require any person who holds relevant information – 15
- (a) to allow the Chief Inspector access to any of the information;
 - (b) to give the Chief Inspector –
 - (i) any of the information,
 - (ii) a copy of any of the information (in a form specified by the Chief Inspector), or
 - (iii) an explanation of any of the information. 20
- (3) But the Chief Inspector may not require the disclosure of information under this paragraph if the information – 25
- (a) might incriminate the person disclosing it,
 - (b) is an item subject to legal privilege, or
 - (c) is intelligence service information.
- (4) The Chief Inspector may require the governor or director of a prison to allow the Chief Inspector to communicate privately with any person who – 30
- (a) is a prisoner detained in the prison, or
 - (b) is employed or otherwise working in the prison,
(but this sub-paragraph does not impose any obligation on a person to communicate privately with the Chief Inspector).
- (5) The Chief Inspector must make arrangements under which a person can make representations to the Chief Inspector about any requirement imposed on the person under sub-paragraph (2) or (4). 35
- (6) A disclosure of information to the Chief Inspector in accordance with this paragraph does not breach – 40
- (a) any obligation of confidence owed by any person, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (7) But nothing in this paragraph authorises any disclosure of information which –
- (a) contravenes the Data Protection Act 1998, or

- (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

Obstruction of exercise of powers under paragraph 1

- 2 (1) The Chief Inspector may certify to the High Court (or, in Scotland, the Court of Session) that a person has, without lawful excuse, obstructed the Chief Inspector in the exercise of a power conferred by paragraph 1. 5
- (2) The court may inquire into a certified obstruction.
- (3) If the court is satisfied that the person carried out the certified obstruction, it may deal with the person in any way in which it could deal with the person if he or she had committed contempt in relation to the court. 10
- (4) But before doing so, the court must hear –
- (a) any witness on behalf of or against the person, and
- (b) any statement in the person’s defence. 15

Restrictions on disclosure of information

- 3 (1) The Chief Inspector must not disclose any information if the disclosure –
- (a) would contravene the Data Protection Act 1998,
- (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016, 20
- (c) would be against the interests of national security,
- (d) could jeopardise the safety of any person, or
- (e) could prejudice the prevention or detection of crime.
- (2) The Chief Inspector must not disclose intelligence service information (or the fact that the Chief Inspector is in possession of such information) without the consent of the relevant authority. 25

Interpretation

- 4 In this Schedule –
- “information” includes any recording of an image or sound; 30
- “intelligence service information” means information held by, obtained (directly or indirectly) from, or that relates to –
- (a) the Security Service,
- (b) the Secret Intelligence Service,
- (c) GCHQ (within the meaning of section 3 of the Intelligence Services Act 1994), or 35
- (d) any part of her Majesty’s forces, or the Ministry of Defence, which engages in intelligence activities;
- “item subject to legal privilege” –
- (a) in England and Wales has the meaning given by section 10 of the Police and Criminal Evidence Act 1984; 40

- (b) in Northern Ireland has the meaning given by Article 12 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));
 - (c) in Scotland has the meaning given by section 412 of the Proceeds of Crime Act 2002; 5
- “relevant authority” means –
- (a) in the case of information obtained from or relating to the Security Service, the Director-General of the Security Service;
 - (b) in the case of information obtained from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service; 10
 - (c) in the case of information obtained from or relating to GCHQ, the Director of GCHQ;
 - (d) in the case of information obtained from or relating to Her Majesty’s forces or the Ministry of Defence, the Secretary of State; 15
- “relevant information” means information that –
- (a) relates to the running of a prison, or to prisoners detained in a prison, and 20
 - (b) is needed in connection with an inspection of a prison (or part of one) under section 5A(2);
- a reference to communication between two persons is a reference to communication by any means (whether conducted face-to-face or otherwise); 25
- a reference to two persons communicating privately includes a reference to communication in the presence of, or with the participation of, another person if the two persons agree to the other person’s presence or participation.”
- 3 Minor and consequential amendments to Prison Act 1952 30**
- (1) The Prison Act 1952 is amended as follows.
 - (2) In section 42 (display of notice of penalties), for the words from the beginning to “every” substitute “The governor or director of a prison must display in a conspicuous place outside the”.
 - (3) In section 43 (places for the detention of young offenders etc) – 35
 - (a) in subsection (3), for “Sections 1 to 42A and Schedule A1” substitute “Sections A1 to 42A and Schedules A1 and A2”;
 - (b) in the table in subsection (4) –
 - (i) in the row relating to young offender institutions, for “Section 28” substitute “Sections A1, 5(2), 5B(2) and 28”; 40
 - (ii) in the row relating to secure training centres or secure colleges, for “Sections 5” substitute “Sections A1, 5, 5B(2)”;
 - (c) in the table in subsection (7) –
 - (i) in the row relating to young offender institutions, for “Sections 5A, 6(2) and (3), 16, 22, 36 and 42A and Schedule A1” substitute “Sections 5ZA to 5C, 6(2) and (3), 16, 22, 36 and 42A and Schedules A1 and A2”; 45
 - (ii) in the row relating to secure training centres or secure colleges, for “Sections 5A, 16, 22, 36 and 42A and Schedule A1” substitute

“Sections 5ZA to 5C, 16, 22, 36 and 42A and Schedules A1 and A2”;

(d) after subsection (11) insert –

“(11A) Subsection (4) applies as if for the table there were substituted the following table –

5

<i>Place</i>	<i>Provisions</i>	
Young offender institutions	Section 28	
Young offender institutions used wholly or mainly for the detention of persons aged under 18	Sections A1, 5(2), 5B(2) and 28	10
Secure training centres or secure colleges	Sections A1, 5, 5B(2), 6(2) and (3), 12, 14, 19 and 28”	

(4) In section 55 –

(a) in subsection (6) (provisions extending beyond England and Wales) –

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(i) omit the “and” at the end of paragraph (a);

(ii) at the end of paragraph (b) insert “, and

(c) this section.”;

(b) after subsection (6) insert –

“(7) And the following shall extend to England and Wales and, in their application to functions conferred by virtue of section 5A(5A), to Scotland and Northern Ireland –

20

(a) section 5ZA, and

(b) section 5ZC and Schedule A2.”

(5) In Schedule A1, in the shoulder reference, for “5A” substitute “5ZB”.

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The Prisons and Probation Ombudsman

4 The Prisons and Probation Ombudsman

(1) The office of Prisons and Probation Ombudsman (referred to in this Part as “the Ombudsman”) is established.

(2) The Ombudsman has the following functions –

30

(a) investigating deaths of –

(i) persons detained or resident in criminal justice institutions in England and Wales,

(ii) persons detained or resident in secure children’s homes in England and Wales,

35

(iii) persons detained in immigration detention facilities or under immigration escort arrangements, and

(iv) certain persons who have ceased to be so detained or resident, and producing reports on those investigations (see sections 5 to 8);

(b) investigating complaints made by –

40

- (i) persons detained in certain criminal justice institutions in England and Wales,
 - (ii) persons detained in immigration detention facilities or under immigration escort arrangements, and
 - (iii) persons subject to probation supervision in England and Wales, and producing reports on those investigations (see sections 9 and 10);
 - (c) carrying out, at the request of the Secretary of State, other investigations relating to detention or probation services (see section 11);
 - (d) producing reports on patterns and themes the Ombudsman has identified from the exercise of the Ombudsman’s other functions (see section 11);
 - (e) any functions conferred on the Ombudsman by regulations made by the Secretary of State.
- (3) Before making regulations under subsection (2)(e), the Secretary of State must consult the Ombudsman.
- (4) Regulations under subsection (2)(e) may specify the manner in which the Ombudsman is to perform a function conferred by the regulations.
- (5) Regulations under subsection (2)(e) are subject to affirmative resolution procedure.
- (6) Schedule 1 (the Prisons and Probation Ombudsman) has effect.

5 Investigations of deaths within the Ombudsman’s remit

- (1) This section applies where a death occurs that is within the Ombudsman’s remit.
- (2) A death is within the Ombudsman’s remit if it is the death of a person who, at the time of their death, was –
- (a) detained or resident in a criminal justice institution in England or Wales (and for these purposes, a person is to be treated as having been detained in a criminal justice institution if the person was on temporary release from that institution),
 - (b) detained or resident in a secure children’s home in England or Wales (and for these purposes, a person is to be treated as having been detained in a secure children’s home if the person was on temporary release from that home),
 - (c) detained in an immigration detention facility, or
 - (d) detained under immigration escort arrangements.
- (3) The person in charge of the criminal justice institution, secure children’s home, immigration detention facility or immigration escort arrangements must ensure that the Ombudsman is notified of the death.
- (4) If the Ombudsman is notified of a death within the Ombudsman’s remit, the Ombudsman must investigate the death.
- (5) It is for the Ombudsman to decide on the appropriate extent of the investigation and how it is to be carried out.

6 Investigations of deaths following release etc

- (1) This section applies where –
- (a) the Ombudsman becomes aware that a person has died –
 - (i) after ceasing to be detained or resident in a criminal justice institution in England or Wales, 5
 - (ii) after ceasing to be detained or resident in a secure children’s home in England or Wales, or
 - (iii) after ceasing to be detained in an immigration detention facility or under immigration escort arrangements; and
 - (b) the Ombudsman has reason to believe that the person’s death may in some way be connected with his or her detention or residence there. 10
- (2) The Ombudsman may investigate the person’s death.
- (3) It is for the Ombudsman to decide on the appropriate extent of any investigation and how it is to be carried out.

7 Deaths occurring in Scotland: role of Lord Advocate 15

Nothing in section 5 or 6 affects the position of the Lord Advocate as head of the system of investigation of deaths in Scotland.

8 Reports on deaths investigated by the Ombudsman

- (1) The Ombudsman must produce a written report in relation to each death that the Ombudsman investigates under section 5 or 6. 20
- (2) The report may include recommendations to –
- (a) the relevant authority,
 - (b) the Secretary of State, or
 - (c) any other person.
- (3) The Ombudsman must – 25
- (a) provide a copy of the report to the relevant authority and the Secretary of State, and
 - (b) publish the report, to the extent that the Ombudsman considers this appropriate.
- (4) The Ombudsman may give a copy of the report to such other persons as the Ombudsman considers appropriate. 30
- (5) Where a report includes recommendations –
- (a) in the case of a report relating to the death of a person detained or resident in a secure children’s home, the person in charge of the home must give the Ombudsman a written response to the recommendations; 35
 - (b) in any other case, the Secretary of State must give the Ombudsman a written response to the recommendations.
- (6) The response must be given in the form, and within the period, specified by the Ombudsman. 40
- (7) The Ombudsman may publish a response to recommendations, to the extent that the Ombudsman considers this appropriate.

- (8) In this section, “the relevant authority” means –
- (a) where the report relates to the death of a person who was or had been detained or resident in a criminal justice institution, the person in charge of the institution;
 - (b) where the report relates to the death of a person who was or had been detained or resident in a secure children’s home, the person in charge of the home; 5
 - (c) where the report relates to the death of a person who was or had been detained in an immigration detention facility, the person in charge of the facility; 10
 - (d) where the report relates to the death of a person who was or had been detained under immigration escort arrangements, the person in charge of the arrangements.

9 Investigation of complaints by the Ombudsman

- (1) In this section, “eligible complainant” means a person who is or has been – 15
- (a) detained in England or Wales in a prison, a young offender institution, a secure training centre or a secure college,
 - (b) subject to probation supervision in England or Wales when aged 18 or above, or
 - (c) detained in an immigration detention facility or under immigration escort arrangements, 20
- and includes a person complaining on behalf of a person mentioned in paragraph (a), (b) or (c), where that person is unable to make a complaint himself or herself.
- (2) Where an eligible complainant has exhausted the internal complaints procedure that applies in relation to his or her detention or probation supervision (or is unable to use the internal complaints procedure), he or she may make a complaint to the Ombudsman. 25
- (3) It is for the Ombudsman to decide whether to investigate a complaint, and, if so, the appropriate extent of the investigation and how it is to be carried out. 30
- (4) The Secretary of State may make regulations about complaints to the Ombudsman under this section, which may include provision about –
- (a) the types of complaints that the Ombudsman may or may not investigate;
 - (b) the procedure for making a complaint (including time limits); 35
 - (c) the investigation by the Ombudsman of complaints;
 - (d) what the Ombudsman is to do after investigating a complaint.
- (5) The regulations may confer functions (including duties) on –
- (a) the Ombudsman,
 - (b) a person in charge of a criminal justice institution, an immigration detention facility or immigration escort arrangements, 40
 - (c) any person who has functions in relation to probation supervision,
 - (d) the Secretary of State, or
 - (e) any other person.
- (6) Regulations under this section are subject to affirmative resolution procedure. 45

10 Reports on complaints investigated by the Ombudsman

- (1) The Ombudsman may produce a written report in relation to a complaint the Ombudsman investigates under section 9.
- (2) The report may include recommendations to – 5
- (a) the relevant authority,
 - (b) the Secretary of State, or
 - (c) any other person.
- (3) Where the report includes recommendations, the Ombudsman must provide a copy of the report to the relevant authority and the Secretary of State.
- (4) The Ombudsman may – 10
- (a) give a copy of the report to such other persons as the Ombudsman considers appropriate;
 - (b) publish the report, to the extent that the Ombudsman considers this appropriate.
- (5) Where the report includes recommendations, the Secretary of State must give the Ombudsman a written response to the recommendations. 15
- (6) That response must be given in the form, and within the period, specified by the Ombudsman.
- (7) In this section, “the relevant authority” means – 20
- (a) where the report relates to a complaint from a person detained in a prison, a young offender institution, a secure training centre or a secure college, the person in charge of that institution;
 - (b) where the report relates to a complaint from a person subject to probation supervision, the person in charge of that supervision;
 - (c) where the report relates to a complaint from a person detained in an immigration detention facility, the person in charge of that facility; 25
 - (d) where the report relates to a complaint from a person detained under immigration escort arrangements, the person in charge of those arrangements.

11 Other investigations and reports 30

- (1) The Secretary of State may request the Ombudsman to carry out an investigation relating to –
- (a) detention or residence in criminal justice institutions in England and Wales,
 - (b) detention in immigration detention facilities, 35
 - (c) detention under immigration escort arrangements, or
 - (d) probation services in England and Wales.
- (2) The Ombudsman may produce a written report following an investigation under subsection (1), and may publish such a report to the extent that the Ombudsman considers this appropriate. 40
- (3) The Ombudsman may produce reports on patterns and themes identified from the exercise of the Ombudsman’s other functions.
- (4) Reports under subsection (3) may be produced and published in such a manner as the Ombudsman considers appropriate.

12 Power to enter premises

- (1) The Ombudsman may enter –
 - (a) any criminal justice institution in England or Wales;
 - (b) any secure children’s home in England;
 - (c) any immigration detention facility; 5
 - (d) any vehicle used to transport a person detained or resident in a criminal justice institution in England or Wales;
 - (e) any vehicle used to transport a person under immigration escort arrangements.
- (2) But before exercising the power conferred by subsection (1) in relation to a court or accommodation provided by a court, the Ombudsman must notify the Lord Chief Justice (or a person nominated by the Lord Chief Justice). 10

13 Powers to require information

- (1) The Ombudsman may require any person who holds relevant information –
 - (a) to allow the Ombudsman access to any of the information; 15
 - (b) to give the Ombudsman –
 - (i) any of the information,
 - (ii) a copy of any of the information (in a form specified by the Ombudsman), or
 - (iii) an explanation of any of the information. 20
- (2) But before requiring information which –
 - (a) is held by a judicial office holder, or
 - (b) forms part of the court record,the Ombudsman must obtain the consent of the Lord Chief Justice (or a person nominated by the Lord Chief Justice). 25
- (3) The Ombudsman may not require the disclosure of information under this section if the information –
 - (a) might incriminate the person disclosing it,
 - (b) is an item subject to legal privilege, or
 - (c) is intelligence service information. 30
- (4) The Ombudsman may require a person in charge of a criminal justice institution in England or Wales, a secure children’s home in England or an immigration detention facility to allow the Ombudsman to communicate privately with any person who –
 - (a) is detained or resident there, or 35
 - (b) is employed or otherwise working there,(but this subsection does not impose any obligation on a person to communicate privately with the Ombudsman).
- (5) The Ombudsman may require a person in charge of probation supervision to allow the Ombudsman to communicate privately with any person who –
 - (a) is subject to the probation supervision, or
 - (b) is employed or otherwise working to provide the probation supervision,(but this subsection does not impose any obligation on a person to communicate privately with the Ombudsman). 45

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- (6) The Ombudsman must make arrangements under which a person can make representations to the Ombudsman about any requirement imposed on the person under subsection (1), (4) or (5).
- (7) A disclosure of information to the Ombudsman in accordance with this section does not breach – 5
- (a) any obligation of confidence owed by any person, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (8) But nothing in this section authorises any disclosure of information which – 10
- (a) contravenes the Data Protection Act 1998, or
 - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (9) In this section –
- the “court record” comprises information contained in –
 - (a) any document filed with, or otherwise placed in the custody of, a court for the purposes of proceedings in a particular cause or matter, or 15
 - (b) any document created by a court or a member of the administrative staff of a court for the purposes of proceedings in a particular cause or matter; 20
 - “information” includes any recording of an image or sound;
 - “intelligence service information” means information held by, obtained (directly or indirectly) from, or that relates to –
 - (a) the Security Service,
 - (b) the Secret Intelligence Service, 25
 - (c) GCHQ (within the meaning of section 3 of the Intelligence Services Act 1994), or
 - (d) any part of Her Majesty’s forces, or the Ministry of Defence, which engages in intelligence activities;
 - “item subject to legal privilege” – 30
 - (a) in England and Wales has the meaning given by section 10 of the Police and Criminal Evidence Act 1984;
 - (b) in Northern Ireland has the meaning given by Article 12 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)); 35
 - (c) in Scotland has the meaning given by section 412 of the Proceeds of Crime Act 2002;
 - “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005;
 - “relevant information” means information that relates to – 40
 - (a) the running of a criminal justice institution in England or Wales,
 - (b) persons detained or resident in a criminal justice institution in England or Wales,
 - (c) the running of a secure children’s home in England,
 - (d) persons detained or resident in a secure children’s home in England, 45
 - (e) the running of an immigration detention facility or immigration escort arrangements,

- (f) persons detained in an immigration detention facility or under immigration escort arrangements,
 - (g) the running of probation services in England or Wales, or
 - (h) persons subject to probation supervision in England or Wales;
- a reference to communication between two persons is a reference to communication by any means (whether conducted face-to-face or otherwise); 5
- a reference to two persons communicating privately includes a reference to communication in the presence of, or with the participation of, another person if the two persons agree to the other person’s presence or participation. 10

14 Obstruction

- (1) The Ombudsman may certify to the High Court (or, in Scotland, the Court of Session) that a person has, without lawful excuse, obstructed the Ombudsman in the exercise of a power conferred by section 12 or 13. 15
- (2) The court may inquire into a certified obstruction.
- (3) If the court is satisfied that the person carried out the certified obstruction, it may deal with the person in any way in which it could deal with the person if he or she had committed contempt in relation to the court.
- (4) But before doing so, the court must hear – 20
 - (a) any witness on behalf of or against the person, and
 - (b) any statement in the person’s defence.

15 Relationship with criminal investigations and disciplinary proceedings

- (1) Where, in the course of conducting an investigation, the Ombudsman comes across information that leads the Ombudsman to believe that it may be appropriate for the police or another law enforcement agency to conduct a criminal investigation, the Ombudsman must notify the police or law enforcement agency. 25
- (2) Where, in the course of conducting an investigation, the Ombudsman comes across information that leads the Ombudsman to believe that it may be appropriate for a relevant authority or any other person to undertake any disciplinary proceedings, the Ombudsman must notify the relevant authority or other person. 30
- (3) In this section “relevant authority” means the person in charge of a criminal justice institution, a secure children’s home, an immigration detention facility, immigration escort arrangements or probation supervision. 35

16 Information sharing

- (1) This section applies to information that the Ombudsman obtains in the course of exercising the Ombudsman’s functions.
- (2) If it appears to the Ombudsman to be appropriate to do so, the Ombudsman may disclose information – 40
 - (a) to the police or another law enforcement agency for the purpose of assisting them to conduct a criminal investigation;

- (b) to a relevant authority or any other person for the purpose of assisting the person to undertake disciplinary proceedings;
- (c) to any other person who exercises functions of a public nature where the Ombudsman considers that the person may need the information for the purposes of exercising his or her functions. 5
- (3) A disclosure of information under subsection (2) does not breach—
- (a) any obligation of confidence owed by the Ombudsman, or
- (b) any other restriction on the disclosure of information (however imposed), other than one mentioned in section 17 (restrictions on disclosure of information). 10
- (4) Subsection (2) does not limit the powers which the Ombudsman otherwise has to disclose information (whether to a person referred to in subsection (2) or to any other person).
- (5) In this section “relevant authority” means the person in charge of a criminal justice institution, a secure children’s home, an immigration detention facility, immigration escort arrangements or probation supervision. 15

17 Restrictions on disclosure of information

- (1) The Ombudsman must not disclose any information if the disclosure—
- (a) would contravene the Data Protection Act 1998,
- (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016, 20
- (c) would be against the interests of national security,
- (d) could jeopardise the safety of any person, or
- (e) could prejudice the prevention or detection of crime.
- (2) The Ombudsman must not disclose intelligence service information (or the fact that the Ombudsman is in possession of such information) without the consent of the relevant authority. 25
- (3) In this section—
- “GCHQ” has the same meaning as in the Intelligence Services Act 1994;
- “intelligence service information” means information obtained (directly or indirectly) from, or that relates to— 30
- (a) the Security Service,
- (b) the Secret Intelligence Service,
- (c) GCHQ, or
- (d) any part of Her Majesty’s forces, or the Ministry of Defence, which engages in intelligence activities, 35
- “relevant authority” means—
- (a) in the case of information obtained from or relating to the Security Service, the Director-General of the Security Service;
- (b) in the case of information obtained from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service; 40
- (c) in the case of information obtained from or relating to GCHQ, the Director of GCHQ;
- (d) in the case of information obtained from or relating to Her Majesty’s forces or the Ministry of Defence, the Secretary of State. 45

18 Annual report

- (1) As soon as practicable after the end of a financial year, the Ombudsman must produce a report (an “annual report”) about the Ombudsman’s work in that year.
- (2) The Ombudsman must publish each annual report in the manner which the Ombudsman considers appropriate. 5
- (3) The Ombudsman must give a copy of each annual report to the Secretary of State.
- (4) The Secretary of State must lay a copy of each annual report before each House of Parliament. 10
- (5) In this section, “financial year” means—
 - (a) the period beginning with the day on which this section comes into force and ending with the following 31st March, and
 - (b) each successive period of 12 months.

19 Secure children’s homes in Wales

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- (1) Section 5(3) (obligation to ensure death is notified to Ombudsman) does not apply in relation to the person in charge of a secure children’s home in Wales.
- (2) Where a report under section 8 (report on death) relating to the death of a person detained or resident in a secure children’s home in Wales contains recommendations, subsection (5) of that section does not apply in relation to the recommendations. 20

20 Sections 4 to 19: interpretation

- (1) For the purposes of sections 4 to 19, each kind of institution specified in an entry in the first column of the following table is a “criminal justice institution”, and the person specified in the corresponding entry in the second column is the person “in charge of” an institution of that kind: 25

<i>“criminal justice institution”</i>	<i>person “in charge of” the institution</i>
a prison	the governor or, if it is a contracted-out institution, the director
a young offender institution	the governor or, if it is a contracted-out institution, the director
a secure training centre	the governor or, if it is a contracted-out institution, the director
a secure college	the principal
approved premises (within the meaning of section 13 of the Offender Management Act 2007)	the manager
a court or accommodation provided by a court	the Lord Chancellor

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- (2) But a court or accommodation provided by a court is only a criminal justice institution for the purposes of sections 4 to 19 to the extent that it is used for the detention of persons who have been sentenced to imprisonment or detention or remanded in custody.
- (3) For the purposes of subsection (1), an institution is “contracted-out” if – 5
- (a) it is a contracted out prison within the meaning of Part 4 of the Criminal Justice Act 1991 (see section 84(4) of that Act);
- (b) it is a secure training centre that is provided or run in accordance with a contract made under section 7 of the Criminal Justice and Public Order Act 1994. 10
- (4) For the purposes of sections 4 to 19, “secure children’s home” means –
- (a) in relation to England, accommodation which is provided in a children’s home, within the meaning of the Care Standards Act 2000 –
- (i) which provides accommodation for the purposes of restricting liberty, and 15
- (ii) in respect of which a person is registered under Part 2 of that Act;
- (b) in relation to Wales, premises at which a secure accommodation service, within the meaning of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), is provided by a person registered in respect of that service under Chapter 2 of Part 1 of that Act. 20
- and the person “in charge of” a secure children’s home is the person so registered as the person carrying on the home.
- (5) For the purposes of sections 4 to 19, each kind of facility specified in an entry in the first column of the following table is an “immigration detention facility”, 25 and the person specified in the corresponding entry in the second column is the person “in charge of” the facility:

<i>“immigration detention facility”</i>	<i>person “in charge of” the facility</i>
a removal centre	the manager
short-term holding facility	the person appointed to manage the facility
pre-departure accommodation	the person appointed to manage the accommodation

- (6) Terms used in subsection (5) have the same meaning as in Part 8 of the Immigration and Asylum Act 1999 (see section 147 of that Act). 30
- (7) For the purposes of sections 4 to 19 –
- “immigration escort arrangements” means arrangements made under section 156 of the Immigration and Asylum Act 1999;
- the person “in charge of” immigration escort arrangements is the person with whom the Secretary of State has made the arrangements under that section. 40
- (8) For the purposes of sections 4 to 19 –
- a person is subject to probation supervision if the person is subject to supervision or rehabilitation of the kind mentioned in section 1(1)(c) or (e) of the Offender Management Act 2007; 45

the person “in charge of” probation supervision is the person who the Ombudsman considers is in charge of it.

Prison security

21 Interference with wireless telegraphy in prisons etc

- (1) Section 1 of the Prisons (Interference with Wireless Telegraphy) Act 2012 (interference with wireless telegraphy in prisons etc) is amended as follows. 5
- (2) After subsection (2) insert –
- “(2A) *The Secretary of State may authorise a public communications provider to interfere with wireless telegraphy.*
- (2B) An interference with wireless telegraphy authorised under subsection (2A) may be carried out only for the purpose of – 10
- (a) preventing the use within a relevant institution in England and Wales of an item specified in subsection (3), or
- (b) detecting or investigating the use within a relevant institution in England and Wales of such an item. 15
- (2C) An authorisation under subsection (2A) may be given in relation to –
- (a) one or more relevant institutions in England and Wales,
- (b) one or more kinds of relevant institution in England and Wales, or
- (c) relevant institutions in England and Wales generally.” 20
- (3) In subsection (4), after “subsection (2)(b)” insert “or (2B)(b)”.
- (4) Omit subsection (5).
- (5) In subsection (6), for “The conduct to which subsection (5) applies is” substitute “The following conduct is lawful for all purposes –”.
- (6) After subsection (6) insert – 25
- “(6A) The following conduct is lawful for all purposes –
- (a) interference with wireless telegraphy that –
- (i) is authorised under subsection (2A), and
- (ii) is carried out in accordance with subsection (2B) and any direction given under section 2, 30
- (b) the retention, use or disclosure of any traffic data, collected as a result of such an interference with wireless telegraphy, which is carried out in accordance with this Act.”
- (7) Schedule 2 (interference with wireless telegraphy in prisons etc) has effect.

22 Testing prisoners for psychoactive substances

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- (1) Section 16A of the Prison Act 1952 (testing prisoners for drugs) is amended in accordance with subsections (2) to (4).
- (2) In the heading, after “drugs” insert “and psychoactive substances”.
- (3) In subsection (1), after “drug” insert “or psychoactive substance”.

- (4) In subsection (3), after the definition of “prison rules” insert—
““psychoactive substance” has the same meaning as in the Psychoactive Substances Act 2016;”.
- (5) In the Prison Rules 1999 (S.I. 1999/728)—
- (a) in rule 2 (interpretation), in paragraph (1), omit the definition of “specified drug”; 5
 - (b) in rule 50 (compulsory testing for controlled drugs or specified drugs)—
 - (i) in the heading, omit “or specified drugs”; 10
 - (ii) in paragraph (1), omit “or specified drug”; 10
 - (c) in rule 51 (offences against discipline), in paragraphs (9) and (24) omit “or specified drug”;
 - (d) in rule 52 (defences to rule 51(9)), in sub-paragraphs (a), (b) and (c), omit “or specified drug”.
- (6) In the Young Offender Institution Rules 2000 (S.I. 2000/371)— 15
- (a) in rule 2 (interpretation), in paragraph (1), omit the definition of “specified drug”;
 - (b) in rule 53 (compulsory testing for controlled drugs or specified drugs)—
 - (i) in the heading, omit “or specified drugs”; 20
 - (ii) in paragraph (1), omit “or specified drug”;
 - (c) in rule 55 (offences against discipline), in paragraphs (10) and (27) omit “or specified drug”;
 - (d) in rule 56 (defences to rule 55(10)), in sub-paragraphs (a), (b) and (c), omit “or specified drug”. 25
- (7) The following instruments are revoked—
- (a) Prison and Young Offender Institution (Amendment) Rules 2016 (S.I. 2016/583);
 - (b) Prison and Young Offender Institution (Amendment) (No. 2) Rules 2016 (S.I. 2016/945). 30

PART 2

PROCEDURES IN CIVIL, FAMILY AND CRIMINAL MATTERS

Conducting preliminary proceedings in writing: criminal courts

23 The written information procedure

- (1) *Criminal Procedure Rules are to include provision of the following kinds (the “written information procedure”)—* 35
- (a) *provision allowing persons charged with offences to choose to give specified information to the court in writing;*
 - (b) *provision about the ways in which the court is to use information given in accordance with rules under paragraph (a).* 40
- (2) That provision is to be made only for the purpose of enabling the court to receive, and use, information in connection with the management of criminal proceedings.

- (3) The written information procedure –
- (a) may (in particular) allow a person charged with an offence to choose to give an indication of whether he or she intends to plead guilty or not guilty;
 - (b) may not allow a person charged with an offence to choose to give a plea of guilty or not guilty. 5
- (4) Criminal Procedure Rules may include provision for a person charged with an offence, or a parent or guardian of that person, to be given –
- (a) information about the written information procedure (which may include information about the availability of the procedure, how it works, and the consequences if it is followed); 10
 - (b) other information (which may include information about the offence and information about legal advice or legal representation).
- (5) Those Rules may include provision authorising or requiring –
- (a) information to be given in writing; 15
 - (b) information to be given by any of the following –
 - (i) the court;
 - (ii) a police officer or a member of the civilian staff of a police force (where the person is charged under Part 4 of the Police and Criminal Evidence Act 1984); 20
 - (iii) a relevant prosecutor (where the person is charged under section 29 of the Criminal Justice Act 2003).
- (6) A reference in this section to a person charged with an offence is a reference to –
- (a) a person in respect of whom a summons or warrant has been issued under section 1 of the Magistrates’ Courts Act 1980; 25
 - (b) a person who has been charged with an offence under Part 4 of the Police and Criminal Evidence Act 1984; or
 - (c) a person against whom a written charge has been issued under section 29 of the Criminal Justice Act 2003. 30
- (7) This section does not limit any other power to make Criminal Procedure Rules.
- (8) A reference in this section to giving information includes a reference to making admissions (other than admissions of guilt).
- (9) In relation to a child or young person for whom a local authority have parental responsibility and who –
- (a) is in their care; or
 - (b) is provided with accommodation by them in the exercise of any functions (in particular those under the Children Act 1989) which are social services functions within the meaning of the Local Authority Social Services Act 1970 or the Social Services and Well-being (Wales) Act 2014, 35
- the reference in subsection (4) to a person who is a parent or guardian of the child or young person is to be construed as a reference to that authority or, where the child or young person is allowed to live with such a person, as including such a reference. 40
- (10) In this section –
- “court” means –
 - (a) a magistrates’ court, 45

- (b) the Crown Court, or
 - (c) the criminal division of the Court of Appeal;
 - “local authority” has the same meaning as in the Children Act 1989;
 - “management of criminal proceedings” includes –
 - (a) determining which kinds of hearings or other proceedings are to be arranged; 5
 - (b) scheduling hearings and other proceedings;
 - (c) determining which kinds of reports and other documents are to be prepared in connection with the proceedings;
 - “parental responsibility” has the same meaning as in the Children Act 1989; 10
 - “specified information” means information of a kind specified in Criminal Procedure Rules.
- 24 Charge by police or prosecutor: non-appearance in court after guilty plea**
- (1) Section 12 of the Magistrates’ Courts Act 1980 (non-appearance of accused: plea of guilty) is amended in accordance with this section. 15
 - (2) For subsections (1) and (2) substitute –
 - “(1A) This section applies to proceedings in a magistrates’ court (other than a youth court) if conditions A and B are met.
 - (1B) This section applies to proceedings in a youth court if – 20
 - (a) conditions A and B are met, and
 - (b) the accused had attained the age of 16 at the relevant time.
 - (1C) Condition A is met if –
 - (a) a summons has been issued requiring a person to appear before the court to answer to an information for a summary offence, 25
 - (b) a person has been charged with a summary offence under Part 4 of the Police and Criminal Evidence Act 1984, or
 - (c) a written charge has been issued against a person under section 29 of the Criminal Justice Act 2003 in respect of a summary offence. 30
 - (1D) Condition B is met if the designated officer for the court is notified by or on behalf of the prosecutor that the documents mentioned in subsection (3) below have been served upon the accused –
 - (a) with the summons or the written charge and in accordance with rules of court (if subsection (1C)(a) or (c) applies), or 35
 - (b) in accordance with rules of court (if subsection (1C)(b) applies).”
 - (3) In subsection (3), for “subsection (1)(b)” substitute “subsection (1D)”.
 - (4) In subsection (5) –
 - (a) in the words before paragraph (a), for “the information” substitute “the person for the summary offence”; 40
 - (b) in paragraph (b), omit “with the summons”;
 - (c) in the words after paragraph (b), omit the words from “, subject” to “below,”.

- (5) After subsection (5) insert –
- “(5A) Where subsection (5)(a) and (b) apply, the court also has power to discharge the accused from any duty to surrender to the custody of the court.
- (5B) The court’s powers under subsection (5) are subject to subsections (5C) to (8). 5
- (5C) The court shall not in a person’s absence sentence the person to imprisonment or detention in a young offender institution or make a detention and training order or an order under paragraph 8(2)(a) or (b) of Schedule 12 to the Criminal Justice Act 2003 that a suspended sentence passed on the person shall take effect. 10
- (5D) The court shall not in a person’s absence impose any disqualification on him, except on resumption of the hearing after an adjournment under section 10(3) above; and where a trial is adjourned in pursuance of this subsection the notice required by section 10(2) above shall include notice of the reason for the adjournment.” 15
- (6) In subsection (6)(b), for “the information” substitute “the proceedings in respect of the summary offence”.
- (7) In subsection (7), in paragraphs (a) and (aa), for “with the summons” substitute “in the manner mentioned in subsection (1D)”. 20
- (8) In subsection (9), for “the information” substitute “the proceedings in respect of the summary offence”.
- (9) Omit subsections (12) and (13).
- (10) After subsection (13) insert –
- “(14) In this section “relevant time” means – 25
- (a) where subsection (1C)(a) applies, the time when the summons is issued;
- (b) where subsection (1C)(b) applies, the time when the person is charged;
- (c) where subsection (1C)(c) applies, the time when the charge is issued.” 30
- 25 Either way offence: choice of written procedure for plea before venue**
- (1) The Magistrates’ Courts Act 1980 is amended in accordance with this section.
- (2) After section 17 insert –
- “17ZA Either way offence: choice of written procedure for plea before venue 35**
- (1) This section has effect where a person who has attained the age of 18 years is charged with an offence triable either way.
- (2) But Criminal Procedure Rules may make provision about circumstances in which this section does not have effect.
- (3) A magistrates’ court must give the person one or more documents which – 40
- (a) state the charge against the person;

- (b) explain that the person may choose to give a written indication of whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty;
- (c) explain the way in which, and the time period within which, the person would have to give a written indication of plea (if he or she chose to do so); 5
- (d) explain that, if the person chooses not to give a written indication of plea, the court must proceed under section 17A;
- (e) explain that, if the person chooses to give a written indication of a guilty plea – 10
- (i) the proceedings will continue as mentioned in subsection (4); and
- (ii) the person may (unless section 17D(2) were to apply) be committed for sentence to the Crown Court under section 3 or (if applicable) 3A of the Powers of Criminal Courts (Sentencing) Act 2000 if the court is of such opinion as is mentioned in subsection (2) of the applicable section; 15
- (f) explain that, if the person chooses to give a written indication of a not guilty plea, the proceedings will continue as mentioned in subsection (5); 20
- (g) explain the effect of section 18A;
- (h) ask the person –
- (i) whether he or she chooses to give a written indication of plea, and 25
- (ii) if he or she chooses to do so, whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty;
- (i) set out any other information required or authorised by Criminal Procedure Rules. 30
- (4) If the person gives a written indication of a guilty plea, section 9 applies as if the offence were a summary offence.
- (5) If the person gives a written indication of a not guilty plea, section 17F applies.
- (6) If the person fails to give a written indication of plea – 35
- (a) this section ceases to have effect, and
- (b) section 17A has effect (see subsections (1) and (1A)).
- (7) The following shall not for any purpose be taken to constitute the taking of a plea –
- (a) asking the person under this section whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty; 40
- (b) a written indication of plea under this section.
- (8) The explanations required by subsection (3) must be given in ordinary language. 45
- (9) If in respect of the offence the court receives a notice under section 51B or 51C of the Crime and Disorder Act 1998 (which relate to serious or complex fraud cases and to certain cases involving children respectively), the preceding provisions of this section do not apply, and

- the court must proceed in relation to the offence in accordance with section 51 or, as the case may be, section 51A of that Act.
- (10) A reference in this section to a person charged with an offence is a reference to –
- (a) a person in respect of whom a summons or warrant has been issued under section 1; 5
 - (b) a person who has been charged with an offence under Part 4 of the Police and Criminal Evidence Act 1984; or
 - (c) a person against whom a written charge has been issued under section 29 of the Criminal Justice Act 2003. 10
- (11) If a person gives a written indication of plea, and at any time before the case is heard the court receives an indication given by the person that he or she wishes to withdraw the written indication of plea –
- (a) the designated officer for the court must inform the prosecutor of the withdrawal, 15
 - (b) this section ceases to have effect, and
 - (c) section 17A has effect (see section 17A(1A)).
- (12) In this section “written indication of plea” means a written indication given by a person in accordance with this section of whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty (and “written indication of a guilty plea” and “written indication of a not guilty plea” are to be read accordingly). 20
- (3) In section 17A (initial procedure: accused to indicate intention as to plea), after subsection (1) insert –
- “(1A) But where section 17ZA has effect, this section does not have effect unless the accused has failed to give a written indication of plea in accordance with that section.” 25
- (4) In section 17D (maximum penalty under section 17A(6) or 17B(2)(c) for certain offences) –
- (a) in the heading, after “section” insert “17ZA(4),”; 30
 - (b) in subsection (1)(b), after “section” insert “17ZA(4),”;
 - (c) after subsection (1) insert –
- “(1A) Where the court proceeds in relation to the offence in accordance with section 17ZA(4), any representations under subsection (1) must be made by the person concerned in writing.” 35
- (5) In section 17E (functions under sections 17A to 17D capable of exercise by single justice) –
- (a) in the heading, for “17A” substitute “17ZA”;
 - (b) in subsection (1), for “17A” substitute “17ZA,”; 40
 - (c) in subsection (2)(a), after “section” insert “17ZA(4),”.

26 Either way offence: choice of written procedure for mode of trial

- (1) The Magistrates’ Courts Act 1980 is amended in accordance with subsections (2) to (7).

(2) After section 17E insert –

“17F Either way offence: choice of written procedure for mode of trial

- (1) This section has effect where –
- (a) a person who has attained the age of 18 years is charged with an offence triable either way, and 5
 - (b) the person gives a written indication of a not guilty plea under section 17ZA.
- (2) But Criminal Procedure Rules may make provision about circumstances in which this section does not have effect.
- (3) A magistrates’ court must give the person one or more documents which – 10
- (a) explain that a magistrates’ court is required to make the decision under section 19 in accordance with sections 20 to 23;
 - (b) explain that the person may choose to have the court make that decision without the person being present; 15
 - (c) explain the way in which, and the time period within which, the person would have to choose to have that decision made without the person being present;
 - (d) set out any other information required or authorised by Criminal Procedure Rules. 20
- (4) The explanations required by subsection (3) must be given in ordinary language.
- (5) If the person chooses to have the court make that decision without being present, sections 19 to 22 have effect in relation to the offence.
- (6) If the person fails to choose to have the court make that decision without being present this section ceases to have effect (but see sections 18(A1) and (1A) and 18A(1) and (3)). 25
- (7) Where sections 19 to 22 have effect by virtue of this section (rather than section 18(1)), they do so subject to subsections (8) and (9).
- (8) Everything that the court is required to do under sections 19 to 22 must be done before any evidence is called; but it is not to be done in open court or in the presence of the accused. 30
- (9) The functions of a magistrates’ court under sections 19 to 22 may be discharged by a single justice, but this subsection is not to be taken as authorising – 35
- (a) the summary trial of an information (otherwise than in accordance with section 20(7)), or
 - (b) the imposition of a sentence,
- by a magistrates’ court composed of fewer than two justices.
- (10) Subsection (1) does not prevent a magistrates’ court from complying with subsection (3) by giving the required documents in anticipation of the indication mentioned in subsection (1)(b) being given. 40
- (11) A reference in this section to a person charged with an offence is a reference to –

- (a) a person in respect of whom a summons or warrant has been issued under section 1;
 - (b) a person who has been charged with an offence under Part 4 of the Police and Criminal Evidence Act 1984; or
 - (c) a person against whom a written charge has been issued under section 29 of the Criminal Justice Act 2003.” 5
- (3) In section 18 (initial procedure on information against adult for offence triable either way) –
 - (a) before subsection (1) insert –
 - “(A1) Sections 19 to 23 have effect if condition A or condition B is met.”; 10
 - (b) in subsection (1), for “Sections 19 to 23 below shall have effect where” substitute “Condition A is met if”;
 - (c) after subsection (1) insert –
 - “(1A) Condition B is met if – 15
 - (a) a person who has attained the age of 18 years is charged with an offence triable either way,
 - (b) the person gives a written indication of a not guilty plea under section 17ZA,
 - (c) the person has been given the documents required by section 17F(3), 20
 - (d) section 17F ceases to have effect by virtue of section 17F(6) (failure by person to choose to have the court make a decision on allocation without being present), and 25
 - (e) the person appears or is brought before a magistrates’ court for the purpose of the exercise of its jurisdiction under section 19.”
- (4) In section 19 (decision as to allocation), after subsection (2) insert –
 - “(2A) Where this section has effect by virtue of section 17F – 30
 - (a) if the prosecution wishes to inform the court of previous convictions, or make representations, under subsection (2), it must do so in writing;
 - (b) if the accused wishes to make representations under subsection (2), he or she must do so in writing.” 35
- (5) In section 20 (procedure where summary trial appears more suitable) –
 - (a) in subsections (5), (6) and (8), after “section” insert “17ZA,”;
 - (b) after subsection (9) insert –
 - “(10) Where this section has effect by virtue of section 17F – 40
 - (a) the explanation required by subsection (2) must be given by the court in writing;
 - (b) any request under subsection (3) for an indication of sentence must be made by the accused in writing;
 - (c) any indication of sentence under subsection (4) must be given by the court in writing; 45
 - (d) the question under subsection (5) (if required) must be asked by the court in writing;

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- (e) any indication under subsection (6) must be given by the accused in writing;
 - (f) the question under subsection (6) (if required) must be asked by the court in writing;
 - (g) the question under subsection (9) (if required) must be asked by the court in writing; 5
 - (h) any consent, or refusal of consent, under subsection (9) to be tried summarily must be given by the accused in writing.”
 - (6) In section 21 (procedure where trial on indictment appears more suitable) – 10
 - (a) the existing text becomes subsection (1);
 - (b) after that subsection insert –
 - “(2) Where this section has effect by virtue of section 17F, the court must tell the accused of its decision in writing.”
 - (7) In section 22 (certain offences triable either way to be tried summarily if value involved is small), after subsection (6) insert – 15
 - “(6A) Where this section has effect by virtue of section 17F –
 - (a) to comply with subsection (5) –
 - (i) the charge must be given to the accused in writing (rather than read to him or her), and 20
 - (ii) the explanation required by that subsection must be given to the accused in writing;
 - (b) the question under subsection (6) (if required) must be asked by the court in writing;
 - (c) any consent, or refusal of consent, under subsection (6) to be tried summarily must be given by the accused in writing.” 25
 - (8) In section 47 of the Police and Criminal Evidence Act 1984, for subsection (3A) substitute –
 - “(3A) Where a custody officer grants bail to a person subject to a duty to appear before a court, the custody officer shall appoint for the appearance the time and date, and place, which is notified to the custody officer by –
 - (a) the designated officer for the magistrates’ court (in the case of an appearance before that court), or
 - (b) the appropriate officer of the Crown Court (in the case of an appearance before that Court).” 30
- 27 Power to proceed if accused absent from allocation proceedings**
- (1) The Magistrates’ Court 1980 is amended in accordance with this section.
 - (2) After section 18 insert –
 - “**18A Allocation proceedings: power to proceed if accused adult absent** 40
 - (1) This section applies if condition A or B is met.
 - (2) Condition A is met if –
 - (a) a person who has attained the age of 18 years is charged with an offence triable either way,

- (b) the person has been given the documents required by section 17ZA(3),
 - (c) section 17ZA ceases to have effect by virtue of section 17ZA(6)(a) (failure by person to give written indication of plea),
 - (d) the person fails to attend allocation proceedings in a magistrates' court, and 5
 - (e) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that –
 - (i) notice of the allocation proceedings was served on the accused within what appears to the court to be a reasonable time before its date, or 10
 - (ii) the accused has appeared on a previous occasion to answer the charge.
- (3) Condition B is met if –
 - (a) a person who has attained the age of 18 years is charged with an offence triable either way, 15
 - (b) the person gives a written indication of a not guilty plea under section 17ZA,
 - (c) the person has been given the documents required by section 17F(3), 20
 - (d) section 17F ceases to apply by virtue of section 17F(6) (failure by person to choose to have the court make a decision on allocation without being present),
 - (e) the person fails to attend allocation proceedings in a magistrates' court, and 25
 - (f) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that –
 - (i) notice of the allocation proceedings was served on the accused within what appears to the court to be a reasonable time before its date, or 30
 - (ii) the accused has appeared on a previous occasion to answer the charge.
- (4) The court may proceed in the absence of the accused in accordance with such of the provisions of sections 19 to 22 as are applicable in the circumstances. 35
- (5) Subsections (3) to (5) of section 23, so far as applicable, have effect in relation to proceedings conducted in the absence of the accused by virtue of this section (references in those subsections to the person representing the accused being for this purpose read as references to the person, if any, representing him or her). 40
- (6) If a magistrates' court proceeds under sections 19 to 23 in accordance with this section –
 - (a) the accused is to be taken to indicate that he or she would (if the offence were to proceed to trial) plead not guilty;
 - (b) if it appears to the court more suitable for the accused to be tried summarily for the offence, he or she is to be taken to consent to be tried summarily; 45
 - (c) section 18(4) and (5) apply to the court (as they would apply if the court were proceeding in accordance with section 18).

- (7) In this section “allocation proceedings” means the proceedings to which section 18(1) or (1A) refers.”
- (3) In section 19 (decision as to allocation), after subsection (6) insert –
- “(7) If –
- (a) this section applies in a case which falls within section 18A, and 5
- (b) before the start of the summary trial (as defined in section 8A(2)), the accused indicates that he or she wishes to be tried on indictment,
- the court must proceed in relation to the offence in accordance with section 51 of the Crime and Disorder Act 1998.” 10
- 28 Low-value shoplifting: choice of written election for Crown Court trial**
- (1) Section 22A of the Magistrates’ Courts Act 1980 (low-value shoplifting to be a summary offence) is amended in accordance with this section.
- (2) After subsection (1) insert –
- “(1A) But where a person accused of low-value shoplifting is aged 18 or over, a magistrates’ court must give the person one or more documents which – 15
- (a) state the charge against the person;
- (b) explain that the person may choose either – 20
- (i) to elect in writing to be tried by the Crown Court for the offence, or
- (ii) to confirm in writing that the person does not wish to elect to be tried by the Crown Court for the offence;
- (c) explain that – 25
- (i) if the person chooses to make that election, the proceedings will be tried in the Crown Court;
- (ii) if the person chooses to give that confirmation, the proceedings will continue in accordance with section 9;
- (iii) if the person neither makes that election nor gives that confirmation, the proceedings will continue as mentioned in subsection (2); 30
- (d) explain the way in which, and the time period within which, the person would have to make that election or give that confirmation;
- (e) set out any other information required or authorised by Criminal Procedure Rules. 35
- (1B) Criminal Procedure Rules may make provision about circumstances in which subsection (1A) does not apply.
- (1C) The explanations required by subsection (1A) must be given in ordinary language. 40
- (1D) If the person elects in writing to be tried by the Crown Court for the offence –
- (a) subsections (1) and (2) do not apply, and
- (b) the court must proceed in relation to the offence in accordance with section 51 of the Crime and Disorder Act 1998. 45

- (1E) If the person confirms in writing that he or she does not wish to elect to be tried by the Crown Court for the offence –
- (a) subsection (2) does not apply, and
 - (b) the court must proceed in relation to the offence in accordance with section 9.”

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- (3) In subsection (2), omit “But”.

29 Sending cases to the Crown Court: adults

- (1) Section 51 of the Crime and Disorder Act 1998 (sending cases to the Crown Court: adults) is amended in accordance with subsections (2) to (5).

- (2) For subsection (1) substitute –

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“(1) This section applies where an adult is charged with an offence and any of the conditions mentioned in subsection (2) below is satisfied.

(1A) But Criminal Procedure Rules may make provision about circumstances in which this section does not apply.”

- (3) In subsection (2) –

15

- (a) in paragraph (b) –

- (i) for “the court” substitute “a magistrates’ court”;
- (ii) for “subsection (1) above” substitute “this section”;

- (b) in paragraph (c), for “the court” substitute “a magistrates’ court”.

- (4) After subsection (2) insert –

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“(2A) A magistrates’ court must give the person one or more documents which –

- (a) state the charge against the person;
- (b) explain that a magistrates’ court is required to send the person to the Crown Court for trial for the offence;
- (c) set out any other information required or authorised by Criminal Procedure Rules.

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(2B) As soon as practicable after giving the documents required by subsection (2A), the magistrates’ court must send the person to the Crown Court for trial for the offence (which need not be done in open court).

30

(2C) Subsections (2A) and (2B) have effect subject to Criminal Procedure Rules made under subsection (3A).”

- (5) For subsections (3) to (12) substitute –

“(3A) Criminal Procedure Rules may make provision about situations where –

35

- (a) this section applies to an offence alleged to have been committed by a person (D), and
- (b) any other alleged offence (whether the other offence is alleged to have been committed by D or by another person, and whether or not this section applies to the other offence) is related to the offence alleged to have been committed by D.

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- (3B) The provision that may be made in the rules includes provision for the other offence to be sent to the Crown Court even if it is a summary offence.
- (3C) Subsection (1) does not prevent a magistrates' court from complying with subsection (2A) by giving the required documents in anticipation of the conditions in subsection (2) being met." 5
- (6) In section 50A of the Crime and Disorder Act 1998 (order of consideration for either-way offences), in subsection (3)(a), for sub-paragraph (i) substitute –
“(i) the court shall first consider the relevant offence in accordance with Criminal Procedure Rules made under section 51(3A) below and, where applicable, deal with it under those rules;” 10
- (7) In section 51E of the Crime and Disorder Act 1998 (interpretation of sections 50A to 51D), omit paragraphs (c) and (d).
- (8) In sections 19(6), 20(9)(b), 21, 22A(2)(b), 23(4)(b) and (5) and 25(2D) of the Magistrates' Courts Act 1980, for “section 51(1)” substitute “section 51”. 15
- 30 Children and young people**
- Schedule 3 (conducting preliminary proceedings in writing: children and young people) has effect.
- Conduct of certain criminal proceedings on the papers* 20
- 31 Conduct of criminal proceedings on the papers**
- (1) *The Lord Chancellor may, by regulations, make such provision as he or she considers appropriate to enable or facilitate the making of preliminary decisions or enforcement decisions on the basis of documents before the court.*
- (2) But regulations under this section may provide for decision-making on the basis of documents to be available only as an alternative to decision-making at a hearing. 25
- (3) The provision that may be made in regulations under this section includes provision amending, repealing or revoking –
(a) any provision of an Act, or 30
(b) any provision made under an Act.
- (4) The Lord Chancellor may make regulations under this section only with the concurrence of the Lord Chief Justice.
- (5) Regulations under this section are subject to affirmative resolution procedure.
- (6) In this section – 35
“enforcement decision” means a decision relating to collection, discharge, satisfaction or enforcement of –
(a) a sum that has been adjudged to be paid on conviction by a magistrates' court or the Crown Court, or
(b) a financial penalty that is enforceable in accordance with section 85(6) and (7) of the Criminal Justice and Immigration Act 2008 40

- as if it were such a sum (including determination of whether a financial penalty is so enforceable);
- “preliminary decision” means any decision in the course of proceedings for a criminal offence to be made before the start of the trial (within the meaning of subsection (11A) or (11B) of section 22 of the Prosecution of Offences Act 1985) including, in the case of proceedings in the Crown Court, a decision that would (ignoring any regulations under this section) be made at a preparatory hearing held under –
- (a) section 7 of the Criminal Justice Act 1987 (cases of serious or complex fraud); or
 - (b) section 29 of the Criminal Procedure and Investigations Act 1996 (other serious, complex or lengthy cases),
- but excluding acceptance by the court of a guilty plea.

Audio and video technology: criminal courts

- 32 Expansion of availability of live links in criminal proceedings** 15
Schedule 4 (live links in criminal proceedings) has effect.
- 33 Expansion of availability of live links in other criminal hearings**
Schedule 5 (live links in other criminal hearings) has effect.

Public participation: court and tribunal proceedings conducted by video or audio

- 34 Public participation in proceedings conducted by video or audio** 20
Schedule 6 (public participation in proceedings conducted by video or audio) has effect.

Automatic online conviction and standard statutory penalty

- 35 Changes to institution of proceedings by written charge**
- (1) Section 29 of the Criminal Justice Act 2003 (new method of instituting proceedings) is amended as follows. 25
 - (2) For the heading substitute “Instituting proceedings by written charge”.
 - (3) In subsection (2), for paragraph (b) substitute –
“(b) a written procedure notice.”
 - (4) In subsection (2B), for “single justice procedure notice is a document which” substitute “written procedure notice is a document which sets out procedures which may be available for dealing with the charge and which”. 30
 - (5) In subsection (3A), for “single justice procedure notice” substitute “written procedure notice”.
 - (6) After subsection (3A) insert – 35
“(3AA) If the relevant prosecutor decides that the criminal proceedings are to be capable of leading to the automatic online conviction option being

offered in relation to the offence (see sections 16G and 16H of the Magistrates' Courts Act 1980), the relevant prosecutor must (when complying with subsection (3A)) give notice of that possibility to the designated officer concerned."

- (7) In subsections (3B) and (3C), for "single justice procedure notice" substitute "written procedure notice". 5
- (8) After subsection (3C) insert –
- “(3D) The requirement in the written procedure notice to state whether or not the person desires to be tried in accordance with section 16A of the Magistrates' Courts Act 1980 ceases to apply if the person is offered, and accepts, the automatic online conviction option in relation to the offence.” 10
- (9) In subsection (5A) for "single justice procedure notices" (in each place) substitute "written procedure notices".
- (10) A person who immediately before the coming into force of this section is – 15
- (a) a person specified in an order under section 29(5)(h) of the Criminal Justice Act 2003, or
- (b) a person authorised by a person so specified to institute criminal proceedings,
- is to be treated after the coming into force of this section as authorised to issue written procedure notices (subject to the order specifying that person being varied or revoked). 20

36 Automatic online conviction and standard statutory penalty

- (1) After section 16F of the Magistrates' Courts Act 1980 insert –

"Automatic online conviction and standard statutory penalty 25

16G The automatic online conviction option

- (1) *In this Act a reference to a person being offered the automatic online conviction option in respect of an offence is a reference to the person being given a written notification by electronic means, and in accordance with Criminal Procedure Rules, which explains that if the person intends to plead guilty he or she may agree –* 30
- (a) *to be convicted of the offence under section 16H, and*
- (b) *to be penalised for the offence under section 16I.*
- (2) In this Act a reference to a person accepting the automatic online conviction option in respect of an offence is a reference to the person giving a written notification by electronic means, and in accordance with Criminal Procedure Rules, which indicates that he or she – 35
- (a) pleads guilty to the offence,
- (b) agrees to be convicted for the offence under section 16H, and
- (c) agrees to be penalised for the offence under section 16I. 40
- (3) The reference in subsection (2) to a written notification given by the person includes a reference to a written notification purporting to be given by the person (or his or her legal representative).

16H Conviction

- (1) This section applies to a person accused of an offence if –
 - (a) the qualifying conditions are met, and
 - (b) the person is offered, and accepts, the automatic online conviction option in respect of the offence. 5
- (2) The person is convicted of the offence by virtue of accepting the automatic online conviction option.
- (3) For the purposes of this section the qualifying conditions are met if –
 - (a) an order made by the Secretary of State specifies the offence as one for which the automatic online conviction option may be offered; 10
 - (b) the accused is an individual who had attained the age of 18 years when the offence is alleged to have occurred;
 - (c) the required documents have been served on the accused; and
 - (d) service of all of the required documents was effected in accordance with Criminal Procedure Rules. 15
- (4) An offence may not be specified in an order under subsection (3)(a) unless it is a summary offence that is not punishable with imprisonment.
- (5) The power to make orders conferred by subsection (3)(a) is exercisable by statutory instrument; and a statutory instrument containing an order under subsection (3)(a) may not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament. 20
- (6) In this section “required documents” means – 25
 - (a) a written charge and a written procedure notice (see section 29 of the Criminal Justice Act 2003),
 - (b) the notice required by section 29(3AA) of the Criminal Justice Act 2003 (notice of possibility of availability of automatic online conviction procedure), and 30
 - (c) such other documents as may be prescribed by Criminal Procedure Rules (see section 29(3B) of the Criminal Justice Act 2003).

16I Penalties

- (1) This section applies if a person is convicted of an offence under section 16H. 35
- (2) The person is liable to a fine of the amount specified for the offence.
- (3) The person’s driving record is to be endorsed with the specified number of penalty points, and any other specified particulars, if the offence is specified as one to which such a penalty applies. 40
- (4) The person is liable to pay compensation if the offence is specified as one in respect of which such a payment is to be made.
- (5) The amount of the compensation payable –
 - (a) is to be determined by the relevant prosecutor who instituted proceedings for the offence; 45

- (b) must not exceed the maximum amount specified for the offence.
- (6) The person is liable to pay prosecution costs.
- (7) The amount of the prosecution costs payable is to be determined by the relevant prosecutor who instituted proceedings for the offence.
- (8) The person is liable to pay a surcharge of the amount specified for the offence. 5
- (9) In this section and section 16J—
 “driving record” and “penalty points” have the same meanings as in the Road Traffic Offenders Act 1988;
 “relevant prosecutor” has the same meaning as in section 29 of the Criminal Justice Act 2003; 10
 “specified” means specified in an order made by Secretary of State (about which section 16J makes further provision).
- 16J Orders about penalties under section 16I**
- (1) An order under section 16I(2) may specify fines of different amounts— 15
 (a) for different offences;
 (b) for different circumstances in which a particular offence is committed.
- (2) An order under section 16I(3) may not specify an offence as one to which that provision applies unless it is an offence that would or could result in the endorsement of the person’s driving record with penalty points if the person were convicted of the offence in a magistrates’ court (whether or not the conviction would or could also result in any other punishment). 20
- (3) An order under section 16I(5)(b) may specify different maximum amounts of compensation— 25
 (a) for different offences;
 (b) for different circumstances in which a particular offence is committed.
- (4) An order under section 16I(8) may specify different amounts of surcharge— 30
 (a) for different offences;
 (b) for different circumstances in which a particular offence is committed.
- (5) The power to make an order under section 16I(8) includes power to specify the amount of the surcharge for a particular offence as a proportion of the amount of the fine specified for that offence. 35
- (6) The power to make orders conferred by section 16I is exercisable by statutory instrument; and a statutory instrument containing an order under section 16I is subject to annulment in pursuance of a resolution of either House of Parliament. 40
- 16K Notice of penalty**
- (1) A person who is convicted of an offence under section 16H must be given a notice of penalty.

- (2) A notice of penalty is a written notification which –
 - (a) sets out the fine, and any penalty points and other amounts, to which the person is liable under section 16I;
 - (b) specifies the fines office to which the notice is allocated;
 - (c) requires the person to pay the fine and other amounts –
 - (i) within the relevant 28 day period, and
 - (ii) in the manner specified in the notice.
 - (3) The relevant 28 day period is the period of 28 days beginning with the day on which the person’s conviction took effect.
 - (4) A notice of penalty must be given by electronic means and in accordance with Criminal Procedure Rules.
 - (5) The conviction of a person under section 16H, and any fine, penalty points, compensation, surcharge or prosecution costs imposed under section 16I, are not affected by any defect in the form or substance of a notice of penalty.
- 16L Timing and status of conviction and penalty**
- (1) The time when a conviction under section 16H takes effect is to be determined in accordance with Criminal Procedure Rules.
 - (2) A conviction under section 16H is to be treated as a conviction by a magistrates’ court.
 - (3) Any fine under section 16I is to be treated as if it had been imposed by a magistrates’ court on that conviction.
 - (4) Any endorsement of a person’s driving record under section 16I is to be treated as if a magistrates’ court had ordered the endorsement under section 44 of the Road Traffic Offenders Act 1988.
 - (5) Any compensation under section 16I is to be treated as if a magistrates’ court had ordered it to be paid under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000.
 - (6) Any prosecution costs under section 16I are to be treated as if a magistrates’ court had ordered them to be paid under section 18 of the Prosecution of Offences Act 1985.
 - (7) Any surcharge under section 16I is to be treated as if a magistrates’ court had ordered it to be paid under section 161A of the Criminal Justice Act 2003.
- 16M Powers to set aside a conviction or replace a penalty etc**
- (1) A magistrates’ court may set aside a conviction under section 16H if it appears to the court that the conviction is unjust.
 - (2) Subsection (1) does not affect the validity of a written charge or a written procedure notice.
 - (3) A magistrates’ court carrying out functions under subsection (1) may be composed of a single justice.
 - (4) But if a magistrates’ court composed of a single justice is minded to refuse to set aside a conviction –

- (a) the decision must instead be referred to a magistrates’ court that is not so composed; and
- (b) the parties should be given the opportunity to attend at, and make representations to, the magistrates’ court making that decision. 5
- (5) A magistrates’ court –
- (a) may set aside any penalty imposed on a person under section 16I if it appears to the court that the amount of that penalty is unjust; and
- (b) if it does so, may impose any sentence that it could have imposed for that offence if the person had pleaded guilty before it at the earliest opportunity. 10
- (6) A magistrates’ court may exercise a power conferred by this section –
- (a) on an application by the person convicted,
- (b) on an application by the relevant prosecutor (within the meaning of section 29) who initiated the proceedings, or 15
- (c) of its own motion.
- (7) In this section “penalty” means –
- (a) a fine,
- (b) penalty points, 20
- (c) compensation,
- (d) prosecution costs, or
- (e) a surcharge.
- (8) A reference in this section to the amount of a penalty is to be read, in relation to penalty points, as a reference to the number of penalty points imposed.” 25
- (2) Until section 51(1) comes into force –
- (a) the references to a magistrates’ court in section 16L of the Magistrates’ Courts Act 1980 (inserted by subsection (1) above) have effect as references to a magistrates’ court in the relevant local justice area; and 30
- (b) for that purpose “relevant local justice area” means the local justice area which covers the address at which the written procedure notice relating to the offence was served.
- (3) Schedule 7 (automatic online conviction and standard statutory penalty) has effect. 35

Online procedure: the civil and family courts and the tribunals

37 Rules for an online procedure in courts and tribunals

- (1) For proceedings of a specified kind, there are to be rules of court (in the case of court proceedings) or tribunal procedure rules (in the case of tribunal proceedings) which –
- (a) must require that kind of proceedings, or one or more aspects of that kind of proceedings, to be initiated by electronic means; 40
- (b) may authorise or require that kind of proceedings, or one or more aspects of that kind of proceedings, to be conducted, progressed or disposed of by electronic means;

- (c) *may authorise or require the parties to that kind of proceedings (and their representatives) to participate in hearings, including the hearing at which the proceedings are disposed of, by electronic means; and are otherwise to govern the practice and procedure to be followed in that kind of proceedings.* 5
- (2) The rules are referred to as “online procedure rules”.
- (3) Proceedings are of a “specified kind” if they are a kind of—
- (a) civil proceedings,
 - (b) family proceedings,
 - (c) proceedings in the First-tier Tribunal, 10
 - (d) proceedings in the Upper Tribunal,
 - (e) proceedings in employment tribunals, or
 - (f) proceedings in the Employment Appeal Tribunal,
- specified in regulations made by the Lord Chancellor.
- (4) The provision that may be made under subsection (1)(b) includes provision 15
authorising or requiring—
- (a) any question arising in proceedings, or
 - (b) the final determination of proceedings,
- to be disposed of by electronic means as a result of steps which the parties take, 20
or fail to take, by electronic means.
- (5) Power to make online procedure rules is to be exercised with a view to 25
securing—
- (a) that practice and procedure under the rules are accessible and fair,
 - (b) that the rules are both simple and simply expressed,
 - (c) that disputes may be resolved quickly and efficiently under the rules, 25
and
 - (d) that the rules support the use of innovative methods of resolving
disputes.
- (6) Different online procedure rules may be made for different kinds of 30
proceedings.
- (7) Online procedure rules may provide—
- (a) for circumstances in which proceedings of a specified kind—
 - (i) are not to be governed by the rules, or
 - (ii) are to cease to be governed by the rules,and proceedings of that kind are to be governed by Civil Procedure 35
Rules, Family Procedure Rules, Tribunal Procedure Rules or
Employment Tribunal Procedure Rules instead;
 - (b) for circumstances in which excluded proceedings—
 - (i) are to be governed by online procedure rules, or
 - (ii) are to be governed again by online procedure rules, 40
and are to cease to be governed by Civil Procedure Rules, Family
Procedure Rules, Tribunal Procedure Rules or Employment Tribunal
Procedure Rules.
- (8) For the purposes of subsection (7)(b), proceedings are “excluded” if the 45
proceedings are not governed, or cease to be governed, by the online procedure
rules under provision of the kind referred to in subsection (7)(a).

- (9) Online procedure rules may provide –
- (a) for proceedings of a specified kind to be taken in a court or tribunal which is not the court or tribunal in which they would be taken if governed by the applicable standard rules;
 - (b) for different proceedings (whether of the same specified kind or different specified kinds) to be taken together in a particular court or tribunal (which need not be the court or tribunal in which any or all of those proceedings would be taken if governed by the applicable standard rules). 5
- (10) Regulations under this section are subject to affirmative resolution procedure. 10
- (11) Section 38 includes further provision about regulations under subsection (3).
- (12) Schedule 8 (practice directions) has effect.
- 38 Regulations for the purposes of section 37**
- (1) The factors by reference to which a kind of proceedings may be specified in regulations under section 37 include – 15
- (a) the legal basis of the proceedings;
 - (b) the factual basis of the proceedings;
 - (c) the value of the matter in issue in the proceedings;
 - (d) the court or tribunal in which the proceedings are to be brought or continued. 20
- (2) The Lord Chancellor may, by regulations, provide for –
- (a) circumstances in which the person initiating proceedings, or an aspect of proceedings, may (if the proceedings are of a specified kind) choose whether the proceedings or that aspect are to be initiated in accordance with online procedure rules or the applicable standard rules; 25
 - (b) circumstances in which proceedings of a specified kind –
 - (i) are not to be governed by online procedure rules, or
 - (ii) are to cease to be governed by online procedure rules, and are to be governed by Civil Procedure Rules, Family Procedure Rules, Tribunal Procedure Rules or Employment Tribunal Procedure Rules instead; 30
 - (c) circumstances in which excluded proceedings –
 - (i) are to be governed by online procedure rules, or
 - (ii) are to be governed again by online procedure rules, and are to cease to be governed by Civil Procedure Rules, Family Procedure Rules or Tribunal Procedure Rules. 35
- (3) For the purposes of subsection (2)(c) proceedings are “excluded” if the proceedings are not governed, or cease to be governed, by the online procedure rules under – 40
- (a) online procedure rules of the kind referred to in section 37(7)(a), or
 - (b) regulations under subsection (2)(a) or (2)(b).
- (4) The Lord Chancellor must consult the Lord Chief Justice before making regulations under section 37, or regulations under subsection (2) of this section, in relation to – 45
- (a) civil proceedings, or
 - (b) family proceedings.

-
- (5) The Lord Chancellor must consult the Senior President of Tribunals before making regulations under section 37, or regulations under subsection (2) of this section, in relation to –
- (a) proceedings in the First-tier Tribunal
 - (b) proceedings in the Upper Tribunal, 5
 - (c) the employment tribunals, or
 - (d) the Employment Appeal Tribunal.
- (6) Regulations under subsection (2) are subject to affirmative resolution procedure.
- 39 The Online Procedure Rule Committee and its powers 10**
- (1) Online procedure rules are to be made by a committee known as the Online Procedure Rule Committee.
- (2) The Committee is to consist of –
- (a) one person who is a judge of the Senior Courts of England and Wales, appointed to the Committee by the Lord Chief Justice; 15
 - (b) one person who is either –
 - (i) a judge of the Senior Courts of England and Wales, a Circuit Judge or a district judge, or
 - (ii) a judge of the First-tier Tribunal, a judge of the Upper Tribunal, an Employment Judge or a judge of the Employment Appeal Tribunal appointed by the Lord Chief Justice, 20appointed to the Committee by the Lord Chief Justice;
 - (c) one person who is either a barrister in England and Wales, a solicitor of the Senior Courts of England and Wales or a legal executive, appointed to the Committee by the Lord Chancellor; and 25
 - (d) two other persons appointed to the Committee by the Lord Chancellor –
 - (i) one of whom must have experience in and knowledge of the lay advice sector, and
 - (ii) one of whom must have IT experience and knowledge relating to end-users’ experience of internet portals. 30
- (3) Before appointing a person under subsection (2)(a) the Lord Chief Justice must consult –
- (a) the Lord Chancellor, and
 - (b) the Senior President of Tribunals. 35
- (4) Before appointing a person under subsection (2)(b) the Lord Chief Justice must –
- (a) consult the Lord Chancellor, and
 - (b) obtain the agreement of the Senior President of Tribunals.
- (5) Before appointing a person under subsection (2)(c) the Lord Chancellor must consult – 40
- (a) the Lord Chief Justice,
 - (b) the Senior President of Tribunals, and
 - (c) the relevant authorised body.
- (6) Before appointing a person under subsection (2)(d) the Lord Chancellor must consult – 45

- (a) the Lord Chief Justice, and
(b) the Senior President of Tribunals.
- (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 any function of the Lord Chief Justice under this section. 5
- (8) The Lord Chancellor may reimburse the members of the Online Procedure Rule Committee their travelling and out-of-pocket expenses.
- (9) For making online procedure rules for proceedings of a kind set out in an entry in the first column of the following table, the Online Procedure Rule Committee has the powers set out in the corresponding entry in the second column – 10

<i>For making online procedure rules for proceedings of this kind...</i>	<i>...the Online Procedure Rule Committee has these powers...</i>	
civil proceedings	the same powers that the Civil Procedure Rules Committee has under the Civil Procedure Act 1997 or otherwise for making Civil Procedure Rules – except the powers under paragraphs 5 and 6 of Schedule 1 to that Act (powers to apply other rules & refer to practice directions: but see subsections (10) to (14) below)	15 20
family proceedings	the same powers that the Family Procedure Rules Committee has under Part 7 of the Courts Act 2003 or otherwise for making Family Procedure Rules – except the powers under section 76(4) to (8) of that Act (powers to apply other rules & refer to practice directions: but see subsections (10) to (14) below)	25
proceedings in the First-tier Tribunal	the same powers that the Tribunal Procedure Committee has under Part 1 of the Tribunals, Courts and Enforcement Act 2007 or otherwise for making Tribunal Procedure Rules for proceedings in the First-tier Tribunal – except the power under paragraph 17 of Schedule 5 to that Act (power to refer to practice directions: but see subsection (14) below)	30 35
proceedings in the Upper Tribunal	the same powers that the Tribunal Procedure Committee has under Part 1 of the Tribunals, Courts and Enforcement Act 2007 or otherwise for making Tribunal Procedure Rules for proceedings in the Upper Tribunal – except the power under paragraph 17 of Schedule 5 to that Act (power to refer to practice directions: but see subsection (14) below)	40

<i>For making online procedure rules for proceedings of this kind...</i>	<i>...the Online Procedure Rule Committee has these powers...</i>	
proceedings in the employment tribunals	the same powers that the Tribunal Procedure Committee has under Schedule A1 to the Employment Tribunals Act 1996 or otherwise for making Tribunal Procedure Rules for proceedings in the employment tribunals – except the power under paragraph 18 of that Schedule (power to refer to practice directions: but see subsection (14) below)	5 10
proceedings in the Employment Appeal Tribunal	the same powers that the Tribunal Procedure Committee has under Schedule A1 to the Employment Tribunals Act 1996 or otherwise for making Tribunal Procedure Rules for proceedings in the Employment Appeal Tribunal – except the power under paragraph 18 of that Schedule (power to refer to practice directions: but see subsection (14) below)	15

- (10) Online procedure rules may apply any other procedural rules. 20
- (11) The other procedural rules may be applied to proceedings of a particular kind even if the rules would not normally be applicable to that kind of proceedings.
- (12) The other procedural rules may be applied –
- (a) to any extent;
 - (b) with or without modifications;
 - (c) as amended from time to time. 25
- (13) In subsections (10) to (12) “procedural rules” means –
- (a) Civil Procedure Rules,
 - (b) Family Procedure Rules,
 - (c) Tribunal Procedure Rules,
 - (d) Employment Tribunal Procedure Rules, and
 - (e) other rules of court (including any other provision governing the practice and procedure of a court which is made by or under any enactment). 30
- (14) Online procedure rules may, instead of providing for any matter, refer to provision made or to be made about that matter by directions under Schedule 8. 35
- (15) In this section –
- “IT experience and knowledge” means experience in, and knowledge of, information technology; 40
 - “legal executive” means a person authorised by the Chartered Institute of Legal Executives to practise as a member of the profession of legal executives;
 - “relevant authorised body”, in relation to an appointment under subsection (2)(c), means – 45

-
- (a) the General Council of the Bar of England and Wales, if the appointment is of a barrister;
 - (b) the Law Society of England and Wales, if the appointment is of a solicitor;
 - (c) the Chartered Institute of Legal Executives, if the appointment is of a legal executive. 5
- 40 Power to change certain requirements relating to the Committee**
- (1) The Lord Chancellor may by regulations –
 - (a) amend section 39(2) to (6), and
 - (b) make consequential amendments in any other provision of section 39 or in subsection (2) or (3) of this section. 10
 - (2) The Lord Chancellor may make regulations under this section only with the concurrence of –
 - (a) the Lord Chief Justice, and
 - (b) the Senior President of Tribunals. 15
 - (3) Before making regulations under this section the Lord Chancellor must consult the following persons –
 - (a) the Head of Civil Justice;
 - (b) the Deputy Head of Civil Justice (if there is one);
 - (c) the President of the Family Division. 20
 - (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 any function of the Lord Chief Justice under this section.
 - (5) Regulations under this section are subject to negative resolution procedure.
- 41 Making online procedure rules** 25
- (1) Before making or amending online procedure rules, the Online Procedure Rule Committee must –
 - (a) consult such persons as they consider appropriate, and
 - (b) hold a meeting (unless it is inexpedient to do so).
 - (2) Rules made by the Online Procedure Rule Committee must be –
 - (a) signed by at least three members of the Committee, and
 - (b) submitted to the Lord Chancellor. 30
 - (3) The Lord Chancellor may allow or disallow online procedure rules made by the Committee.
 - (4) If the Lord Chancellor disallows rules, he or she must give the Committee written reasons for doing so. 35
 - (5) Rules made by the Committee and allowed by the Lord Chancellor –
 - (a) come into force on such day as the Lord Chancellor directs, and
 - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by a Minister of the Crown. 40

- (6) A statutory instrument containing online procedure rules is subject to annulment in pursuance of a resolution of either House of Parliament.

42 Power of Lord Chancellor to require rules to be made

- (1) This section applies if the Lord Chancellor gives the Online Procedure Rules Committee written notice that he or she thinks it is expedient for online procedure rules to include provision that would achieve a purpose specified in the notice. 5
- (2) The Committee must make such online procedure rules as it considers necessary to achieve the specified purpose.
- (3) Those rules must be – 10
- (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
 - (b) made in accordance with section 41.

43 Power to make consequential amendments

- (1) The Lord Chancellor may, by regulations, amend, repeal or revoke any Act, or provision made under an Act, to the extent he or she considers necessary or desirable in consequence of – 15
- (a) section 37 or 39, or
 - (b) online procedure rules.
- (2) The Lord Chancellor may by regulations amend, repeal or revoke any Act passed, or provision under an Act made, before the coming into force of this section to the extent he or she considers necessary or desirable in order to facilitate the making of online procedure rules. 20
- (3) The Lord Chancellor must consult the Lord Chief Justice and the Senior President of Tribunals before making regulations under this section. 25
- (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 the function under subsection (3).
- (5) Regulations under this section are subject to affirmative resolution procedure.

44 Amendments of other legislation

Schedule 9 (the online procedure in courts and tribunals: amendments) has effect. 30

45 Interpretation

In sections 37 to 43 (and this section) and Schedule 8 – “applicable standard rules” means – 35

- (a) Civil Procedure Rules, in the case of civil proceedings;
- (b) Family Procedure Rules, in the case of family proceedings;
- (c) Tribunal Procedure Rules, in the case of proceedings in the First-tier Tribunal or the Upper Tribunal

- (d) Employment Tribunal Procedure Rules, in the case of proceedings in the employment tribunals or the Employment Appeal Tribunal;
- “civil proceedings” means proceedings about which Civil Procedure Rules may be made under the Civil Procedure Act 1997; 5
- “family proceedings” has the meaning given in section 75 of the Courts Act 2003;
- “online procedure rules” has the meaning given in section 37(2);
- “specified kind” (in relation to proceedings) is to be read in accordance with section 37(3). 10

Powers to remit proceedings to other courts

46 Powers to remit proceedings to another court

- (1) After section 46 of the Senior Courts Act 1981 insert –

“46ZA Remitting proceedings to magistrates’ courts

- (1) In a case where a person has been sent by a magistrates’ court to the Crown Court for trial for an offence, the Crown Court may send the person back to a magistrates’ court for trial. 15
- (2) In a case where a person –
- (a) has been convicted of an offence by a magistrates’ court,
 - (b) has been committed to the Crown Court for sentencing, and 20
 - (c) has not been sentenced,
- the Crown Court may send the person back to a magistrates’ court for sentencing.
- (3) In a case where a person –
- (a) has been sent by a magistrates’ court to the Crown Court for trial for an offence, 25
 - (b) has pleaded guilty to the offence in the Crown Court and been convicted, and
 - (c) has not been sentenced,
- the Crown Court may send the person back to a magistrates’ court for sentencing. 30
- (4) The Crown Court may not exercise the power under subsection (1), (2) or (3) unless the Crown Court is satisfied that the sentence which a magistrates’ court would have power to impose for the offence would be adequate. 35
- (5) Additionally, in the case of an either way offence the Crown Court may not exercise the power under subsection (1) –
- (a) unless the person is present in court or consents to the power being exercised in his or her absence; and
 - (b) if the person – 40
 - (i) has attained the age of 18 years at the time of the exercise of the power, or
 - (ii) is a body corporate,
 unless the person consents to the power being exercised.

- (6) In deciding whether to exercise any power under this section to send a person accused or convicted of an offence back to a magistrates’ court, the Crown Court must take into account any other offence before the Crown Court that is related to that offence (whether the same, or a different, person is accused or has been convicted of the other offence). 5
- (7) If the Crown Court –
- (a) has power under this section to send a person who has not attained the age of 18 years back to a magistrates’ court, and
 - (b) decides not to send the person back,
- the Crown Court must give reasons for not doing so. 10
- (8) This section does not limit any other powers which the Crown Court has to send a person to a magistrates’ court for any purpose.”
- (2) In section 47 of the Crime and Disorder Act 1998 (powers of youth courts etc) –
- (a) before subsection (1) insert –
- “(A1) This section applies where a person who appears or is brought before a youth court charged with an offence subsequently attains the age of 18.”; 15
- (b) for subsection (1) substitute –
- “(1) In the case of a summary offence or an offence triable either way, the youth court may, at any time before the start of the trial, remit the person for trial to a magistrates’ court (other than a youth court). 20
 - (1A) In the case of an indictable offence, the youth court may, at any time before the start of the trial, remit the person for trial to the Crown Court. 25
 - (1B) If the youth court is proposing to exercise the power under subsection (1) to remit a person to a magistrates’ court for trial for an offence triable either way, the youth court –
- (a) must give the person the opportunity of electing to be tried by the Crown Court for the offence, and 30
 - (b) if the person elects to be so tried, must exercise the power under subsection (1A) to remit the person for trial to the Crown Court.
- (1C) In subsections (1) and (1A) “the start of the trial” shall be construed in accordance with section 22(11B) of the 1985 Act.”; 35
- (c) in subsection (2), after “subsection (1)” insert “or (1A)”.
- (3) In Schedule 3 to the Crime and Disorder Act 1998 (procedure where persons are sent to the Crown Court for trial under section 51 of that Act), omit paragraphs 7 to 13.

*Prohibition of cross-examination in family proceedings***47 Prohibition of cross-examination in person in family proceedings**

In the Matrimonial and Family Proceedings Act 1984, after Part 4A insert –

“PART 4B

FAMILY PROCEEDINGS: PROHIBITION OF CROSS-EXAMINATION IN PERSON 5

31Q Prohibition of cross-examination in person: introductory

In this Part –

“the court” means the family court or the High Court;

“family proceedings” means –

- (a) proceedings in the family court, and 10
- (b) proceedings in the Family Division of the High Court which are business assigned, by or under section 61 of (and Schedule 1 to) the Senior Courts Act 1981, to that Division of the High Court and no other;

“witness”, in relation to any proceedings, includes a party to the proceedings. 15

31R Prohibition of cross-examination in person: victims of offences

- (1) In family proceedings, no party to the proceedings who has been convicted of, or is charged with, a specified offence may cross-examine in person a witness who is the victim, or alleged victim, of that offence. 20
- (2) In family proceedings, no party to the proceedings who is the victim, or alleged victim, of a specified offence may cross-examine in person a witness who has been convicted of, or is charged with, that offence.
- (3) Subsections (1) and (2) do not apply to a conviction that is spent for the purposes of the Rehabilitation of Offenders Act 1974. 25
- (4) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings, if the court was not aware of the conviction or charge when the cross-examination took place.
- (5) In this section “specified offence” means an offence which is specified, or of a description specified, in regulations made by the Lord Chancellor. 30
- (6) For the purposes of this section “offence” includes an offence under a law that is no longer in force.

31S Prohibition of cross-examination in person: persons protected by injunctions etc 35

- (1) In family proceedings, no party to the proceedings against whom an on-notice protective injunction is in force may cross-examine in person a witness who is protected by the injunction.
- (2) In family proceedings, no party to the proceedings who is protected by an on-notice protective injunction may cross-examine in person a witness against whom the injunction is in force. 40

- (3) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings, if the court was not aware of the protective injunction when the cross-examination took place.
- (4) In this section “protective injunction” means an order, injunction or interdict specified, or of a description specified, in regulations made by the Lord Chancellor. 5
- (5) For the purposes of this section, a protective injunction is an “on-notice” protective injunction if –
 - (a) the court is satisfied that there has been a hearing at which the person against whom the protective injunction is in force asked (or could have asked) for the injunction to be set aside or varied, or 10
 - (b) the protective injunction was made at a hearing of which the court is satisfied that both the person who applied for it and the person against whom it is in force had notice. 15

31T Direction for prohibition of cross-examination in person: other cases

- (1) This section applies in family proceedings where neither of sections 31R and 31S operates to prevent a party to the proceedings from cross-examining a witness in person, and either – 20
 - (a) a party to the proceedings applies to the court for a direction under this section to be given in relation to the witness, or
 - (b) the court of its own motion raises the issue of whether a direction under this section should be given in relation to the witness. 25
- (2) The court may give a direction prohibiting a party to the proceedings from cross-examining (or continuing to cross-examine) the witness in person, if it appears to the court that –
 - (a) the quality condition or the significant distress condition is met, and 30
 - (b) it would not be contrary to the interests of justice to give the direction.
- (3) The “quality condition” is met if the quality of evidence given by the witness on cross-examination –
 - (a) is likely to be diminished if the cross-examination (or continued cross-examination) is conducted by the party in person, and 35
 - (b) would be likely to be improved if a direction were given under this section.
- (4) The “significant distress condition” is met if –
 - (a) the cross-examination (or continued cross-examination) of the witness by the party in person would be likely to cause significant distress to the witness, and 40
 - (b) that distress is likely to be more significant than would be the case if the witness were cross-examined other than by the party in person. 45
- (5) In determining whether the quality condition or the significant distress condition is met in the case of a witness, the court must have regard, in particular, to –

- (a) any views expressed by the witness as to whether or not the witness is content to be cross-examined by the party in person;
 - (b) the nature of the questions likely to be asked, having regard to the issues in the proceedings;
 - (c) any behaviour by the party in relation to the witness, in respect of which the court is aware that a finding of fact has been made in the proceedings or any other family proceedings; 5
 - (d) any behaviour by the party at any stage of the proceedings, both generally and in relation to the witness;
 - (e) any relationship (of whatever nature) between the witness and the party. 10
- (6) References in this section to the quality of a witness’s evidence are to its quality in terms of completeness, coherence and accuracy.
- (7) For this purpose “coherence” refers to a witness’s ability in giving evidence to give answers which – 15
- (a) address the questions put to the witness, and
 - (b) can be understood, both individually and collectively.
- 31U Directions under section 31T: supplementary**
- (1) A direction under section 31T has binding effect from the time it is made until the witness in relation to whom it applies is discharged. 20
- (2) But the court may revoke a direction under section 31T before the witness is discharged, if it appears to the court to be in the interests of justice to do so, either –
- (a) on an application made by a party to the proceedings, or
 - (b) of its own motion. 25
- (3) The court may revoke a direction under section 31T on an application made by a party to the proceedings only if there has been a material change of circumstances since –
- (a) the direction was given, or
 - (b) if a previous application has been made by a party to the proceedings, the application (or the last application) was determined. 30
- (4) The court must state its reasons for –
- (a) giving a direction under section 31T;
 - (b) refusing an application for a direction under section 31T;
 - (c) revoking a direction under section 31T;
 - (d) refusing an application for the revocation of a direction under section 31T. 35
- 31V Alternatives to cross-examination in person**
- (1) This section applies where a party to family proceedings is prevented from cross-examining a witness in person by virtue of section 31R, 31S or 31T. 40
- (2) The court must consider whether (ignoring this section) there is a satisfactory alternative means –
- (a) for the witness to be cross-examined in the proceedings, or 45

- (b) of obtaining evidence that the witness might have given under cross-examination in the proceedings.
- (3) If the court decides that there is not, the court must –
 - (a) invite the party to the proceedings to arrange for a qualified legal representative to act for the party for the purpose of cross-examining the witness, and 5
 - (b) require the party to the proceedings to notify the court, by the end of a period specified by the court, of whether a qualified legal representative is to act for the party for that purpose.
- (4) Subsection (5) applies if, by the end of the period specified under subsection (3)(b), either – 10
 - (a) the party has notified the court that no qualified legal representative is to act for the party for the purpose of cross-examining the witness, or
 - (b) no notification has been received by the court and it appears to the court that no qualified legal representative is to act for the party for the purpose of cross-examining the witness. 15
- (5) The court must consider whether it is necessary in the interests of justice for the witness to be cross-examined by a qualified legal representative appointed by the court to represent the interests of the party. 20
- (6) If the court decides that it is, the court must appoint a qualified legal representative (chosen by the court) to cross-examine the witness in the interests of the party.
- (7) A qualified legal representative appointed by the court under subsection (6) is not responsible to the party. 25
- (8) For the purposes of this section –
 - (a) a reference to cross-examination includes (in a case where a direction is given under section 31T after the party has begun cross-examining the witness) a reference to continuing to conduct cross-examination; 30
 - (b) “qualified legal representative” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act) in family proceedings. 35

31W Costs of legal representatives appointed under section 31V

- (1) The Lord Chancellor may by regulations make provision for the payment out of central funds of such sums as appear to the court to be reasonably necessary to cover – 40
 - (a) the proper fee or costs of a qualified legal representative appointed under section 31V, and
 - (b) any expenses properly incurred in providing such a person with evidence or other material in connection with the appointment. 45
- (2) The regulations may provide for the amounts paid to be calculated in accordance with a rate, scale or other provision made by or under the regulations.

31X Regulations under Part 4B

- (1) Any power of the Lord Chancellor to make regulations under this Part—
- (a) is exercisable by statutory instrument,
 - (b) includes power to make different provision for different purposes, and
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (2) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.”

*Tribunal rules***48 Tribunal Procedure Committee: membership**

- (1) Schedule 5 to the Tribunals, Courts and Enforcement Act 2007 (which, among other things, deals with membership of the Tribunals Procedure Committee) is amended as follows.
- (2) Paragraph 21 (Lord Chancellor’s appointees) is amended in accordance with subsections (3) and (4).
- (3) In sub-paragraph (1), at the end of paragraph (a) insert “, and
- (b) one person who has experience of—
 - (i) practice in employment tribunals and the Employment Appeal Tribunal, or
 - (ii) advising persons involved in employment tribunal proceedings and the Employment Appeal Tribunal.”
- (4) After sub-paragraph (2) insert—
- “(3) In sub-paragraph (1)(a)—
- “tribunals” includes employment tribunals and the Employment Appeal Tribunal;
 - “tribunal proceedings” includes employment tribunal proceedings and Employment Appeal Tribunal proceedings.”
- (5) In paragraph 22(1) (Lord Chief Justice’s appointees)—
- (a) omit “and” at the end of paragraph (b);
 - (b) at the end of paragraph (c) insert “, and
 - (d) one person who is a judge, or other member, of the Employment Appeal Tribunal or a member of a panel of members of employment tribunals (whether or not a panel of Employment Judges).”

49 Employment Tribunal Procedure

- Schedule 10—*
- (a) provides for rules of procedure for employment tribunals and the Employment Appeal Tribunal (“Employment Tribunal Procedure Rules”) to be made by the Tribunal Procedure Committee;

- (b) *confers on that Committee powers corresponding to its powers to make rules of procedure for the First-tier Tribunal and the Upper Tribunal.*

PART 3

ORGANISATION AND FUNCTIONS OF COURTS AND TRIBUNALS

Functions of staff of courts and tribunals 5

50 Court and tribunal staff: legal advice and judicial functions

Schedule 11 provides for court and tribunal staff—

- (a) *to provide legal advice to judges of the family court and justices of the peace, and*
- (b) *to exercise the functions of courts, judges and tribunals in cases where procedure rules so provide.* 10

Abolition of local justice areas

51 Abolition of local justice areas

- (1) Local justice areas are abolished.
- (2) Schedule 12 makes provision for and in connection with their abolition. 15

Composition of employment tribunals and the Employment Appeal Tribunal

52 Composition of tribunals

- (1) The Employment Tribunals Act 1996 is amended as follows.
- (2) For section 4 substitute—

“4 Composition of employment tribunals 20

- (1) Where a matter is to be decided by an employment tribunal, the member or members are to be chosen by the Senior President of Tribunals, who must act in accordance with any provision made under the following provisions of this section.
- (2) The Lord Chancellor must by regulations make provision, in relation to every matter that may fall to be decided by an employment tribunal, for determining the number of members who are to decide the matter. 25
- (3) Where regulations under subsection (2) provide for a matter to be decided by a single member, the regulations must provide for that member to be an Employment Judge. 30
- (4) Where regulations under subsection (2) provide for a matter to be decided by more than one member, the regulations—
- (a) must provide for at least one of those members to be an Employment Judge,
- (b) must make provision for determining how many (if any) of the other members are to be Employment Judges and how many (if any) are to be members who are not Employment Judges, and 35

- (c) if the matter is to be decided by persons who include one or more members who are not Employment Judges, may make provision for determining what qualifications (if any) that member or any of those members must have.
- (5) A duty under subsection (2) or (4) 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 the President of Employment Tribunals, in accordance with any provision made under that subsection. 5
- (6) The power under subsection (4)(c) may be exercised by giving, to the Senior President of Tribunals or the President of Employment Tribunals, power to determine what qualifications are required in accordance with any provision made by the regulations. 10
- (7) Where under subsection (2), (4) or (5) a matter is to be decided by more than one member, the matter may be decided in the absence of one or more (but not all) of the members chosen if – 15
- (a) the parties to the case agree, and
- (b) at least one of the remaining members is an Employment Judge.
- (8) Where the member, or any of the members, of a tribunal chosen to decide a matter does not have a qualification required under subsection (4)(c) (as read with subsection (6)), the matter may still be decided by the chosen member or members if the parties to the case agree. 20
- (9) Before making regulations under this section, the Lord Chancellor must consult the Senior President of Tribunals.
- (10) In this section – 25
- “President of Employment Tribunals” –
- (a) in relation to employment tribunals in England and Wales, means the President of Employment Tribunals (England and Wales), or
- (b) in relation to employment tribunals in Scotland, means the President of Employment Tribunals (Scotland); 30
- “member” means a member of a panel of members of employment tribunals (whether or not a panel of Employment Judges);
- “qualification” includes experience.”
- (3) For section 28 substitute – 35

“28 Composition of Appeal Tribunal

- (1) Where a matter is to be decided by the Appeal Tribunal, the member or members are to be chosen by the Senior President of Tribunals, who – 40
- (a) must act in accordance with any provision made under the following provisions of this section, and
- (b) may select himself or herself (if nominated under section 22(1)).
- (2) The Lord Chancellor must by regulations make provision, in relation to every matter that may fall to be decided by the Appeal Tribunal, for determining the number of members who are to decide the matter.

- (3) Where regulations under subsection (2) provide for a matter to be decided by a single member, the regulations must provide for that member to be a judge.
- (4) Where regulations under subsection (2) provide for a matter to be decided by more than one member, the regulations –
 - (a) must provide for at least one of those members to be a judge,
 - (b) must make provision for determining how many (if any) of the other members are to be judges and how many (if any) are to be appointed members, and
 - (c) if the matter is to be decided by persons who include one or more appointed members, may make provision for determining what qualifications (if any) that appointed member or any of those appointed members must have.
- (5) A duty under subsection (2) or (4) 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 the President of the Appeal Tribunal, in accordance with any provision made under that subsection.
- (6) The power under subsection (4)(c) may be exercised by giving, to the Senior President of Tribunals or the President of the Appeal Tribunal, power to determine what qualifications are required in accordance with any provision made by the regulations.
- (7) Where under subsections (2), (4) or (5) a matter is to be decided by more than one member, the matter may be decided in the absence of one or more (but not all) of the members chosen to decide the matter if –
 - (a) the parties to the case agree, and
 - (b) at least one of the remaining members is a judge.
- (8) Where the member, or any of the members, of the Appeal Tribunal chosen to decide a matter does not have a qualification required under subsection (4)(c) (as read with subsection (6)), the matter may still be decided by the chosen member or members if the parties to the case agree.
- (9) Before making regulations under this section, the Lord Chancellor must consult the Senior President of Tribunals.
- (10) In this section “qualification” includes experience.”
- (4) In section 41 (orders, regulations and rules), in subsection (2) –
 - (a) omit “, 4(4) or (6D)” and “, 28(5);
 - (b) before “37N” insert “4, 28,”.

Delegation of functions by the Senior President of Tribunals

53 Senior President of Tribunals: power to delegate 40

In section 8 of the Tribunals, Courts and Enforcement Act 2007 (Senior President of Tribunals: power to delegate), in subsection (1), after paragraph (a) insert –

- “(aa) to any judge, or other member, of the Employment Appeal Tribunal;
- 45

- (ab) to any member of a panel of members of employment tribunals (whether or not a panel of Employment Judges).”

Other changes

54 Traffic and air quality offences: use of statements of truth

Schedule 13 (traffic and air quality offences: use of statements of truth) has effect. 5

55 Extension of power of High Court to make attachment of earnings orders

- (1) In section 1 of the Attachment of Earnings Act 1971 (courts with power to attach earnings), in subsection (1) (power of High Court to make attachment of earnings order) – 10
- (a) for “to secure payments” substitute “to secure –
- (a) payments”;
- (b) after “order” insert “; or
- (b) the payment of a judgment debt, other than a debt of less than £5 or such other sum as may be prescribed by rules of court”. 15
- (2) The power conferred by that amendment includes a power to make an attachment of earnings order to secure the discharge of liabilities arising before the coming into force of subsection (1).
- (3) Schedule 14 (attachment of earnings orders in the High Court) has effect. 20

PART 4

THE JUDICIARY AND THE JUDICIAL APPOINTMENTS COMMISSION

The judiciary

56 Judges with roles in the leadership of the judiciary

Schedule 15 (judges with leadership roles) has effect. 25

57 Deployment of judges

- (1) In section 94AA of the Constitutional Reform Act 2005 (appointments not subject to section 85: High Court deputy judge), in subsection (2)(a), after “Crown Court” insert “or any other court or tribunal to which a deputy judge of the High Court may be deployed”. 30
- (2) In section 6 of the Tribunals, Courts and Enforcement Act 2007 (certain judges who are also judges of the First-tier Tribunal and Upper Tribunal), in subsection (1), after paragraph (e) insert –
- “(ea) is a Recorder.”.
- (3) Accordingly, in section 6A of that Act (certain judges who are also judges of the First-tier Tribunal), omit paragraph (b). 35

- (4) In section 93 of the Arbitration Act 1996 (appointment of judges as arbitrators) –
- (a) in subsections (1) and (2), for “A judge of the Commercial Court” substitute “An eligible High Court judge”;
 - (b) in subsection (4), for “a judge of the Commercial Court” substitute “an eligible High Court judge”;
 - (c) after subsection (4) insert –
“(4A) The Lord Chief Justice may nominate a senior judge (as defined in section 109(5) of the Constitutional Reform Act 2005) to exercise functions of the Lord Chief Justice under this section.”;
 - (d) in subsection (5) –
 - (i) omit “and” at the end of the definition of “arbitration agreement”;
 - (ii) after that definition insert –
““eligible High Court judge” means –
 - (a) a puisne judge of the High Court, or
 - (b) a person acting as a judge of the High Court under or by virtue of section 9(1) of the Senior Courts Act 1981;”.
- (5) In Schedule 2 to that Act (modifications of Part 1 in relation to judge-arbitrators), in paragraph 1, for “a judge of the Commercial Court” substitute “an eligible High Court judge”.

58 President of Employment Tribunals may be appointed to Appeal Tribunal

- In section 22(2A) of the Employment Tribunals Act 1996 (membership of Employment Appeal Tribunal) –
- (a) omit the “or” at the end of paragraph (i);
 - (b) after paragraph (j) insert –
 - “(k) is the President of the Employment Tribunals (England and Wales), or
 - (l) is the President of the Employment Tribunals (Scotland).”

59 Remuneration of members of employment tribunals etc

- In the following provisions of the Employment Tribunals Act 1996 for “Secretary of State”, in each place it occurs, substitute “Lord Chancellor” –
- (a) section 5(1), (2) and (3) (remuneration of members of employment tribunals etc);
 - (b) section 27(1), (2), (3) and (4) (remuneration of members of Employment Appeal Tribunal etc).

The Judicial Appointments Commission

60 The Judicial Appointments Commission

- (1) The Constitutional Reform Act 2005 is amended as follows.
- (2) In section 98 (assistance in connection with other appointments) –

- (a) for subsections (2) and (3) substitute –
- “(2A) The Lord Chancellor may request the Commission to provide assistance in the making of –
- (a) an appointment, or
 - (b) a recommendation for an appointment. 5
- (2B) The Lord Chancellor may request assistance to be provided under this section in relation to an appointment, or a recommendation for appointment, of any nature (including a non-judicial appointment) that is to be made by any person in the United Kingdom (or any part of the United Kingdom) or elsewhere. 10
- (2C) But, if any of the Commission’s core appointment functions are exercisable in relation to an appointment or recommendation, the Lord Chancellor may not request assistance to be provided under this section. 15
- (2D) The Lord Chancellor may request assistance to be provided under this section only if the conditions in subsections (2E) and (2F) are met.
- (2E) The Lord Chancellor must be satisfied that it is appropriate for the Commission to provide the assistance because of – 20
- (a) the nature of the appointment concerned, and
 - (b) the experience which the Commission has acquired in relation to the making of appointments.
- (2F) The Lord Chancellor must be satisfied that the ability of the Commission to exercise its core appointment functions will not be adversely affected by the requirement for the Commission to provide the assistance.”; 25
- (b) for subsection (6) substitute –
- “(6) In this section –
- “appointment” includes the conferring of any public function; 30
 - “core appointment functions” means –
 - (a) the functions of the Commission in relation to an appointment under section 26 (judges of the Supreme Court), and 35
 - (b) the functions of the Commission under any other provisions of this Part.”
- (3) In Schedule 12 (the Judicial Appointments Commission), after paragraph 18 insert –
- “Provision of assistance to others”* 40
- 18A (1) The Commission may provide assistance to any other person (whether in the United Kingdom or elsewhere).
- (2) The assistance that may be provided includes –
- (a) making any members of the Commission’s staff available to the other person; 45

- (b) making any of the Commission’s property or other resources available to the other person temporarily or permanently (including by licensing intellectual property).

Power to charge

- 18B (1) The Commission may charge a person in respect of assistance provided to the person under paragraph 18A. 5
- (2) The Commission must charge a person in respect of assistance provided to the person under section 98 if the Lord Chancellor requires the Commission to make a charge in respect of the provision of that assistance. 10
- (3) For the purposes of making a charge under sub-paragraph (2), the person provided with assistance under section 98 is the person making the appointment or recommendation concerned.
- (4) The Commission must pay the money received in respect of charges made under this paragraph to the Lord Chancellor unless the Lord Chancellor, with the consent of the Treasury, directs otherwise.” 15

PART 5

WHIPLASH

Whiplash injuries

- 61 “Whiplash injury” etc** 20
- (1) In this Part “whiplash injury” means an injury, or set of injuries, of the neck or the neck and upper torso that is of a description specified in regulations made by the Lord Chancellor.
- (2) Regulations under subsection (1) may in particular –
 - (a) make provision by reference to – 25
 - (i) the way in which the injury or set of injuries arises;
 - (ii) the effects of the injury or set of injuries;
 - (iii) the parts of the neck or neck and upper torso affected;
 - (b) exclude cases involving an injury or set of injuries of a description specified in the regulations. 30
- (3) For the purposes of this Part a person suffers a whiplash injury because of driver negligence if –
 - (a) when the person suffers the injury, the person –
 - (i) is using a motor vehicle other than a motor cycle on a road or other public place in England or Wales, or 35
 - (ii) is being carried in or on a motor vehicle other than a motor cycle while another uses it on a road or other public place in England or Wales,
 - (b) the injury is caused by –
 - (i) the negligence of one or more other persons, or 40
 - (ii) the negligence of one or more other persons and of the person who suffers the injury,

- (c) the negligence of the other person or persons consists in an act or acts done by the person or persons while using a motor vehicle on a road or other public place in England or Wales,
- (d) the negligence of the person who suffers the injury (if any) consists in an act or acts done by the person while being carried in or on a motor vehicle, and 5
- (e) the case is not excluded by subsection (4).
- (4) A case is excluded by this subsection if the act or any one or more of the acts causing the injury also constitutes or together constitute a breach of one or more relevant statutory provisions. 10
- (5) The requirement in subsection (3)(b) is to be treated as satisfied in a case where the act or acts constituting the negligence of the other person or persons is or are also sufficient to establish another cause of action (subject to subsection (3)(e)).
- (6) Regulations under this section are subject to affirmative resolution procedure. 15
- (7) For the purposes of this section references to a person being carried in or on a vehicle include references to a person entering or getting on to, or alighting from, the vehicle.
- (8) In this section –
- “act” includes omission; 20
- “motor cycle” has the meaning given by section 185(1) of the Road Traffic Act 1988;
- “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;
- “relevant statutory provisions” has the meaning given by section 53 of the 25
- Health and Safety at Work etc. Act 1974;
- “road” means a highway or other road to which the public has access, and includes bridges over which a road passes.

Damages

- 62 Damages for whiplash injuries** 30
- (1) This section applies in relation to the determination by a court of damages for pain, suffering and loss of amenity in a case where –
- (a) a person (“the claimant”) suffers a whiplash injury because of driver negligence, and
- (b) the duration of the whiplash injury – 35
- (i) does not exceed, or is not likely to exceed, two years, or
- (ii) would have been, or would be likely to be, no more than two years but for the claimant’s failure to mitigate the whiplash injury.
- (2) The amount of damages for pain, suffering and loss of amenity payable in respect of the whiplash injury is to be an amount specified in regulations made by the Lord Chancellor. 40
- (3) If the claimant suffers one or more minor psychological injuries on the same occasion, the amount or the total amount of damages for pain, suffering and

- loss of amenity payable in respect of the minor psychological injury or injuries is to be an amount specified in regulations made by the Lord Chancellor.
- (4) If regulations made by the Lord Chancellor so provide, the total amount of damages for pain, suffering and loss of amenity payable in respect of both – 5
- (a) the whiplash injury, and
 - (b) a minor psychological injury or injuries suffered by the claimant on the same occasion,
- is to be an amount specified in regulations made by the Lord Chancellor (notwithstanding subsections (2) and (3)).
- (5) Regulations under this section may in particular – 10
- (a) specify different amounts in respect of different durations of injury;
 - (b) specify amounts in respect of minor psychological injuries by reference to the duration of the related whiplash injury.
- (6) Regulations under this section may provide for a person’s whiplash injury or minor psychological injury to be treated as if the person had taken reasonable steps to mitigate its effect. 15
- (7) Regulations under this section amending or replacing earlier regulations may increase or reduce amounts payable in respect of injuries.
- (8) Nothing in this section prevents a court, in a case where a person suffers an injury or injuries in addition to an injury or injuries to which regulations under this section apply, awarding an amount of damages for pain, suffering and loss of amenity that reflects the combined effect of the person’s injuries. 20
- (9) Nothing in this section prevents the amount of damages payable being reduced by virtue of section 1 of the Law Reform (Contributory Negligence) Act 1945. 25
- (10) This section does not apply in relation to damages payable by a person because of the person’s breach of the duty under section 143(1)(b) of the Road Traffic Act 1988 (duty not to cause or permit any other person to drive without insurance or security in respect of third party risks).
- (11) Regulations under this section are subject to affirmative resolution procedure. 30

63 Uplift in exceptional circumstances

- (1) Regulations made by the Lord Chancellor may provide for a court –
- (a) to determine that the amount of damages payable for pain, suffering and loss of amenity in respect of a whiplash injury is an amount greater than the tariff amount that applies to that injury because of regulations under section 62(2); 35
 - (b) to determine that the total amount of damages payable for pain, suffering and loss of amenity in respect of both a whiplash injury and one or more minor psychological injuries is an amount greater than the tariff amount that applies to those injuries because of regulations under section 62(4); 40
 - (c) in a case where a person suffers an injury or injuries in addition to an injury or injuries to which regulations under section 62 apply, to determine the amount of damages payable for pain, suffering and loss of amenity in respect of the person’s injuries by reference to – 45

- (i) an amount of damages payable for pain, suffering and loss of amenity in respect of the whiplash injury, or
 - (ii) a total amount of damages payable for pain, suffering and loss of amenity in respect of both the whiplash injury and the minor psychological injury or injuries (as the case may be),
that is greater than the tariff amount that applies to that injury or those injuries. 5
- (2) The regulations may require a court to be satisfied, before using an amount greater than the tariff amount to determine damages payable for pain, suffering and loss of amenity, that – 10
 - (a) the degree of pain, suffering or loss of amenity caused by the whiplash injury makes it appropriate to use the greater amount, and
 - (b) the circumstances giving rise to that degree of pain, suffering or loss of amenity are exceptional.
- (3) The regulations must specify the maximum percentage by which the amount used by a court in determining the amount of damages payable for pain, suffering and loss of amenity may be greater than the tariff amount. 15
- (4) Regulations under this section amending or replacing earlier regulations may increase or reduce the maximum percentage.
- (5) The Lord Chancellor must consult the Lord Chief Justice before making regulations under this section. 20
- (6) Regulations under this section are subject to affirmative resolution procedure.
- (7) In this section “tariff amount” means an amount or total amount of damages for pain, suffering and loss of amenity that would, but for regulations under this section, be payable in respect of – 25
 - (a) a whiplash injury, or
 - (b) a whiplash injury and one or more minor psychological injuries, because of regulations under section 62(2) or (4).

Settlement of whiplash claims

- 64 Rules against settlement before medical report** 30
- (1) This section applies if a person makes a whiplash claim.
 - (2) A regulated person is in breach of this section if –
 - (a) the regulated person knows or has reason to suspect that a claim made by a person is a whiplash claim,
 - (b) the regulated person does, or arranges or advises the doing of, an act mentioned in subsection (3), without first seeing appropriate evidence of the whiplash injury, and 35
 - (c) the regulated person is acting as such when the regulated person does, or arranges or advises the doing of, that act.
 - (3) The acts referred to in subsection (2) are – 40
 - (a) inviting a person to offer a payment in settlement of the whiplash claim;
 - (b) offering a payment in settlement of the whiplash claim;
 - (c) making a payment in settlement of the whiplash claim;

- (d) accepting a payment in settlement of the whiplash claim.
- (4) The Lord Chancellor may by regulations make provision about what constitutes appropriate evidence of an injury for the purposes of this section.
- (5) The regulations may in particular –
 - (a) specify the form of any evidence; 5
 - (b) specify the descriptions of persons who may provide evidence;
 - (c) require persons to be accredited for the purpose of providing evidence;
 - (d) make provision about accrediting persons, including provision for a person to be accredited by a body specified in the regulations.
- (6) Regulations under this section are subject to affirmative resolution procedure. 10
- (7) In this section “whiplash claim” means a claim that consists only of, or so much of a claim as consists of, a claim for damages for pain, suffering and loss of amenity caused by –
 - (a) a whiplash injury suffered by a person because of driver negligence and in relation to which section 62 applies, and 15
 - (b) one or more minor psychological injuries suffered by the person on the same occasion (if any).

65 Effect of rules against settlement before medical report

- (1) The relevant regulator must ensure that it has appropriate arrangements for monitoring and enforcing compliance with the restrictions imposed on regulated persons by section 64. 20
- (2) The relevant regulator may make rules for the purposes of subsection (1).
- (3) The rules may in particular provide that, in relation to anything done in breach of section 64, the relevant regulator may exercise any powers that the regulator would have in relation to anything done by the regulated person in breach of another restriction (subject to subsections (5) and (6)). 25
- (4) Where the relevant regulator is the Financial Conduct Authority, section 66 applies instead of subsections (1) to (3).
- (5) A breach of section 64 –
 - (a) does not make a person guilty of an offence, and 30
 - (b) does not give rise to a right of action for breach of statutory duty.
- (6) A breach of section 64 does not make an agreement to settle the whiplash claim in question void or unenforceable.

66 Regulation by the Financial Conduct Authority

- (1) The Treasury may make regulations to enable the Financial Conduct Authority, where it is the relevant regulator, to take action for monitoring and enforcing compliance with the restrictions imposed on regulated persons by section 64. 35
- (2) The regulations may apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000 with or without modification. 40
- (3) Those provisions include in particular –

- (a) provisions as to investigations, including powers of entry and search and criminal offences;
- (b) provisions for the grant of an injunction in relation to a contravention or anticipated contravention;
- (c) provisions giving Ministers or the Financial Conduct Authority powers to make subordinate legislation; 5
- (d) provisions for the Financial Conduct Authority to charge fees.
- (4) The power to make regulations under this section is subject to section 65(5) and (6).
- (5) Regulations under this section are subject to affirmative resolution procedure. 10

67 Interpretation

- (1) In relation to an act mentioned in section 64(3)–
- (a) a regulator is any person listed in the first column;
- (b) a regulated person is any person listed in the second column;
- (c) a regulator in the first column is the relevant regulator in relation to the person listed in the corresponding entry in the second column. 15

<i>Regulator</i>	<i>Regulated person</i>	
The Financial Conduct Authority	An authorised person (within the meaning of the Financial Services and Markets Act 2000) of a description specified in regulations made by the Treasury	20
The Claims Management Regulator	A person authorised by the Regulator under section 5(1)(a) of the Compensation Act 2006 to provide regulated claims management services	25
The General Council of the Bar	A person authorised by the Council to carry on a reserved legal activity within the meaning of the Legal Services Act 2007	30
The Law Society	A person authorised by the Society to carry on a reserved legal activity within the meaning of the Legal Services Act 2007	35
The Chartered Institute of Legal Executives	A person authorised by the Institute to carry on a reserved legal activity within the meaning of the Legal Services Act 2007	

<i>Regulator</i>	<i>Regulated person</i>	
A licensing authority for the purposes of Part 5 of the Legal Services Act 2007 (alternative business structures)	A person who is— (a) licensed by the authority to carry on a reserved legal activity within the meaning of the Legal Services Act 2007, and (b) of a description specified in regulations made by the Lord Chancellor	5 10
A regulatory body specified for the purposes of this subsection in regulations made by the Lord Chancellor	A person of a description specified in the regulations in relation to the body	
(2) Regulations under subsection (1) are subject to negative resolution procedure.		15
(3) In sections 64 to 66—		
(a) a reference to making a claim against a person includes a reference to notifying a person of the basis of a claim;		
(b) a reference to making a payment to a person includes a reference to conferring a benefit on a person or a third party.		20
(4) In sections 64 to 66 and this section—		
“benefit” means—		
(a) any benefit, whether or not in money or other property and whether temporary or permanent, and		
(b) any opportunity to obtain a benefit;		25
“claim” includes counter-claim;		
“insurer” means—		
(a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance;		30
(b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out relevant contracts of insurance;		35
“whiplash claim” has the meaning given by section 64.		

PART 6

FINAL PROVISIONS

68 Consequential and transitional provision etc

- | | |
|--|----|
| (1) The Secretary of State or Lord Chancellor may, by regulations, make consequential, supplementary, incidental, transitional, transitory or saving provision in relation to any provision of this Act. | 40 |
| (2) The regulations may, in particular, amend, repeal or revoke— | |

-
- (a) any provision of an Act passed before this Act or in the same Session, or
 - (b) any provision made under an Act before the regulations come into force.
- (3) Regulations under this section that amend or repeal any provision of an Act (whether alone or with other provision) are subject to affirmative resolution procedure. 5
 - (4) Any other regulations under this section are subject to negative resolution procedure.
- 69 Regulations**
- (1) Regulations under this Act are to be made by statutory instrument. 10
 - (2) Where regulations under this Act are subject to “negative resolution procedure” the statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
 - (3) Where regulations under this Act are subject to “affirmative resolution procedure” the regulations must not be made unless a draft of the statutory instrument containing them has been laid before Parliament and approved by a resolution of each House of Parliament. 15
 - (4) Regulations under this Act may –
 - (a) make different provision for different purposes or areas;
 - (b) include consequential, supplementary or incidental provision; 20
 - (c) make transitional, transitory or saving provision.
 - (5) Subsection (4) does not apply to regulations under section 71.
- 70 Extent**
- (1) This Act extends to England and Wales only.
 - (2) But that is subject to the following provisions of this section. 25
 - (3) Any amendment, repeal or revocation made by this Act (except those referred to in subsections (4) to (6)) has the same extent as the enactment amended, repealed or revoked.
 - (4) The amendments made by section 2(2), (4) and (7) and section 3(4)(b) extend –
 - (a) to England and Wales, and
 - (b) in their application to immigration inspection functions, to Scotland and Northern Ireland. 30

In this subsection “immigration inspection functions” means functions conferred by virtue of section 5A(5A) of the Prison Act 1952.
 - (5) The amendments made by section 3(4)(a) extend to England and Wales, Scotland and Northern Ireland. 35
 - (6) The amendments made by the following provisions extend to England and Wales only –
 - (a) section 47;
 - (b) paragraph 1 of Schedule 13. 40
 - (7) Sections 37 to 45 and Schedule 8 extend –

-
- (a) to England and Wales,
(b) in their application to the First-tier Tribunal and the Upper Tribunal, to Scotland and Northern Ireland, and
(c) in their application to employment tribunals and the Employment Appeal Tribunal, to Scotland. 5
- (8) Sections 4 to 17 and section 20 and Schedule 1 extend –
(a) to England and Wales, and
(b) in their application to immigration-related functions, to Scotland and Northern Ireland. 10
- In this subsection “immigration-related functions” means functions relating to immigration detention facilities and immigration escort arrangements.
- (9) Subsection (8) does not apply to paragraphs 5 to 7 of Schedule 1 (and so subsection (3) applies).
- (10) This Part extends to England and Wales, Scotland and Northern Ireland.
- 71 Commencement 15**
- (1) This Act comes into force on such day as the Secretary of State may by regulations appoint.
- (2) But that is subject to subsections (3) to (5).
- (3) Section 47 comes into force on such day as the Lord Chancellor may by regulations appoint. 20
- (4) Section 60 comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (5) This Part comes into force on the day on which this Act is passed.
- (6) Regulations under this section may – 25
(a) appoint different days for different purposes;
(b) appoint different days for different areas;
(c) make transitional, transitory or saving provision.
- 72 Short title**
- This Act may be cited as the Prisons and Courts Act 2017.

SCHEDULES

SCHEDULE 1

Section 4

THE PRISONS AND PROBATION OMBUDSMAN

Appointment

- 1 (1) It is for the Secretary of State to appoint a person as Ombudsman. 5
- (2) A person may only be appointed as Ombudsman if the person has been selected on merit on the basis of fair and open competition.
- (3) The terms and conditions of appointment as Ombudsman are to be determined by the Secretary of State.

Status

- 2 (1) The Ombudsman's functions are exercisable on behalf of the Crown. 10
- (2) The Ombudsman is a Crown servant for the purposes of the Official Secrets Act 1989.
- (3) But service as the Ombudsman is not service in the civil service of the Crown. 15

Staff and other resources

- 3 (1) *The Secretary of State must provide the Ombudsman with such staff, goods, services, accommodation and other resources as the Secretary of State considers are needed for the exercise of the Ombudsman's functions.*
- (2) *The Secretary of State must make such remuneration payments as the Secretary of State considers are needed for the terms and conditions of the Ombudsman's appointment to be complied with.* 20
- (3) *In this paragraph "remuneration payments" means –*
 - (a) *payments of remuneration, pensions, allowances, gratuities or compensation payable to, or in respect of, the Ombudsman, and* 25
 - (b) *payments towards the provision of such remuneration, pensions, allowances, gratuities or compensation.*

Delegation

- 4 (1) Any function of the Ombudsman may be discharged on the Ombudsman's behalf – 30
 - (a) by any member of the Ombudsman's staff or any other person that the Ombudsman considers appropriate, if the staff member or other person is authorised by the Ombudsman for that purpose, and

- (b) to the extent so authorised.
- (2) An authorisation under this paragraph in relation to a function—
 - (a) does not prevent the Ombudsman from carrying out the function, and
 - (b) does not affect the Ombudsman’s responsibility for the carrying out of the function. 5

Parliamentary Commissioner Act 1967 (c. 13)

- 5 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert—
“The Prisons and Probation Ombudsman.” 10

House of Commons Disqualification Act 1975 (c. 24)

- 6 In Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership), in Part 3, for “The Prisons and Probation Ombudsman for England and Wales” substitute “The Prisons and Probation Ombudsman”. 15

Freedom of Information Act 2000 (c. 36)

- 7 In Schedule 1 to the Freedom of Information Act 2000 (public authorities), in Part 4, for “The Prisons and Probation Ombudsman for England and Wales” substitute “The Prisons and Probation Ombudsman”.

SCHEDULE 2

Section 21 20

INTERFERENCE WITH WIRELESS TELEGRAPHY IN PRISONS ETC

Introduction

- 1 The Prisons (Interference with Wireless Telegraphy) Act 2012 (interference with wireless telegraphy in prisons etc) is amended as follows.

Section 2: safeguards 25

- 2 (1) Section 2 is amended as follows.
 - (2) After subsection (3) insert—
“(3A) A public communications provider that is authorised to interfere with wireless telegraphy under section 1 must act in accordance with directions given under this section.” 30
 - (3) In subsection (4), for “section 1” substitute “section 1(1)”.
 - (4) After subsection (4) insert—
“(4A) Where the Secretary of State authorises an interference with wireless telegraphy under section 1(2A), the Secretary of State must also give directions to the public communications provider so authorised— 35
 - (a) specifying descriptions of information—

- (i) to be provided to persons in charge of relevant institutions in England and Wales, or
- (ii) to be provided to the Secretary of State;
- (b) specifying intervals at, or occurrences on, which such information is to be so provided; 5
- (c) as to the circumstances in which the use of equipment for the purposes of an interference with wireless telegraphy authorised under section 1 must be modified or discontinued (and, in particular, directions aimed at ensuring that the authorised interference will not result in disproportionate interference with wireless telegraphy outside the relevant institution). 10
- (4B) Where the Secretary of State gives a direction under subsection (4A), the Secretary of State must also give directions to persons in charge of relevant institutions in England and Wales – 15
- (a) specifying descriptions of information (which may include PCP information) to be provided to the Office of Communications;
- (b) specifying intervals at, or occurrences on, which such information is to be so provided. 20
- In this subsection “PCP information” means information provided by a public communications provider in accordance with a direction under subsection (4A).
- (4C) A person in charge of a relevant institution in England and Wales must comply with a direction given under subsection (4B).” 25
- (5) In subsection (5), for “mentioned in subsection (4)” substitute “authorised under section 1 to interfere with wireless telegraphy”.

Section 3: retention and disclosure of information obtained under section 1

- 3 (1) Section 3 is amended as follows.
- (2) In subsections (5) and (6), after “section 1(2)(b)” insert “or (2B)(b)”. 30
- (3) After subsection (9) insert –
- “(10) A reference in this section to a relevant institution is –
- (a) in the case of information obtained by virtue of an authorisation under section 1(1), a reference to the relevant institution to which the authorisation relates; 35
- (b) in the case of information obtained by virtue of an authorisation under section 1(2A), a reference to the relevant institution to which the information relates.”

Section 4: interpretation

- 4 In section 4, after the definition of “the appropriate national authority” insert – 40
- ““public communications provider” means a person who is a public communications provider for the purposes of Chapter 1 of Part 2 of the Communications Act 2003 by virtue of paragraph (a) or (b) of the definition of that term in section 151(1) of that Act.” 45

SCHEDULE 3

Section 30

CONDUCTING PRELIMINARY PROCEEDINGS IN WRITING: CHILDREN AND YOUNG PEOPLE

Involvement of parent or guardian in proceedings conducted in writing

- 1 (1) Section 34A of the Children and Young Persons Act 1933 (attendance at court of parent or guardian) is amended in accordance with this paragraph. 5
- (2) In the heading, after “court” insert “or other involvement”.
- (3) After subsection (1) insert –
- “(1A) Where a child or young person (C) is charged with an offence, the court –
- (a) may in any case; and 10
- (b) shall in a case where C is under the age of sixteen years, exercise the functions conferred by subsections (1B) and (1C) (insofar as they are applicable to the proceedings) unless and to the extent that the court is satisfied that it would be unreasonable to do so, having regard to the circumstances of the case. 15
- (1B) Where any stage of the proceedings is conducted in writing, the court may or shall (in accordance with subsection (1A)) –
- (a) ascertain whether a person who is a parent or guardian of C is aware that the written proceedings are taking place, and
- (b) provide information about the written proceedings to that person if he or she is not aware of them. 20
- (1C) Where C gives a written indication of plea under section 24ZA of the Magistrates’ Courts Act 1980, the court may or shall (in accordance with subsection (1A)) –
- (a) ascertain whether a person who is a parent or guardian of C is aware that the written indication of plea has been given, and
- (b) bring the written indication of plea to the attention of that person if he or she is not aware of it.” 25
- (4) In subsection (2), for “the reference in subsection (1)” substitute “a reference in any of subsections (1) to (1C)”. 30

Indication of plea by under-18: choice of written procedure

- 2 After section 24 of the Magistrates’ Courts Act 1980 insert –
- “24ZA Indication of plea by under-18: choice of written procedure**
- (1) This section applies where – 35
- (a) a person under the age of 18 years is charged with an offence other than one falling within section 51A(12) of the Crime and Disorder Act 1998 (“the 1998 Act”); and
- (b) if the person appeared or was brought before a magistrates’ court, the court would, but for the application of the provisions of section 24A, be required at that stage, by virtue of Criminal Procedure Rules made under section 51(3A) or 51A(4A) of the 1998 Act or by virtue of section 51A(3)(b) of 40

- the 1998 Act, to determine, in relation to the offence, whether to send the person to the Crown Court for trial (or to determine any matter, the effect of which would be to determine whether he is sent to the Crown Court for trial).
- (2) But Criminal Procedure Rules may make provision about circumstances in which this section does not apply. 5
- (3) The court must give the person one or more documents which—
- (a) state the charge against the person;
 - (b) explain that the person may choose to give a written indication of whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty; 10
 - (c) explain the way in which, and the time period within which, the a written indication of plea would have to be given (if the person chose to give one);
 - (d) explain that, if the person chooses not to give a written indication of plea, the proceedings will continue in accordance with section 24A; 15
 - (e) explain that, if the person chooses to give a written indication of a guilty plea—
 - (i) the proceedings will continue as mentioned in subsection (4); and 20
 - (ii) (in cases where the offence is one mentioned in section 91(1) of the Powers of Criminal Courts (Sentencing) Act 2000) the person may be sent to the Crown Court for sentencing under section 3B or (if applicable) 3C of that Act if the court is of such opinion as is mentioned in subsection (2) of the applicable section; 25
 - (f) explain that, if the person chooses to give a written indication of a not guilty plea, the proceedings will continue as mentioned in subsection (5); 30
 - (g) explain the effect of section 24DA;
 - (h) ask the person—
 - (i) whether he or she chooses to give a written indication of plea, and 35
 - (ii) if he or she chooses to do so, whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty;
 - (i) set out any other information required or authorised by Criminal Procedure Rules. 40
- (4) If the person gives a written indication of a guilty plea, section 9 applies as if the offence were a summary offence.
- (5) If the person gives a written indication of a not guilty plea, the court shall proceed to make the relevant determination and this section shall cease to apply. 45
- (6) If the person fails to give a written indication of plea—
- (a) this section ceases to have effect, and
 - (b) section 24A has effect (but see sections 24(1) and (1A) and 24DA).

- (7) If—
- (a) the person gives a written indication of plea before attaining the age of 18 years, and
 - (b) after the person attains that age, the court is considering whether to deal with the person as an adult,
- the court may only deal with the person in a way that it could have dealt with the person if he or she had indicated that plea at a hearing which took place before the person attained 18 years.” 5
- (8) The following shall not for any purpose be taken to constitute the taking of a plea — 10
- (a) asking the person under this section whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty;
 - (b) a written indication of plea under this section.
- (9) The explanations required by subsection (3) must be given in ordinary language. 15
- (10) If a person gives a written indication of plea, and at any time before the case is heard the court receives an indication given by the person that he or she wishes to withdraw the written indication of plea— 20
- (a) the designated officer for the court must inform the prosecutor of the withdrawal,
 - (b) this section ceases to apply, and
 - (c) section 24A applies (see subsection (1A)).
- (11) Subsection (1) does not prevent a magistrates’ court from complying with subsection (3) by giving the required documents in anticipation of the determination under subsection (1)(b). 25
- (12) A reference in this section to a person charged with an offence is a reference to— 30
- (a) a person in respect of whom a summons or warrant has been issued under section 1;
 - (b) a person who has been charged with an offence under Part 4 of the Police and Criminal Evidence Act 1984; or
 - (c) a person against whom a written charge has been issued under section 29 of the Criminal Justice Act 2003.
- (13) In this section — 35
- “relevant determination” means the determination referred to in subsection (1)(b);
 - “written indication of plea” means a written indication given by a person in accordance with this section of whether (if the offence were to proceed to trial) he or she would plead guilty or not guilty (and “written indication of a guilty plea” and “written indication of a not guilty plea” are to be read accordingly).” 40
- 3 In section 24A of the Magistrates’ Courts Act 1980 (child or young person to indicate intention as to plea in certain cases) — 45
- (a) in subsection (1)(b), for “section 51(7) or (8) or 51A(3)(b), (4) or (5)” substitute “Criminal Procedure Rules made under section 51(3A) or 51A(4A) of the 1998 Act or by virtue of section 51A(3)(b)”;

(b) after subsection (1) insert –

“(1A) But where section 24ZA applies, this section does not apply unless the accused has failed to give a written indication of plea in accordance with that section.”

Under-18 absent from allocation proceedings

5

4 After section 24D of the Magistrates’ Courts Act 1980 insert –

“24DA Allocation proceedings: power to proceed if accused under-18 absent

(1) This section applies if –

- (a) section 24ZA applies,
- (b) a person has been given the documents required by section 24ZA(3), 10
- (c) section 24ZA ceases to have effect by virtue of section 24ZA(6)(a) (failure by person to give written indication of plea),
- (d) the person fails to attend allocation proceedings in a magistrates’ court, and 15
- (e) it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that –
 - (i) notice of the allocation proceedings was served on the accused within what appears to the court to be a reasonable time before its date, or 20
 - (ii) the accused has appeared on a previous occasion to answer the charge.

(2) The court may proceed in the absence of the accused in accordance with such of the provisions of section 24A as are applicable in the circumstances. 25

(3) If a magistrates’ court proceeds under section 24A in accordance with this section –

- (a) the accused is to be taken to indicate that he or she would (if the offence were to proceed to trial) plead not guilty; 30
- (b) section 24C applies to the court.

(4) In this section “allocation proceedings” means proceedings under section 24A.”

Section 51A of the Crime and Disorder Act 1998

5 (1) Section 51A of the Crime and Disorder Act 1998 (sending cases to the Crown Court: children and young persons) is amended in accordance with this paragraph. 35

(2) Before subsection (1) insert –

“(A1) This section applies where a child or young person is charged with an offence and any of the conditions mentioned in subsection (3) below is satisfied. 40

(A2) But Criminal Procedure Rules may make provision about circumstances in which this section does not apply.”

- (3) Omit subsection (2).
- (4) In subsection (3)(b), (c) and (d) for “the court” substitute “a magistrates’ court”.
- (5) After subsection (3) insert –
- “(3A) A magistrates’ court must give the child or young person one or more documents which –
- (a) state the charge against the person;
- (b) explain that a magistrates’ court is required to send the person to the Crown Court for trial for the offence;
- (c) set out any other information required or authorised by Criminal Procedure Rules.
- (3B) As soon as practicable after giving the documents required by subsection (3A), the magistrates’ court must send the person to the Crown Court for trial for the offence (which need not be done in open court).
- (3C) Subsections (3A) and (3B) have effect subject to Criminal Procedure Rules made under subsection (4A).”
- (6) For subsections (4) to (10) substitute –
- “(4A) Criminal Procedure Rules may make provision about situations where –
- (a) this section applies to an offence alleged to have been committed by a child or young person (C), and
- (b) any other offence (whether the other offence is alleged to have been committed by C or by another person, and whether or not this section applies to the other offence) is related to the offence alleged to have been committed by C.
- (4B) The provision that may be made in the rules includes provision for the other offence to be sent to the Crown Court even if it is a summary offence.
- (4C) Subsection (A1) does not prevent a magistrates’ court from complying with subsection (3A) by giving the required documents in anticipation of the conditions in subsection (3) being met.”

SCHEDULE 4

Section 32

LIVE LINKS IN CRIMINAL PROCEEDINGS

PART 1

35

EXPANSION OF POWERS UNDER THE CRIMINAL JUSTICE ACT 2003

Introduction

- 1 The Criminal Justice Act 2003 is amended in accordance with this Part of this Schedule.

Live links in criminal proceedings

- 2 (1) Section 51 is amended in accordance with sub-paragraphs (2) to (7).
- (2) For subsection (1) substitute –
- “(1) *A person may, if the court so directs, take part in eligible criminal proceedings through –* 5
- (a) *a live audio link, or*
- (b) *a live video link.*
- (1A) No direction under this section may be given for a jury to take part in eligible criminal proceedings through a live audio link or a live video link.” 10
- (3) In subsection (2) –
- (a) for the words before paragraph (a) substitute –
- “(2) In this Part “eligible criminal proceedings” means –”;
- (b) in paragraph (b), after “trial” insert “and any proceedings that are preliminary or incidental to such an appeal”; 15
- (c) in paragraph (c) after “indictment” insert “or any other trial in the Crown Court for an offence”;
- (d) after paragraph (c) insert –
- “(ca) proceedings under section 4A or 5 of the Criminal Procedure (Insanity) Act 1964, 20
- (cb) proceedings under Part 3 of the Mental Health Act 1983,
- (cc) proceedings under –
- (i) section 11 of the Powers of the Criminal Courts (Sentencing) Act 2000, or 25
- (ii) section 81(1)(g) of the Senior Courts Act 1981 or section 16 of the Criminal Justice Act 2003 in respect of a person who has been remanded by a magistrates’ court on adjourning a case under that section of the 2000 Act,”; 30
- (e) in paragraph (d), after “Court of Appeal” insert “and any proceedings that are preliminary or incidental to such an appeal”;
- (f) after paragraph (d) insert –
- “(da) a reference to the Court of Appeal by the Attorney General under Part 4 of the Criminal Justice Act 1988 and any proceedings that are preliminary or incidental to such a reference,”; 35
- (g) in paragraph (e), after “Criminal Appeal Act 1995 (c.35)” insert “and any proceedings that are preliminary or incidental to such a hearing”; 40
- (h) in paragraph (f), omit “and”;
- (i) after paragraph (f) insert –
- “(fa) a hearing under section 142(1) or (2) of the Magistrates’ Courts Act 1980 or under section 155 of the Powers of Criminal Courts (Sentencing) Act 2000,”; 45
- (j) in paragraph (g), after “Act” insert “and any proceedings that are preliminary or incidental to such a hearing, and”;

- (k) after paragraph (g) insert –
 “(h) any hearing following conviction held for the purpose of making a decision about bail in respect of the person convicted.”
- (4) For subsection (4) substitute – 5
- “(4) But the court may not give a direction for a person to take part in eligible criminal proceedings through a live audio link or a live video link unless –
- (a) the court is satisfied that it is in the interests of justice for the person concerned to take part in the proceedings in accordance with the direction through the live audio link or through the live video link, 10
- (aa) the parties to the proceedings have been given the opportunity to make representations, and
- (ab) the relevant youth offending team has been given the opportunity to make representations, if it is a case where the defendant is a party to the proceedings and either – 15
- (i) the defendant has not attained the age of 18 years, or
- (ii) the defendant has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age.” 20
- (5) After subsection (4) insert –
- “(4A) The power conferred by this section includes power to give –
- (a) a direction that is applicable to several, or all, of the persons taking part in particular eligible criminal proceedings; 25
- (b) a direction that is applicable to a particular person in respect of only some aspects of particular eligible criminal proceedings (such as giving evidence or attending the proceedings when not giving evidence); 30
- (c) a direction for a person who is outside England and Wales (whether in the United Kingdom or elsewhere) to take part in eligible criminal proceedings through a live audio link or a live video link.
- (4B) The power of the court to give a direction under this section is subject to Schedule 3A (prohibitions and limitations on use of live links). 35
- (4C) If a court gives a live link direction under this section for a person to take part in particular proceedings by giving evidence through a live audio link or a live video link, the person may not give evidence except in accordance with the direction. 40
- (4D) The court may rescind a live link direction under this section at any time before or during the eligible criminal proceedings to which it relates (but this does not affect the court’s power to give a further live link direction in relation to the proceedings).
- (4E) A live link direction under this section may not be rescinded unless – 45
- (a) the court is satisfied that it is in the interests of justice for the direction to be rescinded,

-
- (b) the parties to the proceedings have been given the opportunity to make representations,
- (c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where the defendant is a party to the proceedings and either – 5
- (i) the defendant has not attained the age of 18 years, or
- (ii) the defendant has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age.” 10
- (6) Omit subsection (5).
- (7) For subsections (7) and (8) substitute –
- “(7) Those circumstances include in particular –
- (a) in the case of a direction relating to a witness –
- (i) the importance of the witness’s evidence to the proceedings; 15
- (ii) whether a direction might tend to inhibit any party to the proceedings from effectively testing the witness’s evidence;
- (b) in the case of a direction relating to any participant in the proceedings – 20
- (i) the availability of the person;
- (ii) the need for the person to attend in person;
- (iii) the views of the person;
- (iv) the suitability of the facilities at the place where the person would take part in the proceedings in accordance with a proposed direction; 25
- (v) whether the person will be able to take part in the proceedings effectively if he or she takes part in accordance with a proposed direction. 30
- (8) The court must give the following reasons in relation to all eligible criminal proceedings (insofar as the circumstances to which the reasons relate arise in the proceedings concerned) and must (if the court is a magistrates’ court) cause the reasons to be entered into its register of proceedings – 35
- (a) its reasons for the proceedings not being conducted wholly as audio proceedings;
- (b) its reasons for the proceedings not being conducted wholly as video proceedings;
- (c) as respects each person taking part in the proceedings – 40
- (i) its reasons for not giving a direction for the person to take part in the proceedings through a live audio link;
- (ii) its reasons for not giving a direction for the person to take part in the proceedings through a live video link;
- (d) the rescission of any live link direction under this section given in relation to the proceedings. 45
- (9) The following functions of a magistrates’ court under this section may be discharged by a single justice –
- (a) giving a live link direction under this section;

- (b) rescinding a live link direction before the eligible criminal proceedings concerned begin; and
 - (c) requiring or permitting a person to attend by live link a hearing about a matter within paragraph (a) or (b).
 - (10) A court may not refuse or revoke bail for a person (P) at eligible criminal proceedings if—
 - (a) any person takes part in the proceedings— other than for the purpose of giving evidence – through a live audio link, and
 - (b) P objects to the refusal or revocation.
 - (11) But subsection (10) does not apply if section 4 of the Bail Act 1976 does not apply to P.
 - (12) A court may not deal with a person for contempt of court (including enquiring into conduct and imposing punishment) at eligible criminal proceedings in which any person takes part – other than for the purpose of giving evidence – through a live audio link.”
- (8) Omit section 52.

Magistrates’ courts permitted to sit at other locations

- 3 (1) Section 53 is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (a), for “evidence to be given through a live link in proceedings before the court” substitute “a person to take part in proceedings before the court through a live audio link or a live video link”;
 - (b) in paragraph (b), for “receiving such evidence” substitute “such participation”.

Requirement to attend at court, holding proceedings in court etc

- 4 After section 53 insert –
- “53A Requirement to attend court, perjury**
- (1) A person who takes part in eligible criminal proceedings in accordance with a direction under section 51 is to be treated as complying with any requirement (however imposed or expressed) for that person to attend or appear before court, or to surrender to the custody of the court, for the purposes of that participation in those proceedings.
 - (2) A person who takes part in eligible criminal proceedings in accordance with a direction under section 51 is to be treated as present in court for the purposes of those proceedings.
 - (3) Eligible criminal proceedings that are conducted –
 - (a) wholly as audio proceedings, or
 - (b) wholly as video proceedings,are to be regarded as taking place at the location where the judge or justices (or both) take part in the proceedings.

- (4) A statement made on oath by a witness outside the United Kingdom and given in evidence through a live audio link or a live video link in accordance with a direction under section 51 is to be treated for the purposes of section 1 of the Perjury Act 1911 as having been made in the proceedings in which it is given in evidence.” 5

Warning to jury

- 5 In section 54(1), for “a live link” insert “a live audio link or a live video link by a witness (including the defendant)”.

Rules of court

- 6 (1) Section 55 is amended as follows. 10
- (2) In subsection (2) –
- (a) in paragraph (a), omit “or 52”
- (b) in paragraph (b), for “live links” substitute “live audio links and live video links”.
- (3) In subsection (3) – 15
- (a) in paragraph (a), omit “uncontested”;
- (b) in paragraph (c), omit “or 52”.

Interpretation

- 7 (1) Section 56 is amended as follows.
- (2) In subsection (1) – 20
- (a) before the definition of “legal representative” insert –
- ““bail” includes remand to local authority accommodation in accordance with Chapter 3 of Part 3 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, 25
- “eligible criminal proceedings” has the meaning given in section 51(2),”;
- (b) after the definition of “local justice area” insert –
- ““relevant youth offending team” means the youth offending team (established under section 39 of the Crime and Disorder Act 1998) whose functions are exercisable in relation to the defendant concerned,”. 30
- (3) For subsection (2) substitute –
- “(2A) A reference to a person taking part in eligible criminal proceedings includes – 35
- (a) giving evidence in the proceedings, and
- (b) attending the proceedings when not giving evidence.
- (2B) A person (P) takes part in eligible criminal proceedings through a live audio link if, by means of a live telephone link or other arrangement – 40
- (a) the person is able to hear all of the other persons taking part in the proceedings (including any who are not in court), and

- (b) all of the other persons taking part in the proceedings (including any who are not in court) are able to hear P.
- (2C) Eligible criminal proceedings are conducted wholly as audio proceedings if all the persons taking part in the proceedings do so through a live audio link. 5
- (2D) A person (P) takes part in eligible criminal proceedings through a live video link if, by means of a live television link or other arrangement –
- (a) the person is able to see and hear all of the other persons taking part in the proceedings (including any who are not in court), and 10
- (b) all of the other persons taking part in the proceedings (including any who are not in court) are able to see and hear P.
- (2E) Eligible criminal proceedings are conducted wholly as video proceedings if all the persons taking part in the proceedings do so through a live video link.” 15
- (4) In subsection (3) –
- (a) for the words before paragraph (a) substitute –
- “(3) A reference to the persons participating in eligible criminal proceedings includes –”; 20
- (b) after paragraph (b) insert –
- “(ba) witnesses in the proceedings;”;
- (c) in paragraph (d), for “the witness” substitute “in the proceedings”.
- (5) After subsection (3) insert – 25
- “(3A) Subsections (2A) to (3) apply for the purposes of this Part.”
- (6) In subsection (4), for “subsection (2)” substitute “subsections (2B) and (2D)”.

Safeguards

- 8 After Schedule 3 to the Criminal Justice Act 2003 insert –
- “SCHEDULE 3A 30

PROHIBITIONS AND LIMITATIONS ON USE OF LIVE LINKS

Conduct of proceedings wholly as audio proceedings

- 1 (1) Eligible criminal proceedings may be conducted wholly as audio proceedings only if the proceedings meet one of the following conditions. 35
- (2) *Condition A*: the proceedings are preliminary or incidental to an appeal to the Crown Court arising out of a summary trial.
- (3) *Condition B*: the proceedings are preliminary or incidental to an appeal to the criminal division of the Court of Appeal.

-
- (4) *Condition C*: the proceedings are preliminary or incidental to a reference to the Court of Appeal by the Attorney General under Part 4 of the Criminal Justice Act 1988.
- (5) *Condition D*: the proceedings are preliminary or incidental to the hearing of a reference under section 9 or 11 of the Criminal Appeal Act 1995. 5
- (6) *Condition E*: the proceedings are a hearing following conviction held for the purpose of making a decision about whether to impose or vary conditions of bail in respect of the person convicted. 10
- (7) *Condition F*:—
- (a) the proceedings are a hearing following conviction held for the purpose of deciding whether to grant or continue bail in respect of the person convicted, and
- (b) either— 15
- (i) section 4 of the Bail Act 1976 does not apply to the person, or
- (ii) the making of the decision is not disputed (including where the court is minded to refuse or revoke bail of its own motion). 20
- (8) But proceedings which meet any of those conditions may not be conducted wholly as audio proceedings if the court is minded to deal with a person for contempt of court (including enquiring into conduct and imposing punishment) at the proceedings.
- Conduct of proceedings wholly as video proceedings* 25
- 2 (1) Eligible criminal proceedings may be conducted wholly as video proceedings only if the proceedings meet one of the following conditions.
- (2) *Condition A*: the proceedings are—
- (a) an appeal to the Crown Court arising out of a summary trial which is an appeal only against sentence, 30
- (b) an appeal to the Crown Court arising out of a summary trial—
- (i) which is an appeal arising out of a summary trial which was itself conducted wholly as video proceedings, and 35
- (ii) which the parties agree may be conducted wholly as video proceedings, or
- (c) preliminary or incidental to any appeal to the Crown Court arising out of a summary trial. 40
- (3) *Condition B*: the proceedings are preliminary or incidental to an appeal to the criminal division of the Court of Appeal.
- (4) *Condition C*: the proceedings are preliminary or incidental to a reference to the Court of Appeal by the Attorney General under Part 4 of the Criminal Justice Act 1988. 45

- (5) *Condition D*: the proceedings are preliminary or incidental to the hearing of a reference under section 9 or 11 of the Criminal Appeal Act 1995.
- (6) *Condition E*: the proceedings are preliminary or incidental to a hearing before the Court of Appeal under section 80 of this Act. 5
- (7) *Condition F*: the proceedings are a hearing following conviction held for the purpose of making a decision about bail in respect of the person convicted.
- (8) *Condition G*:—
- (a) the proceedings are a summary trial in a magistrates’ court, 10
 - (b) a written procedure notice has been served on the defendant but the offence is not being tried in accordance with section 16A of the Magistrates’ Courts Act 1980, and
 - (c) the parties agree to the proceedings being conducted wholly as video proceedings. 15
- (9) *Condition H*: the proceedings are a hearing under section 142(1) or (2) of the Magistrates’ Courts Act 1980 or under section 155 of the Powers of Criminal Courts (Sentencing) Act 2000.
- Other use of live audio links in preliminary and incidental proceedings etc* 20
- 3 (1) This paragraph applies to eligible criminal proceedings which meet any of the conditions in paragraph 1.
- (2) The defendant may not take part in the proceedings through a live audio link for the purpose of giving evidence.
- (3) A person (other than the defendant) may not take part in the proceedings through a live audio link for the purpose of giving evidence unless— 25
- (a) there are no suitable arrangements by means of which that person could give evidence through a live video link, and
 - (b) the parties agree to that person giving evidence through a live audio link. 30
- (4) This paragraph does not apply to proceedings which meet any of the conditions in paragraph 1 if the court is minded to deal with a person for contempt of court (including enquiring into conduct and imposing punishment) at the proceedings (but see paragraph 4). 35
- Other use of live audio links in other eligible criminal proceedings*
- 4 (1) This paragraph applies to—
- (a) eligible criminal proceedings which do not meet any of the conditions in paragraph 1, and 40
 - (b) eligible criminal proceedings which meet any of those conditions if the court is minded to deal with a person for contempt of court (including enquiring into conduct and imposing punishment).

- (2) The defendant may not take part in the proceedings through a live audio link.
- (3) A person (other than the defendant) may not take part in the proceedings through a live audio link unless –
- (a) that person’s participation through the live audio link is only for the purpose of giving evidence in the proceedings, 5
 - (b) there are no suitable arrangements by means of which that person could give evidence through a live video link, and
 - (c) the parties agree to that person giving evidence through a live audio link. 10
- (4) Where this paragraph applies by virtue of sub-paragraph (1)(b), references to the defendant include references to the person whom the court is minded to deal with for contempt of court.
- (5) Where this paragraph applies to proceedings under section 4A or 5 of the Criminal Procedure (Insanity) Act 1964, it is for the defendant’s representative (if such a representative has been appointed), rather than the defendant, to give any agreement under sub-paragraph (3)(c). 15
- (6) In this paragraph “defendant’s representative” means the person appointed by the court to put the case for the defence. 20

Other limitations to apply also

- 5 The limitations imposed under this Schedule are in addition to any others (such as those in section 51(4)) which apply to the exercise of the power to give a direction under section 51.”

PART 2 25

OTHER AMENDMENTS

Criminal Appeal Act 1968

- 9 (1) The Criminal Appeal Act 1968 is amended as follows.
- (2) In section 22 (right of appellant to be present), omit subsections (4) to (6).
- (3) In section 23 (evidence), omit subsection (5). 30
- (4) In section 31 (powers of Court which are exercisable by single judge) –
- (a) in subsection (1), after paragraph (a) insert –
 - “(aza) the powers under section 51(1), (4D) and (4G) of the Criminal Justice Act 2003 as they are exercisable in relation to appeals to the criminal division of the Court of Appeal and preliminary and incidental proceedings;”;
 - (b) in subsection (2), omit paragraph (ca). 35
- (5) In section 31A (powers of court under Part 1 which are exercisable by registrar) – 40
- (a) in the heading, omit “under Part 1”;

- (b) after subsection (2) insert—
- “(2A) The registrar may exercise the powers under section 51(1), (4D) and (4G) of the Criminal Justice Act 2003 as they are exercisable in relation to appeals to the criminal division of the Court of Appeal and preliminary and incidental proceedings.”; 5
- (c) in subsection (4), after “subsection (2)” insert “or (2A)”.

SCHEDULE 5

Section 33

LIVE LINKS IN OTHER CRIMINAL HEARINGS

PART 1 10

EXPANSION OF POWERS UNDER THE CRIME AND DISORDER ACT 1998

Introduction

- 1 (1) The Crime and Disorder Act 1998 is amended in accordance with this Part of this Schedule.
- (2) For the heading of Part 3A substitute “LIVE LINKS IN PRELIMINARY, SENTENCING & ENFORCEMENT HEARINGS”. 15

Interpretation etc

- 2 (1) Section 57A is amended as follows.
- (2) For subsections (1) and (2) substitute—
- “(1A) This Part applies to— 20
- (a) preliminary hearings and sentencing hearings in the course of proceedings for an offence, and
- (b) enforcement hearings.”
- (3) In subsection (3)—
- (a) before the definition of “confiscation order” insert— 25
- ““bail” includes remand to local authority accommodation in accordance with Chapter 3 of Part 3 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;”;
- (b) omit the definitions of “confiscation order” and “custody”; 30
- (c) for the definition of “enforcement hearing” substitute—
- ““enforcement hearing” means a hearing relating to collection, discharge, satisfaction or enforcement of—
- (a) a sum that has been adjudged to be paid on conviction by a magistrates’ court or the Crown Court, or 35
- (b) a financial penalty that is enforceable in accordance with section 85(6) and (7) of the Criminal Justice and Immigration Act 2008 as if it were such a sum (including a hearing to 40

- determine whether a financial penalty is so enforceable);”;
- (d) omit the definitions of “live link” and “police detention”;
- (e) after the definition of “preliminary hearing” insert –
- ““relevant youth offending team”, in relation to a case where –
- (a) the accused, the offender or the person liable to pay the sum or financial penalty has not attained the age of 18 years, or
- (b) the accused or the offender has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age,
- means the youth offending team (established under section 39 of the Crime and Disorder Act 1998) whose functions are exercisable in relation to the accused, the offender or the person liable to pay the sum or financial penalty;”;
- (f) in the definition of “sentencing hearing” –
- (i) omit paragraph (a);
- (ii) in paragraph (b), omit “or”;
- (iii) in paragraph (c), for “offence.” substitute “offence (including reviewing, amending or revoking such a sentence or determination); or”;
- (iv) after paragraph (c) insert –
- “(d) determining –
- (i) how the offender has complied with a sentence given in respect of the offence, or
- (ii) how the offender should be dealt with in respect of compliance with such a sentence;
- and here “sentence” includes any way in which a court has determined that the offender should be dealt with in respect of the offence.”
- (4) After subsection (3) insert –
- “(4) A reference to a person taking part in a hearing includes –
- (a) giving evidence in the hearing, and
- (b) attending the hearing when not giving evidence.
- (5) A person (P) takes part in a hearing through a live audio link if, by means of a live telephone link or other arrangement –
- (a) the person is able to hear all of the other persons taking part in the hearing (including any who are not in court), and
- (b) all of the other persons taking part in the hearing (including any who are not in court) are able to hear P.
- (6) A hearing is conducted wholly as an audio hearing if all the persons taking part in the hearing do so through a live audio link.
- (7) A person (P) takes part in a hearing through a live video link if, by means of a live television link or other arrangement –

- (a) the person is able to see and hear all of the other persons taking part in the hearing (including any who are not in court), and
 - (b) all of the other persons taking part in the hearing (including any who are not in court) are able to see and hear P. 5
- (8) A hearing is conducted wholly as a video hearing if all the persons taking part in the hearing do so through a live video link.
- (9) Subsections (4) to (8) apply for the purposes of this Part.
- (10) Nothing in this Part is to be regarded as affecting any power of a court – 10
- (a) to make an order, give directions or give leave of any description in relation to any witness (including the accused), or
 - (b) to exclude evidence at its discretion (whether by preventing questions being put or otherwise).” 15

Expansion of availability of live links at preliminary hearings

- 3 (1) Section 57B is amended in accordance with sub-paragraphs (2) to (6).
- (2) In the heading, omit “where accused is in custody”.
- (3) For subsections (2) and (3) substitute –
- “(2) *The court may, by a direction (a “live link direction”), require or permit a person to take part in the preliminary hearing through –* 20
- (a) *a live audio link, or*
 - (b) *a live video link.*
- (3) But the court may not give a direction for a person to take part in a preliminary hearing through a live audio link or a live video link unless – 25
- (a) the court is satisfied that it is in the interests of justice for the person concerned to take part in the preliminary hearing in accordance with the direction through the live audio link or through the live video link, 30
 - (b) the parties to the preliminary hearing have been given the opportunity to make representations,
 - (c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where – 35
 - (i) the accused has not attained the age of 18 years, or
 - (ii) the accused has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age.
- (3A) A direction under this section – 40
- (a) may be given by the court of its own motion or on an application by a party; and
 - (b) may be given in relation to all subsequent preliminary hearings before the court or to such hearing or hearings as may be specified or described in the direction. 45

- (3B) The power to give a live link direction under this section includes power to give –
- (a) a direction that is applicable to several, or all, of the persons participating in a particular preliminary hearing;
 - (b) a direction that is applicable to a particular person in respect of only some aspects of a particular preliminary hearing (such as giving evidence or attending the hearing when not giving evidence); 5
 - (c) a direction for a person who is outside England and Wales (whether in the United Kingdom or elsewhere) to take part in a preliminary hearing through a live audio link or a live video link. 10
- (3C) The power of the court to give a direction under this section is subject to Schedule 3A (prohibitions and limitations on use of live links).
- (3D) The court may rescind a live link direction under this section at any time before or during the preliminary hearing to which it relates (but this does not affect the court’s power to give a further live link direction in relation to the hearing). 15
- (3E) A live link direction under this section may not be rescinded unless – 20
- (a) the court is satisfied that it is in the interests of justice for the direction to be rescinded,
 - (b) the parties to the preliminary hearing have been given the opportunity to make representations,
 - (c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where – 25
 - (i) the accused has not attained the age of 18 years, or
 - (ii) the accused has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age. 30
- (3F) A live link direction under this section may be rescinded by the court of its own motion or on an application by a party; but such an application may not be made unless there has been a material change of circumstances since the direction was given. 35
- (3G) If a hearing takes place in relation to the giving or rescinding of a live link direction under this section, the court may require or permit a person to take part in that hearing through –
- (a) a live audio link, or
 - (b) a live video link.” 40
- (4) Omit subsections (4) and (5).
- (5) For subsection (6) substitute –
- “(6) The court must give the following reasons in relation to all preliminary hearings (insofar as the circumstances to which the reasons relate arise in the hearing concerned) and must (if the court is a magistrates’ court) cause the reasons to be entered into its register of proceedings – 45

(a)	its reasons for the hearing not being conducted wholly as an audio hearing;	
(b)	its reasons for the hearing not being conducted wholly as a video hearing;	
(c)	as respects each person taking part in the hearing –	5
(i)	its reasons for not giving a direction for the person to take part in the hearing through a live audio link;	
(ii)	its reasons for not giving a direction for the person to take part in the hearing through a live video link;	
(d)	the rescission of any live link direction under this section given in relation to the hearing.”	10
(6)	After subsection (7) insert –	
“(8)	A court may not refuse or revoke bail for a person (P) at a preliminary hearing if –	
(a)	any person takes part in the hearing – other than for the purpose of giving evidence – through a live audio link, and	15
(b)	P objects to the refusal or revocation.	
(9)	If any person takes part in a preliminary hearing – other than for the purpose of giving evidence – through a live audio link, the court may not –	20
(a)	accept a guilty plea, or	
(b)	deal with a person for contempt of court (including enquiring into conduct and imposing punishment).”	
(7)	Omit sections 57C and 57D.	
	<i>Use of live link in sentencing hearings</i>	25
4	(1) Section 57E is amended as follows.	
	(2) For subsections (1) to (3) substitute –	
“(1)	<i>The court may, by a direction (a “live link direction”), require or permit a person to take part in a sentencing hearing through –</i>	
(a)	<i>a live audio link, or</i>	30
(b)	<i>a live video link.</i>	
(2)	But the court may not give a direction for a person to take part in a sentencing hearing through a live audio link or a live video link unless –	
(a)	the court is satisfied that it is in the interests of justice for the person concerned to take part in the sentencing hearing in accordance with the direction through the live audio link or through the live video link,	35
(b)	the parties to the sentencing hearing have been given the opportunity to make representations, and	40
(c)	the relevant youth offending team has been given the opportunity to make representations, if it is a case where –	
(i)	the offender has not attained the age of 18 years, or	
(ii)	the offender has attained the age of 18 years since proceedings for the offence were begun, and the court	45

has decided to continue to deal with the case as if he or she had not attained that age.”

- (3) In subsection (4), for “Such a direction” substitute “A live link direction under this section”.
- (4) After subsection (4) insert – 5
- “(4A) The power to give a live link direction under this section includes power to give –
- (a) a direction that is applicable to several, or all, of the persons participating in a particular sentencing hearing;
 - (b) a direction that is applicable to a particular person in respect of only some aspects of a particular sentencing hearing (such as giving evidence or attending the hearing when not giving evidence); 10
 - (c) a direction for a person who is outside England and Wales (whether in the United Kingdom or elsewhere) to take part in a sentencing hearing through a live audio link or a live video link. 15
- (4B) The power of the court to give a direction under this section is subject to Schedule 3A (prohibitions and limitations on use of live links).”
- (5) Omit subsection (5). 20
- (6) In subsection (6) –
- (a) omit “if it appears to the court to be in the interests of justice to do so”;
 - (b) for “offender” substitute “hearing”;
 - (c) omit the second sentence. 25
- (7) After subsection (6) insert –
- “(6A) A live link direction under this section may not be rescinded unless –
- (a) the court is satisfied that it is in the interests of justice for the direction to be rescinded, 30
 - (b) the parties to the sentencing hearing have been given the opportunity to make representations, and
 - (c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where – 35
 - (i) the offender has not attained the age of 18 years, or
 - (ii) the offender has attained the age of 18 years since proceedings for the offence were begun, and the court has decided to continue to deal with the case as if he or she had not attained that age.
- (6B) A live link direction under this section may be rescinded by the court of its own motion or on an application by a party; but such an application may not be made unless there has been a material change of circumstances since the direction was given. 40
- (6C) If a hearing takes place in relation to the giving or rescinding of a live link direction under this section, the court may require or permit a person to take part in that hearing through – 45

- (a) a live audio link, or
 - (b) a live video link.”
- (8) Omit subsection (7).
- (9) For subsection (8) substitute –
 - “(8) The court must give the following reasons in relation to all sentencing hearings (insofar as the circumstances to which the reasons relate arise in the hearing concerned) and must (if the court is a magistrates’ court) cause the reasons to be entered into its register of proceedings –
 - (a) its reasons for the hearing not being conducted wholly as a video hearing; 10
 - (b) as respects each person taking part in the hearing, its reasons for not giving a direction for the person to take part in the hearing through a live video link;
 - (c) the rescission of any live link direction under this section given in relation to the hearing. 15
 - (9) The following functions of a magistrates’ court under this section may be discharged by a single justice –
 - (a) giving a live link direction under this section;
 - (b) rescinding a live link direction before a sentencing hearing begins; and 20
 - (c) requiring or permitting a person to attend by live link a hearing about a matter within paragraph (a) or (b).”

Use of live link in certain enforcement hearings

- 5 (1) Section 57F is amended as follows. 25
- (2) In the heading, omit “certain”.
- (3) For subsections (1) to (3) substitute –
 - “(1) *The court may, by a direction (a “live link direction”), require or permit a person to take part in an enforcement hearing through –*
 - (a) *a live audio link, or* 30
 - (b) *a live video link.*
 - (2) But the court may not give a direction for a person to take part in an enforcement hearing through a live audio link or a live video link unless –
 - (a) the court is satisfied that it is in the interests of justice for the person concerned to take part in the enforcement hearing in accordance with the direction through the live audio link or through the live video link, 35
 - (b) the parties to the enforcement hearing have been given the opportunity to make representations, and 40
 - (c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where the person liable to pay the sum or financial penalty has not attained the age of 18 years and is a party to the hearing.”

- (4) In subsection (4) for “Such a direction” substitute “A live link direction under this section”.
- (5) After subsection (4) insert –
- “(4A) The power to give a live link direction under this section includes power to give – 5
- (a) a direction that is applicable to several, or all, of the persons participating in a particular enforcement hearing;
- (b) a direction that is applicable to a particular person in respect of only some aspects of a particular enforcement hearing (such as giving evidence or attending the hearing when not giving evidence); 10
- (c) a direction for a person who is outside England and Wales (whether in the United Kingdom or elsewhere) to take part in an enforcement hearing through a live audio link or a live video link. 15
- (4B) The power of the court to give a direction under this section is subject to Schedule 3A (prohibitions and limitations on use of live links).”
- (6) In subsection (5), after “relates” insert “(but this does not affect the court’s power to give a further live link direction in relation to the hearing)”.
- (7) For subsection (6) substitute – 20
- “(6) A live link direction under this section may not be rescinded unless –
- (a) the court is satisfied that it is in the interests of justice for the direction to be rescinded,
- (b) the parties to the enforcement hearing have been given the opportunity to make representations, and 25
- (c) the relevant youth offending team has been given the opportunity to make representations, if it is a case where the person liable to pay the sum or financial penalty has not attained the age of 18 years and is a party to the hearing. 30
- (6A) A live link direction under this section may be rescinded by the court of its own motion or on an application by a party; but such an application may not be made unless there has been a material change of circumstances since the direction was given.”
- (8) For subsection (7) substitute – 35
- “(7) If a hearing takes place in relation to the giving or rescinding of a live link direction under this section, the court may require or permit a person to take part in that hearing through –
- (a) a live audio link, or
- (b) a live video link.” 40
- (9) Omit subsection (8).
- (10) For subsection (9) substitute –
- “(9) The court must give the following reasons in relation to all enforcement hearings (insofar as the circumstances to which the reasons relate arise in the hearing concerned) and must cause the reasons to be entered into its register of proceedings – 45

- (a) its reasons for the hearing not being conducted wholly as an audio hearing;
 - (b) its reasons for the hearing not being conducted wholly as a video hearing;
 - (c) as respects each person taking part in the hearing – 5
 - (i) its reasons for not giving a direction for the person to take part in the hearing through a live audio link;
 - (ii) its reasons for not giving a direction for the person to take part in the hearing through a live video link;
 - (d) the rescission of any live link direction under this section given in relation to the hearing.” 10
- (11) In subsection (10)(b) for “a preliminary” substitute “an enforcement”.
- (12) After subsection (10) insert –
- “(11) If any person takes part in an enforcement hearing – other than for the purpose of giving evidence – through a live audio link, the court may not – 15
- (a) impose imprisonment or detention in default of payment of a sum or financial penalty, or
 - (b) deal with a person for contempt of court (including enquiring into conduct and imposing punishment).” 20

Requirement to attend at court, holding proceedings in court etc

6 After section 57F insert –

“57G Requirement to attend court, perjury

- (1) A person who takes part in a hearing in accordance with a direction under section 57B, 57E or 57F is to be treated as complying with any requirement (however imposed or expressed) for that person to attend or appear before court, or surrender to the custody of the court, for the purposes of that participation in that hearing. 25
- (2) A person who takes part in a hearing in accordance with a direction under section 57B, 57E or 57F is to be treated as present in court for the purposes of that hearing. 30
- (3) A hearing that is conducted in accordance with a direction under section 57B, 57E or 57F –
 - (a) wholly as an audio hearing, or
 - (b) wholly as a video hearing, 35is to be regarded as taking place at the location where the judge or justices (or both) take part in the hearing.
- (4) A statement made on oath by a witness outside the United Kingdom and given in evidence through a live audio link or a live video link in accordance with a direction under this Part is to be treated for the purposes of section 1 of the Perjury Act 1911 as having been made in the proceedings in which it is given in evidence.” 40

Prohibitions and limitations on use of live links

7 After Schedule 3 insert –

“SCHEDULE 3A

PROHIBITIONS AND LIMITATIONS ON USE OF LIVE LINKS

PART 1

5

DIRECTIONS UNDER SECTION 57B – PRELIMINARY HEARINGS

Introduction

- 1 This Part of this Schedule applies to the conduct of preliminary hearings in accordance with live link directions under section 57B.

Use of audio links

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- 2 (1) The accused may not take part in a preliminary hearing through a live audio link for the purpose of giving evidence.
- (2) A person (other than the accused) may not take part in a preliminary hearing through a live audio link for the purpose of giving evidence unless –
- (a) there are no suitable arrangements by means of which that person could give evidence through a live video link, and
- (b) the parties agree to that person giving evidence through a live audio link.
- (3) This paragraph does not apply to a preliminary hearing if the court is minded to deal with a person for contempt of court (including enquiring into conduct and imposing punishment) at the hearing (but see paragraph 4).

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Disputed bail hearings

- 3 (1) This paragraph applies to a preliminary hearing at which the court is deciding whether to grant or continue bail if the making of the decision is disputed (including where the court is minded to refuse or revoke bail of its own motion).
- (2) The accused may not take part in the hearing through a live audio link.
- (3) A person (other than the accused) may not take part in the hearing through a live audio link unless –
- (a) that person’s participation through the live audio link is only for the purpose of giving evidence at the hearing,
- (b) there are no suitable arrangements by means of which that person could give evidence through a live video link, and
- (c) the parties agree to that person giving evidence through a live audio link.

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Contempt of court

- 4 (1) This paragraph applies to a preliminary hearing at which the court is minded to deal with a person for contempt of court (including enquiring into conduct and imposing punishment).
- (2) The accused may not take part in the hearing through a live audio link. 5
- (3) A person (other than the accused) may not take part in the hearing through a live audio link unless –
- (a) that person’s participation through the live audio link is only for the purpose of giving evidence at the hearing, 10
 - (b) there are no suitable arrangements by means of which that person could give evidence through a live video link, and
 - (c) the parties agree to that person giving evidence through a live audio link.
- (4) References in this paragraph to the accused include references to the person whom the court is minded to deal with for contempt of court. 15

Unfitness to plead

- 5 (1) This paragraph applies to a hearing under section 4 of the Criminal Procedure (Insanity) Act 1964. 20
- (2) The hearing may not be conducted wholly as a video hearing.
- (3) The accused may not take part in the hearing through a live audio link.
- (4) A person (other than the accused) may not take part in the hearing through a live audio link unless – 25
- (a) that person’s participation through the live audio link is only for the purpose of giving evidence at the hearing,
 - (b) there are no suitable arrangements by means of which that person could give evidence through a live video link, and
 - (c) the parties agree to that person giving evidence through a live audio link. 30

Acceptance of a guilty plea

- 6 (1) This paragraph applies to a preliminary hearing at which the accused is expected to plead guilty.
- (2) The accused may not take part in the hearing through a live audio link. 35
- (3) A person (other than the accused) may not take part in the hearing through a live audio link unless –
- (a) that person’s participation through the live audio link is only for the purpose of giving evidence at the hearing, 40
 - (b) there are no suitable arrangements by means of which that person could give evidence through a live video link, and

- (c) the parties agree to that person giving evidence through a live audio link.

Other limitations to apply also

- 7 The limitations imposed under this Part of this Schedule are in addition to any others (such as those in section 57B(3)) which apply to the exercise of the power to give a direction under section 57B(2). 5

PART 2

DIRECTIONS UNDER SECTION 57E – SENTENCING HEARINGS

Introduction 10

- 8 This Part of this Schedule applies to the conduct of sentencing hearings in accordance with live link directions under section 57E.

Use of live audio links

- 9 (1) The offender may not take part in a sentencing hearing through a live audio link. 15
- (2) A person (other than the offender) may not take part in a sentencing hearing through a live audio link unless –
- (a) that person’s participation through the live audio link is only for the purpose of giving evidence at the hearing,
 - (b) there are no suitable arrangements by means of which that person could give evidence through a live video link, and 20
 - (c) the parties agree to that person giving evidence through a live audio link.

Other limitations to apply also

- 10 The limitations imposed under this Part of this Schedule are in addition to any others (such as those in section 57E(2)) which apply to the exercise of the power to give a direction under section 57E(1). 25

PART 3

DIRECTIONS UNDER SECTION 57F – ENFORCEMENT HEARINGS 30

Introduction

- 11 This Part of this Schedule applies to the conduct of enforcement hearings in accordance with live link directions under section 57F.

Use of live audio links

- 12 (1) The person liable to pay the relevant sum may not take part in an enforcement hearing through a live audio link for the purpose of giving evidence. 35

- (2) A person (other than the person liable to pay the relevant sum) may not take part in an enforcement hearing through a live audio link for the purpose of giving evidence unless –
- (a) there are no suitable arrangements by means of which that person could give evidence through a live video link, and 5
 - (b) the parties to the hearing agree to that person giving evidence through a live audio link.
- (3) In this paragraph “relevant sum” means the sum or financial penalty whose collection, discharge, satisfaction or enforcement the enforcement hearing is concerned with. 10
- (4) This paragraph does not apply to an enforcement hearing if the court is minded to deal with a person for contempt of court (including enquiring into conduct and imposing punishment) at the hearing (but see paragraph 14).

Hearing where court minded to impose imprisonment or detention 15

- 13 (1) This paragraph applies to an enforcement hearing if the court is minded to impose imprisonment or detention on a person (the “defaulter”) in default of payment of a sum or financial penalty at the hearing.
- (2) The defaulter may not take part in the hearing through a live audio link. 20
- (3) A person (other than the defaulter) may not take part in the hearing through a live audio link unless –
- (a) that person’s participation through the live audio link is only for the purpose of giving evidence at the hearing, 25
 - (b) there are no suitable arrangements by means of which that person could give evidence through a live video link, and
 - (c) the parties to the hearing agree to that person giving evidence through a live audio link.

Contempt of court 30

- 14 (1) This paragraph applies to an enforcement hearing at which the court is minded to deal with a person for contempt of court (including enquiring into conduct and imposing punishment).
- (2) The person liable to pay the relevant sum may not take part in the hearing through a live audio link. 35
- (3) A person (other than the person liable to pay the relevant sum) may not take part in the hearing through a live audio link unless –
- (a) that person’s participation through the live audio link is only for the purpose of giving evidence at the hearing,
 - (b) there are no suitable arrangements by means of which that person could give evidence through a live video link, and 40
 - (c) the parties to the hearing agree to that person giving evidence through a live audio link.
- (4) In this paragraph –

- (a) “relevant sum” means the sum or financial penalty whose collection, discharge, satisfaction or enforcement the enforcement hearing is concerned with;
- (b) references in this paragraph to the person liable to pay the relevant sum include references to the person whom the court is minded to deal with for contempt of court. 5

Other limitations to apply also

- 15 The limitations imposed under this Part of this Schedule are in addition to any others (such as those in section 57F(2)) which apply to the exercise of the power to give a direction under section 57F.” 10

PART 2

OTHER AMENDMENTS

Police and Criminal Evidence Act 1984

- 8 (1) The Police and Criminal Evidence Act 1984 is amended as follows. 15
- (2) In section 46ZA (persons granted live link bail), in subsection (3)(b), for “section 57C” substitute “section 57B”.
- (3) In section 46A (power of arrest for failure to answer to police bail), in subsection (1ZA)(b), for “section 57C” substitute “section 57B”.
- (4) In section 47 (bail after arrest), in subsection (3)(b)(i) – 20
- (a) for “section 57C” substitute “section 57B”;
- (b) omit “where accused is at police station”.

Prosecution of Offences Act 1985

- 9 In section 22 (power of Secretary of State to set time limits in relation to preliminary stages of criminal proceedings), in subsection (11A) omit “or fitness to plead”. 25

Criminal Justice Act 1988

- 10 Omit section 32 of the Criminal Justice Act 1988 (evidence given by persons abroad through television links).

SCHEDULE 6

Section 34

PUBLIC PARTICIPATION IN PROCEEDINGS CONDUCTED BY VIDEO OR AUDIO

Criminal, civil and family proceedings

1 After section 85 of the Courts Act 2003 insert –

“Use of live video or audio links: public participation & offences of recording etc 5

85A Enabling the public to see and hear proceedings

- (1) *If the court directs that proceedings are to be conducted wholly as video proceedings, the court –*
- (a) *may direct that the proceedings are to be broadcast (in the manner specified in the direction) for the purpose of enabling members of the public to see and hear the proceedings;* 10
 - (b) *may direct that a recording of the proceedings is to be made (in the manner specified in the direction) for the purpose of enabling the court to keep an audio-visual record of the proceedings.*
- (2) *If the court directs that proceedings are to be conducted wholly as audio proceedings, the court –* 15
- (a) *may direct that the proceedings are to be broadcast (in the manner specified in the direction) for the purpose of enabling members of the public to hear the proceedings;*
 - (b) *may direct that a recording of the proceedings is to be made (in the manner specified in the direction) for the purpose of enabling the court to keep an audio record of the proceedings.* 20
- (3) A direction under this section may relate to the whole, or to part, of the proceedings concerned.

85B Offences of recording or transmission in relation to broadcasting 25

- (1) It is an offence for a person to make, or attempt to make –
- (a) an unauthorised recording, or
 - (b) an unauthorised transmission,
- of an image or sound which is being broadcast in accordance with a direction under section 85A. 30
- (2) It is an offence for a person to make, or attempt to make –
- (a) an unauthorised recording, or
 - (b) an unauthorised transmission,
- of an image of, or sound made by, another person while the other person is viewing or listening to a broadcast made in accordance with a direction under section 85A. 35
- (3) It is a defence for a person charged with an offence under subsection (1) or (2) to prove that, at the time of the actual or attempted recording or transmission of the image or sound concerned –
- (a) he or she was not in designated live-streaming premises, and
 - (b) he or she did not know, and could not reasonably have known, that the image or sound was – 40

-
- (i) being broadcast in accordance with a direction under section 85A (in the case of an offence under subsection (1)), or
- (ii) an image of, or sound made by, another person while viewing or listening to a broadcast made in accordance with a direction under section 85A (in the case of an offence under subsection (2)). 5
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section it does not matter whether a person making, or attempting to make, a recording or transmission intends the recording or transmission, or anything comprised in it, to be seen or heard by any other person. 10
- (6) For the purposes of this section a recording or transmission is “unauthorised” unless it is – 15
- (a) authorised by a direction under section 85A,
- (b) otherwise authorised (generally or specifically) by the court in which the proceedings concerned are being conducted, or
- (c) authorised (generally or specifically) by the Lord Chancellor.
- 85C Offences of recording or transmitting participation through live link 20**
- (1) It is an offence for a person to make, or attempt to make –
- (a) an unauthorised recording, or
- (b) an unauthorised transmission,
- of an image or sound which is being transmitted through a live video link or transmitted through a live audio link. 25
- (2) It is an offence for a person (P) to make, or attempt to make –
- (a) an unauthorised recording, or
- (b) an unauthorised transmission,
- of an image of, or sound made by, any person (whether P or another person) while that person is participating in court proceedings through a live video link or a live audio link. 30
- (3) It is a defence for a person charged with an offence under subsection (1) or (2) to prove that, at the time of the actual or attempted recording or transmission, he or she did not know, and could not reasonably have known, that the image or sound concerned – 35
- (a) was being transmitted through a live video link or through a live audio link (in the case of an offence under subsection (1)), or
- (b) was an image of, or sound made by, a person while that person was participating in court proceedings through a live video link or a live audio link (in the case of an offence under subsection (2)). 40
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section it does not matter whether a person making, or attempting to make, a recording or transmission intends 45

the recording or transmission, or anything comprised in it, to be seen or heard by any other person.

- (6) For the purposes of this section a recording or transmission is “unauthorised” unless it is –
- (a) authorised (generally or specifically) by the court in which the proceedings concerned are being conducted, or
 - (b) authorised (generally or specifically) by the Lord Chancellor.

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85D Interpretation

- (1) This section applies for the purposes of sections 85A to 85C (and this section).

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- (2) The following expressions have the meanings given –

“court” means –

- (a) the Court of Appeal;
- (b) the High Court;
- (c) the Crown Court;
- (d) the county court;
- (e) the family court;
- (f) a magistrates’ court;

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“court proceedings” means any proceedings in any court;

“designated live-streaming premises” means premises that are designated by the Lord Chancellor for the purposes of this section as premises provided by the Lord Chancellor for the purpose of enabling members of the public to see and hear, or hear, proceedings that are broadcast in accordance with directions under section 85A;

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“recording” means a recording on any medium –

- (a) of a single image, a moving image or any sound, or
- (b) from which a single image, a moving image or any sound may be produced or reproduced;

“transmission” means any transmission by electronic means of a single image, a moving image or any sound (and “transmitted” is to be construed accordingly).

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- (3) A person (P) participates in proceedings through a live video link if, by means of a live television link or other arrangement –

- (a) P is able to see and hear all of the other persons participating in the proceedings (including any who are not in court), and
- (b) all of the other persons participating in the proceedings (including any who are not in court) are able to see and hear P.

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- (4) Proceedings are conducted wholly as video proceedings if all the persons participating in the proceedings at a particular time do so through a live video link.

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- (5) A person (P) participates in proceedings through a live audio link if, by means of a live telephone link or other arrangement –

- (a) P is able to hear all of the other persons participating in the proceedings (including any who are not in court), and

45

- (b) all of the other persons participating in the proceedings (including any who are not in court) are able to hear P.
- (6) Proceedings are conducted wholly as audio proceedings if all the persons participating in the proceedings at a particular time do so through a live audio link. 5
- (7) An image or sound is transmitted –
 - (a) through a live video link if it is transmitted as part of a person’s participation in court proceedings through a live video link;
 - (b) through a live audio link if it is transmitted as part of a person’s participation in court proceedings through a live audio link.” 10

First-tier Tribunal and Upper Tribunal

- 2 After section 29 of the Tribunals, Courts and Enforcement Act 2007 insert –

“Use of live video or audio links: public participation & offences of recording etc 15

29A Enabling the public to see and hear proceedings

- (1) *If the First-tier Tribunal or Upper Tribunal directs that tribunal proceedings are to be conducted wholly as video proceedings, that Tribunal –*
 - (a) *may direct that the proceedings are to be broadcast (in the manner specified in the direction) for the purpose of enabling members of the public to see and hear the proceedings;* 20
 - (b) *may direct that a recording of the proceedings is to be made (in the manner specified in the direction) for the purpose of enabling that Tribunal to keep an audio-visual record of the proceedings.* 25
- (2) *If the First-tier Tribunal or Upper Tribunal directs that tribunal proceedings are to be conducted wholly as audio proceedings, that Tribunal –*
 - (a) *may direct that the proceedings are to be broadcast (in the manner specified in the direction) for the purpose of enabling members of the public to hear the proceedings;* 30
 - (b) *may direct that a recording of the proceedings is to be made (in the manner specified in the direction) for the purpose of enabling that Tribunal to keep an audio record of the proceedings.*
- (3) A direction under this section may relate to the whole, or to part, of the proceedings concerned. 35

29B Offences of recording or transmission in relation to broadcasting

- (1) It is an offence for a person to make, or attempt to make –
 - (a) an unauthorised recording, or
 - (b) an unauthorised transmission, 40
 of an image or sound which is being broadcast in accordance with a direction under section 29A.
- (2) It is an offence for a person to make, or attempt to make –
 - (a) an unauthorised recording, or

- (b) an unauthorised transmission,
of an image of, or sound made by, another person while the other
person is viewing or listening to a broadcast made in accordance
with a direction under section 29A.
- (3) It is a defence for a person charged with an offence under subsection (1) or (2) to prove that, at the time of the actual or attempted recording or transmission of the image or sound concerned –
- (a) he or she was not in designated live-streaming premises, and
- (b) he or she did not know, and could not reasonably have known, that the image or sound was –
- (i) being broadcast in accordance with a direction under section 29A (in the case of an offence under subsection (1)), or
- (ii) an image of, or sound made by, another person while the other person was viewing or listening to a broadcast made in accordance with a direction under section 29A (in the case of an offence under subsection (2)).
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section it does not matter whether a person making, or attempting to make, a recording or transmission intends the recording or transmission, or anything comprised in it, to be seen or heard by any other person.
- (6) For the purposes of this section a recording or transmission is “unauthorised” unless it is –
- (a) authorised by a direction under section 29A,
- (b) otherwise authorised (generally or specifically) by the Tribunal in which the proceedings concerned are being conducted, or
- (c) authorised (generally or specifically) by the Lord Chancellor.

29C Offences of recording or transmitting participation through live link

- (1) It is an offence for a person to make, or attempt to make –
- (a) an unauthorised recording, or
- (b) an unauthorised transmission,
of an image or sound which is being transmitted through a live video link or transmitted through a live audio link.
- (2) It is an offence for a person (P) to make, or attempt to make –
- (a) an unauthorised recording, or
- (b) an unauthorised transmission,
of an image of, or sound made by, any person (whether P or another person) while that person is participating in tribunal proceedings through a live video link or a live audio link.
- (3) It is a defence for a person charged with an offence under subsection (1) or (2) to prove that, at the time of the actual or attempted recording or transmission, he or she did not know, and could not reasonably have known, that the image or sound concerned –

- (a) was being transmitted through a live video link or through a live audio link (in the case of an offence under subsection (1)), or
 - (b) was an image of, or sound made by, a person while that person was participating in tribunal proceedings through a live video link or a live audio link (in the case of an offence under subsection (2)). 5
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section it does not matter whether a person making, or attempting to make, a recording or transmission intends the recording or transmission, or anything comprised in it, to be seen or heard by any other person. 10
- (6) For the purposes of this section a recording or transmission is “unauthorised” unless it is – 15
- (a) authorised (generally or specifically) by the Tribunal in which the proceedings concerned are being conducted, or
 - (b) authorised (generally or specifically) by the Lord Chancellor.

29D Interpretation

- (1) This section applies for the purposes of sections 29A to 29C (and this section). 20
- (2) The following expressions have the meanings given –
- “tribunal proceedings” means any proceedings in the First-tier Tribunal or Upper Tribunal;
 - “designated live-streaming premises” means premises that are designated by the Lord Chancellor for the purposes of this section as premises provided by the Lord Chancellor for the purpose of enabling members of the public to see and hear, or hear, proceedings that are broadcast in accordance with directions under section 29A; 25 30
 - “recording” means a recording on any medium –
 - (a) of a single image, a moving image or any sound, or
 - (b) from which a single image, a moving image or any sound may be produced or reproduced;
 - “transmission” means any transmission by electronic means of a single image, a moving image or any sound (and “transmitted” is to be construed accordingly). 35
- (3) A person (P) participates in proceedings through a live video link if, by means of a live television link or other arrangement – 40
- (a) P is able to see and hear all of the other persons participating in the proceedings (including any who are not in the First-tier Tribunal or Upper Tribunal), and
 - (b) all of the other persons participating in the proceedings (including any who are not in the First-tier Tribunal or Upper Tribunal) are able to see and hear P. 45
- (4) Proceedings are conducted wholly as video proceedings if all the persons participating in the proceedings at a particular time do so through a live video link.

- (5) A person (P) participates in proceedings through a live audio link if, by means of a live telephone link or other arrangement –
 - (a) P is able to hear all of the other persons participating in the proceedings (including any who are not in the First-tier Tribunal or Upper Tribunal), and 5
 - (b) all of the other persons participating in the proceedings (including any who are not in the First-tier Tribunal or Upper Tribunal) are able to hear P.
- (6) Proceedings are conducted wholly as audio proceedings if all the persons participating in the proceedings at a particular time do so through a live audio link. 10
- (7) An image or sound is transmitted –
 - (a) through a live video link if it is transmitted as part of a person’s participation in tribunal proceedings through a live video link; 15
 - (b) through a live audio link if it is transmitted as part of a person’s participation in tribunal proceedings through a live audio link.”

Employment tribunals and the Employment Appeal Tribunal

- 3 After section 39 of the Employment Tribunals Act 1996 insert – 20

“Use of live video or audio links: public participation & offences of recording etc

39A Enabling the public to see and hear proceedings

- (1) *If an employment tribunal or Employment Appeal Tribunal directs that proceedings are to be conducted wholly as video proceedings, that tribunal –* 25
 - (a) *may direct that the proceedings are to be broadcast (in the manner specified in the direction) for the purpose of enabling members of the public to see and hear the proceedings;*
 - (b) *may direct that a recording of the proceedings is to be made (in the manner specified in the direction) for the purpose of enabling that tribunal to keep an audio-visual record of the proceedings.* 30
- (2) *If an employment tribunal or the Employment Appeal Tribunal directs that proceedings are to be conducted wholly as audio proceedings, that tribunal –*
 - (a) *may direct that the proceedings are to be broadcast (in the manner specified in the direction) for the purpose of enabling members of the public to hear the proceedings;* 35
 - (b) *may direct that a recording of the proceedings is to be made (in the manner specified in the direction) for the purpose of enabling that tribunal to keep an audio record of the proceedings.* 40
- (3) A direction under this section may relate to the whole, or to part, of the proceedings concerned.

39B Offences of recording or transmission in relation to broadcasting

- (1) It is an offence for a person to make, or attempt to make –
 - (a) an unauthorised recording, or 45

- (b) an unauthorised transmission,
of an image or sound which is being broadcast in accordance with a
direction under section 39A.
- (2) It is an offence for a person to make, or attempt to make –
- (a) an unauthorised recording, or 5
- (b) an unauthorised transmission,
of an image of, or sound made by, another person while the other
person is viewing or listening to a broadcast made in accordance
with a direction under section 39A.
- (3) It is a defence for a person charged with an offence under subsection 10
(1) or (2) to prove that, at the time of the actual or attempted
recording or transmission of the image or sound concerned –
- (a) he or she was not in a designated live-streaming premises,
and
- (b) he or she did not know, and could not reasonably have 15
known, that the image or sound was –
- (i) being broadcast in accordance with a direction under
section 39A (in the case of an offence under
subsection (1)), or
- (ii) an image of, or sound made by, another person while 20
the other person was viewing or listening to a
broadcast made in accordance with a direction under
section 39A (in the case of an offence under
subsection (2)).
- (4) A person guilty of an offence under this section is liable on summary 25
conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section it does not matter whether a person 30
making, or attempting to make, a recording or transmission intends
the recording or transmission, or anything comprised in it, to be seen
or heard by any other person.
- (6) For the purposes of this section a recording or transmission is
“unauthorised” unless it is –
- (a) authorised by a direction under section 39A,
- (b) otherwise authorised (generally or specifically) by the 35
tribunal in which the proceedings concerned are being
conducted, or
- (c) authorised (generally or specifically) by the Lord Chancellor.

39C Offences of recording or transmitting participation through live link

- (1) It is an offence for a person to make, or attempt to make –
- (a) an unauthorised recording, or 40
- (b) an unauthorised transmission,
of an image or sound which is being transmitted through a live video
link or transmitted through a live audio link.
- (2) It is an offence for a person (P) to make, or attempt to make –
- (a) an unauthorised recording, or 45
- (b) an unauthorised transmission,

- of an image of, or sound made by, any person (whether P or another person) while that person is participating in tribunal proceedings through a live video link or a live audio link.
- (3) It is a defence for a person charged with an offence under subsection (1) or (2) to prove that, at the time of the actual or attempted recording or transmission, he or she did not know, and could not reasonably have known, that the image or sound concerned –
- (a) was being transmitted through a live video link or through a live audio link (in the case of an offence under subsection (1)), or
- (b) was an image of, or sound made by, a person while that person was participating in tribunal proceedings through a live video link or a live audio link (in the case of an offence under subsection (2)).
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section it does not matter whether a person making, or attempting to make, a recording or transmission intends the recording or transmission, or anything comprised in it, to be seen or heard by any other person.
- (6) For the purposes of this section a recording or transmission is “unauthorised” unless it is –
- (a) authorised (generally or specifically) by the tribunal in which the proceedings concerned are being conducted, or
- (b) authorised (generally or specifically) by the Lord Chancellor.

39D Interpretation

- (1) This section applies for the purposes of sections 39A to 39C (and this section).
- (2) The following expressions have the meanings given –
- “tribunal proceedings” means any proceedings in an employment tribunal or the Employment Appeal Tribunal;
- “designated live-streaming premises” means premises that are designated by the Lord Chancellor for the purposes of this section as premises provided by the Lord Chancellor for the purpose of enabling members of the public to see and hear, or hear, proceedings that are broadcast in accordance with directions under section 39A;
- “recording” means a recording on any medium –
- (a) of a single image, a moving image or any sound, or
- (b) from which a single image, a moving image or any sound may be produced or reproduced;
- “transmission” means any transmission by electronic means of a single image, a moving image or any sound (and “transmitted” is to be construed accordingly).
- (3) A person (P) participates in proceedings through a live video link if, by means of a live television link or other arrangement –
- (a) P is able to see and hear all of the other persons participating in the proceedings (including any who are not in the

- employment tribunal or the Employment Appeal Tribunal), and
- (b) all of the other persons participating in the proceedings (including any who are not in the employment tribunal or the Employment Appeal Tribunal) are able to see and hear P. 5
- (4) Proceedings are conducted wholly as video proceedings if all the persons participating in the proceedings at a particular time do so through a live video link.
- (5) A person (P) participates in proceedings through a live audio link if, by means of a live telephone link or other arrangement – 10
- (a) P is able to hear all of the other persons participating in the proceedings (including any who are not in the employment tribunal or the Employment Appeal Tribunal), and
- (b) all of the other persons participating in the proceedings (including any who are not in the employment tribunal or the Employment Appeal Tribunal) are able to hear P. 15
- (6) Proceedings are conducted wholly as audio proceedings if all the persons participating in the proceedings at a particular time do so through a live audio link.
- (7) An image or sound is transmitted – 20
- (a) through a live video link if it is transmitted as part of a person’s participation in tribunal proceedings through a live video link;
- (b) through a live audio link if it is transmitted as part of a person’s participation in tribunal proceedings through a live audio link.” 25

SCHEDULE 7

Section 36

AUTOMATIC ONLINE CONVICTION AND STANDARD STATUTORY PENALTY

References to single justice procedure notices

- 1 In the enactments specified in the following table – 30
- (a) for “single justice procedure notice” (in any place) substitute “written procedure notice”;
- (b) for “single justice procedure notices” (in any place) substitute “written procedure notices”.

<i>Act</i>	<i>Provision(s)</i>	35
Crime (International Co-operation) Act 2003	Sections 4A and 4B	
Criminal Justice Act 2003	Section 30	
Criminal Justice and Public Order Act 1994	Section 51	
Criminal Law Act 1977	Section 39	

<i>Act</i>	<i>Provision(s)</i>
Education Act 2002	Section 141F
Magistrates' Courts Act 1980	Sections 16A, 16B, 16E and 150
Proceeds of Crime Act 2002	Section 85
Prosecution of Offences Act 1985	Section 15
Road Traffic Offenders Act 1988	Sections 7 and 27
Vehicle Excise and Registration Act 1994	Section 55

5

Magistrates' Courts Act 1980

- 2 The Magistrates' Courts Act 1980 is amended as follows.
- 3 In section 16A (trial by single justice on the papers), in subsection (1)– 10
- (a) in paragraph (b), after “charged” insert “or is not an individual”;
 - (b) in paragraph (c), omit the final “and”;
 - (c) in paragraph (d)(ii), after “section” insert “, and”;
 - (d) after paragraph (d), insert –
 - “(e) the accused has not accepted the automatic online conviction option in respect of the offence.” 15
- 4 In section 108 (right of appeal to the Crown Court), after subsection (2) insert –
- “(2A) A person convicted under section 16H may not appeal under this section against the conviction or sentence, except a sentence imposed under section 16M(5)(b).” 20

Road Traffic Offenders Act 1988

- 5 In section 8 of the Road Traffic Offenders Act 1988 (duty to include date of birth and sex in written plea of guilty)–
- (a) in paragraph (aa), omit “or”; 25
 - (b) after paragraph (aa) insert –
 - “(ab) accepts the automatic online conviction option (within the meaning of section 16G of the Magistrates' Courts Act 1980), or”.

Courts Act 2003 30

- 6 (1) Schedule 5 to the Courts Act 2003 (collection of fines and other sums imposed on conviction) is amended as follows.
- (2) In paragraph 1 (application of Schedule)–
- (a) the existing provision becomes sub-paragraph (1) of paragraph 1;
 - (b) after thatf sub-paragraph insert – 35
 - “(2) Further provision about the application of provisions of this Schedule is made in paragraphs 10A, 21(2), 25(2), 29(2) and 37(1A).”

(3) After paragraph 10 insert –

“Application of this Part to person with automatic online conviction

- 10A This Part of this Schedule applies to a person who has been given a notice of penalty (within the meaning of section 16K of the Magistrates’ Courts Act 1980) as it applies to P.” 5
- (4) In paragraph 13 (contents of collection orders: general), in sub-paragraph (2), after “P” insert “and a collection order”.
- (5) In paragraph 21 (application of Part 6) –
- (a) the existing provision becomes sub-paragraph (1) of paragraph 21;
- (b) after that sub-paragraph insert – 10
- “(2) This Part also applies if a person (P) has been given a notice of penalty (within the meaning of section 16K of the Magistrates’ Courts Act 1980).
- (3) In the application of this Part in such a case –
- (a) “collection order” means the notice of penalty; 15
- (b) a reference the collection order being made is a reference to the notice of penalty being given;
- (c) “payment terms” means the terms for payment of the sums required by the notice of payment.”
- (6) In paragraph 25 (application of Part 7) – 20
- (a) the existing provision becomes sub-paragraph (1) of paragraph 25;
- (b) after that sub-paragraph insert –
- “(2) This Part also applies on the first occasion on which a person (P) is in default on a notice of penalty (within the meaning of section 16K of the Magistrates’ Courts Act 1980). 25
- (3) None of the terms of a notice of penalty are to be regarded as reserve terms for the purposes of this Schedule.
- (4) In the application of this Schedule in relation to a sum due under a notice of penalty, any reference to the collection order has effect as a reference to the notice of penalty.” 30
- (7) In paragraph 29 (application of Part 8) –
- (a) the existing provision becomes sub-paragraph (1) of paragraph 29;
- (b) after that sub-paragraph insert –
- “(2) This Part also applies if (through the application of Part 6 by virtue of paragraph 21(2)) – 35
- (a) a notice of penalty contains reserve terms, and
- (b) the attachment of earnings order or application for benefit deductions made under Part 6 fails.”
- (8) In paragraph 37 (functions of fines officer in relation to defaulters: referral or further steps notice), after sub-paragraph (1) insert – 40
- “(1A) This paragraph also applies if –

- (a) a person (P) is in default on a notice of penalty (within the meaning of section 16K of the Magistrates’ Courts Act 1980), and
 - (b) paragraph 26 does not apply.”
- (9) Until the coming into force of the amendments of Schedule 5 to the Courts Act 2003 made by Schedule 11, a reference in Schedule 5 to the 2003 Act to a fines officer has effect, in relation to a person who has been given a notice of penalty (within the meaning of section 16K of the Magistrates’ Courts Act 1980), as a reference to any fines officer working at the fines office specified in the notice of penalty.”

SCHEDULE 8

Section 37

PRACTICE DIRECTIONS

PART 1

CIVIL PROCEEDINGS AND FAMILY PROCEEDINGS

Power to give practice directions 15

- 1 Practice directions may be given in relation to –
- (a) civil proceedings which are governed by online procedure rules;
 - (b) family proceedings which are governed by online procedure rules.

Contents of practice directions

- 2 (1) Practice directions under paragraph 1 that relate to civil proceedings may provide for any matter which may be provided for in online procedure rules relating to such proceedings. 20
- (2) Practice directions under paragraph 1 that relate to family proceedings may provide for any matter which may be provided for in online procedure rules relating to such proceedings. 25

Giving practice directions

- 3 (1) Practice directions under paragraph 1 may be given in accordance with the CRA 2005 procedure.
- (2) Practice directions under paragraph 1 may be given otherwise than in accordance with the CRA 2005 procedure; but, in this case, the directions may not be given without the approval of – 30
- (a) the Lord Chancellor, and
 - (b) the Lord Chief Justice.
- (3) Sub-paragraph (2)(a) does not require the approval of the Lord Chancellor for practice directions to the extent that they consist of guidance about – 35
- (a) the application or interpretation of the law;
 - (b) the making of judicial decisions.
- (4) Sub-paragraph (2)(a) does not require the approval of the Lord Chancellor for practice directions to the extent that they consist of criteria for

determining which judges may be allocated to hear particular categories of case; but the directions may, to that extent, be given only after consultation with the Lord Chancellor (as well as with the approval of the Lord Chief Justice required by sub-paragraph (2)(b)).

- (5) A reference in this paragraph to directions being given in accordance with the CRA 2005 procedure is a reference to the directions being given in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005. 5

Particular provision in practice directions

- 4 The power under paragraph 1 to give practice directions includes power – 10
- (a) to vary or revoke directions given under paragraph 1 by any person;
 - (b) to give directions containing different provision for different cases (including different areas);
 - (c) to give directions containing provision for a specific court, for specific proceedings or for a specific jurisdiction.

PART 2 15

PROCEEDINGS THE FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

Power to give practice directions

- 5 Practice directions may be given in relation to – 20
- (a) proceedings in the First-tier Tribunal which are governed by online procedure rules;
 - (b) proceedings in the Upper Tribunal which are governed by online procedure rules.

Contents of practice directions

- 6 (1) Practice directions under paragraph 5 that relate to proceedings in the First-tier Tribunal may provide for any matter which may be provided for in online procedure rules relating to such proceedings. 25
- (2) Practice directions under paragraph 5 that relate to proceedings in the Upper Tribunal may provide for any matter which may be provided for in online procedure rules relating to such proceedings.

Giving practice directions 30

- 7 (1) The Senior President of Tribunals may give practice directions under paragraph 5 in relation to any proceedings.
- (2) The Senior President may not give practice directions without the approval of the Lord Chancellor.
- (3) A Chamber President may give practice directions under paragraph 5 in relation to proceedings in the Chamber of the First-Tier Tribunal or Upper Tribunal over which he or she presides. 35
- (4) A Chamber President may not give practice directions without the approval of – 40
- (a) the Lord Chancellor, and
 - (b) the Senior President of Tribunals.

(5)	Sub-paragraph (2) or (4)(a) does not require the approval of the Lord Chancellor for practice directions to the extent that they consist of guidance about –	
	(a) the application or interpretation of the law;	
	(b) the making of decisions by members of the First-Tier Tribunal or Upper Tribunal.	5
(6)	Sub-paragraph (2) or (4)(a) does not require the approval of the Lord Chancellor for practice directions to the extent that they consist of criteria for determining which members of the First-Tier Tribunal or Upper Tribunal may be chosen to hear particular categories of case; but, in the case of directions given by a Chamber President, the directions may, to that extent, be given only after consultation with the Lord Chancellor (as well as with the approval of the Senior President of Tribunals required by sub-paragraph (4)(b)).	10
	<i>Particular provision in practice directions</i>	15
8	The power under paragraph 5 to give practice directions includes power –	
	(a) to vary or revoke directions given under paragraph 5 by any person;	
	(b) to give directions containing different provision for different cases (including different areas);	
	(c) to give directions containing provision for a specific court, for specific proceedings or for a specific jurisdiction.	20
PART 3		
PROCEEDINGS IN EMPLOYMENT TRIBUNALS AND THE EMPLOYMENT APPEAL TRIBUNAL		
	<i>Power to give practice directions</i>	
9	Practice directions may be given in relation to –	25
	(a) proceedings in employment tribunals which are governed by online procedure rules;	
	(b) proceedings in the Employment Appeal Tribunal which are governed by online procedure rules.	
	<i>Contents of practice directions</i>	30
10	(1) Practice directions under paragraph 9 that relate to proceedings in employment tribunals may provide for any matter which may be provided for in online procedure rules relating to such proceedings.	
	(2) Practice directions under paragraph 9 that relate to proceedings in the Employment Appeal Tribunal may provide for any matter which may be provided for in online procedure rules relating to such proceedings.	35
	<i>Giving practice directions</i>	
11	(1) The Senior President of Tribunals may give practice directions under paragraph 9 in relation to any proceedings.	
	(2) The Senior President may not give practice directions without the approval of the Lord Chancellor.	40

-
- (3) The President of the Employment Appeal Tribunal may give practice directions under paragraph 9 in relation to proceedings in that Tribunal.
- (4) A territorial president may give practice directions under paragraph 9 in relation to proceedings in the employment tribunals for which he or she is responsible. 5
- (5) The President of the Employment Appeal Tribunal or a territorial president may not give practice directions without the approval of –
- (a) the Lord Chancellor, and
 - (b) the Senior President of Tribunals.
- (6) Sub-paragraph (2) or (5)(a) does not require the approval of the Lord Chancellor for practice directions to the extent that they consist of guidance about – 10
- (a) the application or interpretation of the law;
 - (b) the making of decisions by members of the employment tribunals or the Employment Appeal Tribunal. 15
- (7) Sub-paragraph (2) or (5)(a) does not require the approval of the Lord Chancellor for practice directions to the extent that they consist of criteria for determining which members of the employment tribunals or the Employment Appeal Tribunal may be chosen to hear particular categories of case; but the directions may, to that extent, be given only after consultation with the Lord Chancellor (as well as with the approval of the Senior President of Tribunals required by sub-paragraph (5)(b)). 20
- (8) In this paragraph “territorial president” means a person appointed in accordance with regulations under section 1(1) of the Employment Tribunals Act 1996 as – 25
- (a) President of the employment tribunals (England and Wales), or
 - (b) President of the employment tribunals (Scotland).

Particular provision in practice directions

- 12 The power under paragraph 9 to give practice directions includes power – 30
- (a) to vary or revoke directions given under paragraph 9 by any person;
 - (b) to give directions containing different provision for different cases (including different areas);
 - (c) to give directions containing provision for a specific court, for specific proceedings or for a specific jurisdiction.

Practice directions relating to mediation 35

- 13 (1) A person exercising the power to give practice directions must, when making provision in relation to mediation, have regard to the following principles – 40
- (a) mediation of matters in dispute between parties to proceedings is to take place only by agreement between those parties;
 - (b) where parties to proceedings fail to mediate, or where mediation between parties to proceedings fails to resolve disputed matters, the failure is not to affect the outcome of the proceedings.
- (2) Practice directions may provide for members to act as mediators in relation to disputed matters in a case that is the subject of proceedings. 45

- (3) The provision that may be made by virtue of sub-paragraph (2) includes provision for a member to act as a mediator in relation to disputed matters in a case even though the member has been chosen to decide matters in the case.
- (4) Before making a practice direction that makes provision in relation to mediation, the person making the direction must consult ACAS. 5
- (5) Once a member has begun to act in accordance with directions under this Part of this Schedule 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. 10
- (6) 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 in accordance with directions under this Part of this Schedule as mediators in relation to disputed matters in a case that is the subject of proceedings. 15
- (7) In this section –
- “ACAS” means the Advisory, Conciliation and Arbitration Service;
 - “member” means a member of a panel of members of employment tribunals (whether or not a panel of Employment Judges);
 - “practice direction” means a direction under paragraph 9;
 - “proceedings” means proceedings before an employment tribunal. 20

SCHEDULE 9

Section 44

AMENDMENTS RELATING TO THE ONLINE PROCEDURE IN COURTS AND TRIBUNALS

Employment Tribunals Act 1996

- 1 (1) The Employment Tribunals Act 1996 is amended as follows. 25
- (2) In Schedule A1 (as inserted by Schedule 10 to this Act) (Procedure Rules), after paragraph 21 insert –
- “Relationship with online procedure rules*
- 21A (1) Procedure Rules must be framed so that the practice and procedure to be followed in proceedings of a specified kind are not governed by those Rules except to the extent that the practice and procedure are not, or have ceased to be, governed by online procedure rules. 30
- (2) In this section –
- “online procedure rules” means rules made under section 37 of the Prisons and Courts Act 2017; 35
 - “specified kind” means a kind of proceedings specified for the purposes of section 37 of the Prisons and Courts Act 2017.”

- (3) In section 7A (practice directions), after subsection (2E) insert –
- “(2F) Practice directions under this section do not apply to proceedings which are governed by online procedure rules.
- (2G) In this section “online procedure rules” means rules made under section 37 of the Prisons and Courts Act 2017.” 5
- (4) In section 7B (mediation), after subsection (5) insert –
- “(5A) Practice directions made by virtue of this section do not apply to proceedings which are governed by online procedure rules.
- (5B) In this section “online procedure rules” means rules made under section 37 of the Prisons and Courts Act 2017.” 10
- (5) In section 29A (practice directions), after subsection (10) insert –
- “(11) Practice directions made under this section do not apply to proceedings which are governed by online procedure rules.
- (5B) In this section “online procedure rules” means rules made under section 37 of the Prisons and Courts Act 2017.” 15

Civil Procedure Act 1997

- 2 (1) The Civil Procedure Act 1997 is amended as follows.
- (2) In section 1 (Civil Procedure Rules), after subsection (3) insert –
- “(4) Civil Procedure Rules must be framed so that the practice and procedure to be followed in proceedings of a specified kind are not governed by those Rules except to the extent that the practice and procedure are not, or have ceased to be, governed by online procedure rules. 20
- (5) In this section –
- “online procedure rules” means rules made under section 37 of the Prisons and Courts Act 2017; 25
- “specified kind” means a kind of proceedings specified for the purposes of section 37 of the Prisons and Courts Act 2017.”
- (3) In section 5 (practice directions), after subsection (6) insert –
- “(7) Practice directions under this section do not apply to proceedings which are governed by online procedure rules. 30
- (8) In this section “online procedure rules” means rules made under section 37 of the Prisons and Courts Act 2017.”

Courts Act 2003

- 3 (1) The Courts Act 2003 is amended as follows. 35
- (2) In section 75 (Family Procedure Rules), after subsection (5) insert –
- “(6) Family Procedure Rules must be framed so that the practice and procedure to be followed in proceedings of a specified kind are not governed by those Rules except to the extent that the practice and

procedure are not, or have ceased to be, governed by online procedure rules.

(7) In this section –

“online procedure rules” means rules made under section 37 of the Prisons and Courts Act 2017;

5

“specified kind” means a kind of proceedings specified for the purposes of section 37 of the Prisons and Courts Act 2017.”

(3) In section 81 (practice directions relating to family proceedings), at the end insert –

“(6) Practice directions under this section do not apply to proceedings which are governed by online procedure rules.

10

(7) In this section “online procedure rules” means rules made under section 37 of the Prisons and Courts Act 2017.”

Tribunals, Courts and Enforcement Act 2007

4 (1) The Tribunals, Courts and Enforcement Act 2007 is amended as follows. 15

(2) In section 22 (Tribunal Procedure Rules), after subsection (5) insert –

“(6) Tribunal Procedure Rules must be framed so that the practice and procedure to be followed in proceedings of a specified kind are not governed by those Rules except to the extent that the practice and procedure are not, or have ceased to be, governed by online procedure rules.

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(7) In this section –

“online procedure rules” means rules made under section 37 of the Prisons and Courts Act 2017;

“specified kind” means a kind of proceedings specified for the purposes of section 37 of the Prisons and Courts Act 2017.”

25

(3) In section 23 (practice directions), after subsection (7) insert –

“(8) Practice directions under this section do not apply to proceedings which are governed by online procedure rules.

(9) In this section “online procedure rules” means rules made under section 37 of the Prisons and Courts Act 2017.”

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Prisons and Courts Act 2017

5 Omit section 41(1) of the Prisons and Courts Act 2017.

SCHEDULE 10

Section 49

EMPLOYMENT TRIBUNAL PROCEDURE

PART 1

NEW POWERS TO MAKE PROCEDURE RULES

- 1 The Employment Tribunals Act 1996 is amended as follows. 5
- 2 For section 7 substitute –
- “7 Procedure Rules**
- (1) There are to be rules governing the practice and procedure to be followed in employment tribunals.
- (2) Those rules are referred to in this Part as “Procedure Rules”. 10
- (3) Procedure Rules are to be made by the Tribunal Procedure Committee constituted under Part 2 of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007.
- (4) Schedule A1 makes further provision about Procedure Rules.
- (5) Subsection (1) is not limited by – 15
- (a) Schedule A1, or
- (b) any other provision (including future provision) authorising or requiring the making of provision by Procedure Rules.
- 7AZA Power to amend legislation in connection with Procedure Rules**
- (1) The Lord Chancellor may by regulations amend, repeal or revoke any enactment to the extent that the Lord Chancellor considers necessary or desirable – 20
- (a) in order to facilitate the making of Procedure Rules, or
- (b) in consequence of –
- (i) section 7, 25
- (ii) Schedule A1, or
- (iii) Procedure Rules.
- (2) In this section “enactment” means any enactment whenever passed or made, including an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).” 30
- 3 For section 30 substitute –
- “30 Procedure Rules**
- (1) There are to be rules governing the practice and procedure to be followed in the Appeal Tribunal.
- (2) Those rules are referred to in this Part as “Procedure Rules”. 35
- (3) Procedure Rules are to be made by the Tribunal Procedure Committee constituted under Part 2 of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007.
- (4) Schedule A1 makes further provision about Procedure Rules.

- (5) Subsection (1) is not limited by –
 - (a) Schedule A1, or
 - (b) any other provision (including future provision) authorising or requiring the making of provision by Procedure Rules.
- (6) Subject to regulations, Procedure Rules and directions under section 28(1) or 29A(1), the Appeal Tribunal has power to regulate its own procedure. 5

30A Power to amend legislation in connection with Procedure Rules

- (1) The Lord Chancellor may by regulations amend, repeal or revoke any enactment to the extent that the Lord Chancellor considers necessary or desirable –
 - (a) in order to facilitate the making of Procedure Rules, or
 - (b) in consequence of –
 - (i) section 30,
 - (ii) Schedule A1, or 15
 - (iii) Procedure Rules.
- (2) In this section “enactment” means any enactment whenever passed or made, including an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

30B Appeal tribunal: national security 20

- (1) The Lord Chancellor may by regulations make, in relation to the Appeal Tribunal, provision of a kind which may be made in relation to employment tribunals under section 10(2), (5), (6) or (7).
- (2) For the purposes of this section –
 - (a) the reference in section 10(2) to section 4 is to be treated as a reference to section 28, and
 - (b) the reference in section 10(4) to the President or a Regional Employment Judge is to be treated as a reference to a judge of the Appeal Tribunal.
- (3) Section 10B has effect in relation to a direction to or determination of the Appeal Tribunal as it has effect in relation to a direction to or determination of an employment tribunal.” 30

4 After section 42 insert –

“42A References to Employment Tribunal Procedure Rules

A reference to Employment Tribunal Procedure Rules in provision made by or under another Act is a reference to rules made under section 7 or 30 (or both) as the context requires.” 35

5 Before Schedule 1 insert –

“SCHEDULE A1

Sections 7 and 30

PROCEDURE RULES

PART 1

OBJECTIVES

5

1 (1) Power to make Procedure Rules is to be exercised with a view to securing –

(a) that, in proceedings before the relevant tribunal, justice is done,

(b) that the tribunal system is accessible and fair,

10

(c) that proceedings before the relevant tribunal are handled quickly and efficiently,

(d) that Procedure Rules are both simple and simply expressed, and

(e) that Procedure Rules, where appropriate, confer responsibility on members of the relevant tribunal for ensuring that proceedings are handled quickly and efficiently.

15

(2) In sub-paragraph (1)(b) “the tribunal system” means the system for deciding matters within the jurisdiction of the relevant tribunal.

20

PART 2

CONTENT OF PROCEDURE RULES

Delegation of functions to staff

2 (1) Procedure Rules may provide for functions of the relevant tribunal to be exercised by staff appointed under section 2(1) of the Courts Act 2003 (court staff) or section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (tribunal staff).

25

(2) In making provision of the kind mentioned in sub-paragraph (1) in relation to a function, Procedure Rules may (in particular) –

30

(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 Procedure 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 Procedure Rules.

35

(3) A person may exercise functions by virtue of this paragraph only if authorised to do so by the Senior President of Tribunals.

40

(4) An authorisation under this paragraph –

(a) may be subject to conditions, and

- (b) may be varied or revoked by the Senior President of Tribunals at any time.
- (5) The Senior President of Tribunals may delegate to one or more of the following the Senior President of Tribunals’ functions under the preceding provisions of this paragraph— 5
- (a) a judicial office holder;
- (b) a person appointed under section 2(1) of the Courts Act 2003 or section 40(1) of the Tribunals, Courts and Enforcement Act 2007.
- (6) A person to whom functions are delegated under sub-paragraph (5)(b) is not subject to the direction of any person other than the Senior President of Tribunals or a judicial office holder when exercising the functions. 10
- (7) Subsections (3) to (5) of section 8 of the Tribunals, Courts and Enforcement Act 2007 apply to a delegation under sub-paragraph (5) as they apply to a delegation under subsection (1) of that section. 15
- (8) In this paragraph “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.
- Time limits* 20
- 3 Procedure Rules may make provision for time limits as respects initiating, or taking any step in, proceedings before the relevant tribunal.
- Determining where to start proceedings*
- 4 Procedure Rules may include provision for determining whether proceedings are to be brought in England and Wales or in Scotland. 25
- Repeat applications*
- 5 Procedure Rules may make provision restricting the making of fresh applications where a previous application in relation to the same matter has been made. 30
- Tribunal acting of its own initiative*
- 6 Procedure Rules may make provision about the circumstances in which the relevant tribunal may exercise its powers of its own initiative. 35
- Hearings*
- 7 Procedure 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. 40

Proceedings without notice

- 8 Procedure Rules may make provision for proceedings to take place, in circumstances described in Procedure Rules, at the request of one party even though the other, or another, party has had no notice. 5

Representation

- 9 Procedure Rules may make provision conferring additional rights of audience before the relevant tribunal.

Intervention by Secretary of State

- 10 Procedure Rules may make provision— 10
- (a) for the Secretary of State to be treated (either generally or in circumstances prescribed by the Rules) as a party to any proceedings, and
 - (b) for the Secretary of State to be entitled to appear and to be heard accordingly. 15

Evidence, witnesses and attendance

- 11 (1) Procedure Rules may make provision about evidence (including evidence on oath and administration of oaths). 20
- (2) Procedure Rules may modify any rules of evidence provided for elsewhere, so far as they would apply to proceedings before the relevant tribunal. 20
- (3) Procedure Rules for the Appeal Tribunal may make provision, where an employment tribunal has required a person— 25
- (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), 30
- for the Appeal tribunal to deal with non-compliance with the requirement as though the requirement had been imposed by the Appeal tribunal.
- (4) Procedure Rules may make provision for the payment of expenses and allowances to persons giving evidence, producing documents, attending proceedings or required to attend proceedings. 35

Use of information

- 12 (1) Procedure Rules may make provision for the disclosure or non-disclosure of information received during the course of proceedings before the relevant tribunal. 40

- (2) Procedure Rules may make provision for imposing reporting restrictions in circumstances described in Procedure Rules.

Set-off

- 13 Procedure Rules may make provision for a party to proceedings to deduct, from amounts payable by the party, amounts payable to him or her. 5

Review of decisions

- 14 Procedure Rules may confer power on the relevant tribunal to review its decisions, and revoke or vary its orders and awards, in such circumstances as may be determined in accordance with the rules. 10

Correction of errors and setting aside of decisions on procedural grounds

- 15 (1) Procedure Rules may make provision for the correction of accidental errors in a decision or record of a decision.
- (2) Procedure Rules may make provision for the setting aside of a decision in proceedings before the relevant tribunal – 15
- (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 tribunal at an appropriate time, 20
 - (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. 25
- (3) Sub-paragraphs (1) and (2) do not affect, and are not affected by, any power to correct errors or set aside decisions that is exercisable apart from rules made by virtue of those sub-paragraphs. 30

Registration and proof of decisions

- 16 Procedure Rules may make provision for the registration and proof of decisions, orders and awards of the relevant tribunal.

Ancillary powers

- 17 Procedure Rules may confer on the relevant tribunal such ancillary powers as are necessary for the proper discharge of its functions. 35

Rules may refer to practice directions

- 18 Procedure Rules may, instead of providing for any matter, refer to provision made or to be made about that matter by directions under section 7A or 29A (as appropriate). 40

Presumptions

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

Differential provision

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- 20 Procedure Rules may make different provision for different purposes or different areas.

PART 3

SUPPLEMENTARY AND INTERPRETATION

Procedure for making Procedure Rules

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- 21 (1) Part 3 of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007 (which makes provision about how Tribunal Procedure Rules are to be made) applies to the making of Procedure Rules under this Act as it applies to the making of Tribunal Procedure Rules under section 22 of that Act, with the following modification.

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- (2) In paragraph 28(1)(a) of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007 as it applies by virtue of sub-paragraph (1), the reference to the Chamber Presidents is to be treated as if it were a reference to the President of the Employment Tribunals (England and Wales) and the President of the Employment Tribunals (Scotland).

20

Interpretation

- 22 In this Schedule –
 “Procedure Rules” means rules made under section 7 or 30;
 “the relevant tribunal” means –
 (a) in relation to Procedure Rules made under section 7, an employment tribunal;
 (b) in relation to Procedure Rules made under section 30, the Appeal tribunal.”

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30

PART 2

CONSEQUENTIAL AND OTHER AMENDMENTS

Employment Rights Act 1996

- 6 In section 163 of the Employment Rights Act 1996 (references to employment tribunals), after subsection (5) insert –

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- “(6) Where in accordance with Employment Tribunal Procedure Rules an employment tribunal determines in the same proceedings a complaint presented under section 111 (unfair dismissal) and a question referred under this section, subsection (2) has no effect for

the purposes of the proceedings in so far as they relate to the complaint under section 111.”

Employment Tribunals Act 1996

- 7 The Employment Tribunals Act 1996 is amended as follows.
- 8 (1) Section 7A (practice directions) is amended as follows. 5
- (2) In subsection (A1), after “about the” insert “practice and”.
- (3) For subsection (1) substitute –
- “(1) The territorial President may make directions about the practice and procedure of employment tribunals.”
- (4) Omit subsection (2). 10
- (5) In subsection (2A), for “The power under subsection (A1) includes” substitute “The powers under subsections (A1) and (1) include”.
- (6) In subsection (2C), for “(1)(a)” substitute “(1)”.
- 9 In section 7B (mediation), for subsections (1) and (2) substitute –
- “(1) A person exercising power to make Procedure Rules or give practice directions must, when making provision in relation to mediation, have regard to the following principles – 15
- (a) mediation of matters in dispute between parties to proceedings is to take place only by agreement between those parties; 20
- (b) where parties to proceedings fail to mediate, or where mediation between parties to proceedings fails to resolve disputed matters, the failure is not to affect the outcome of the proceedings.
- (2) Practice directions may provide for members to act as mediators in relation to disputed matters in a case that is the subject of proceedings. 25
- (2A) The provision that may be made by virtue of subsection (2) includes provision for a member to act as a mediator in relation to disputed matters in a case even though the member has been chosen to decide matters in the case.” 30
- 10 (1) Section 9 (pre-hearing reviews) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) Procedure Rules which authorise an employment tribunal to carry out a pre-hearing review may include provision for enabling such powers to be exercised in connection with the pre-hearing review as may be prescribed by the rules.” 35
- (3) In subsection (2), for “Such regulations” substitute “Such Rules”.
- (4) In subsection (3), for “Secretary of State” substitute “Lord Chancellor”.
- (5) In subsection (2A), for “Regulations under subsection (1)(b)” substitute “Rules under subsection (1)”. 40

-
- (6) For subsection (4) substitute –
- “(4) In this section “pre-hearing review” means a review of any proceedings before an employment tribunal which takes place at a time before a hearing held for the purpose of determining them.”
- 11 (1) In section 10 (national security), 5
- (2) In subsections (2), (5) and (6) (in both places it occurs) omit “Employment tribunal procedure”.
- (3) In subsection (7), omit “employment tribunal procedure”.
- (4) After subsection (9) insert –
- “(10) Regulations under this section are to be made by the Lord Chancellor.” 10
- 12 Omit section 10A (confidential information).
- 13 In section 11 (restriction of publicity in sexual misconduct cases) –
- (a) in subsection (1), for “Employment tribunal procedure regulations” substitute “Procedure Rules”; 15
- (b) in subsection (6), in paragraph (a) of the definition of “restricted reporting order”, for “regulations” substitute “Procedure Rules”.
- 14 In section 12 (restriction of publicity in disability cases) –
- (a) in subsection (2), for “Employment tribunal procedure regulations” substitute “Procedure Rules”; 20
- (b) in subsection (7) –
- (i) in the definition of “promulgation”, for “regulations” substitute “Procedure Rules”;
- (ii) in paragraph (a) of the definition of “restricted reporting order”, for “regulations” substitute “Procedure Rules”. 25
- 15 (1) Section 13 (costs and expenses) is amended as follows.
- (2) In subsection (1) –
- (a) for “Employment tribunal procedure regulations may include provision –” substitute “Procedure Rules may make provision for regulating matters relating to –”; 30
- (b) in paragraphs (a) and (b), omit “for the award of”.
- (3) In subsection (1A) –
- (a) for “Regulations”, in the first place it occurs, substitute “Rules”;
- (b) for “such regulations” substitute “such Rules”.
- (4) In subsection (1B), for “Employment tribunal procedure regulations” substitute “Procedure Rules”. 35
- (5) In subsection (1C), for “Employment tribunal procedure regulations” substitute “Procedure Rules”.
- (6) In subsection (2), in the words after paragraph (b), for “employment tribunal procedure regulations” substitute “Procedure Rules”. 40
- (7) In subsection (3), for the words from the beginning to “under subsection (1)” substitute “Procedure Rules”.

- (8) In subsection (4)(a), for “the regulations” substitute “Procedure Rules”.
- 16 In section 13A (preparation time) –
- (a) in subsection (1), for “Employment tribunal procedure regulations” substitute “Procedure Rules”;
 - (b) in subsection (2), for “Regulations” substitute “Procedure Rules”; 5
 - (c) in subsection (2A) –
 - (i) for “employment tribunal procedure regulations” substitute “Procedure Rules”;
 - (ii) for “the regulations” substitute “Procedure Rules”;
 - (d) in subsection (2B)(a) for “the regulations” substitute “Procedure Rules”; 10
 - (e) in subsection (3) –
 - (i) in the words before paragraph (a), for “employment tribunal procedure regulations” substitute “Procedure Rules”, and
 - (ii) in paragraph (b), for “of the kind mentioned in section 13(1)(a)” substitute “for the award of costs or expenses”; 15
 - (f) in subsection (4) –
 - (i) in the words before paragraph (a), for “the regulations” substitute “Procedure Rules”;
 - (ii) in paragraph (b), for “of the kind mentioned in section 13(1)(a)” substitute “of costs or expenses”. 20
- 17 (1) Section 14 (interest) is amended as follows.
- (2) In subsection (1), for “Secretary of State” substitute “Lord Chancellor”.
- (3) In subsection (3)(f), “Secretary of State” substitute “Lord Chancellor”.
- 18 In section 15(1) (enforcement), for “employment tribunal procedure regulations” substitute “Procedure Rules”. 25
- 19 In section 18A (requirement to contact ACAS before instituting proceedings) –
- (a) in subsection (10), for “employment tribunal procedure regulations” substitute “regulations made by the Secretary of State”; 30
 - (b) in subsection (11), for “The Secretary of State may by employment tribunal procedure regulations” substitute “The regulations may”;
 - (c) in subsection (12) –
 - (i) for “Employment tribunal procedure regulations” substitute “The regulations”; 35
 - (ii) in paragraph (a), for “such regulations” substitute “the regulations”.
- 20 In section 19(1) (conciliation), for “Employment tribunal procedure regulations” substitute “Procedure Rules”.
- 21 In section 19A(9) (conciliation: recovery of sums), for “Employment tribunal procedure regulations” substitute “Procedure Rules”. 40
- 22 In section 29A (practice directions) –
- (a) in subsection (1), after “about the” insert “practice and”;
 - (b) in subsection (5) after “about the” insert “practice or”.

-
- 23 In section 31(1) (restriction of publicity in sexual misconduct cases), for “Appeal Tribunal procedure rules” substitute “Procedure Rules”.
- 24 In section 32(2) (restriction of publicity in disability cases), for “Appeal Tribunal procedure rules” substitute “Procedure Rules”
- 25 (1) Section 34 (costs and expenses in the Employment Appeal Tribunal) is amended as follows. 5
- (2) For subsection (1) substitute –
- “(1) Procedure Rules may make provision for regulating matters relating to costs or expenses.”
- (3) In subsection (3), for “Appeal tribunal procedure rules” substitute “Procedure Rules”. 10
- (4) In subsection (4), for “Appeal tribunal procedure rules” substitute “Procedure Rules”.
- 26 (1) Section 41 (orders, regulations and rules) is amended as follows.
- (2) After subsection (1) insert – 15
- “(1A) No recommendation may be made to Her Majesty to make an Order in Council under section 38(4) unless a draft of the Order in Council has been laid before Parliament and approved by a resolution of each House of Parliament.”
- (3) In subsection (2) – 20
- (a) for the words from the beginning to “no order shall be made under” substitute “A statutory instrument containing –
- (a) an order under”;
- (b) for “and no regulations are to be made under” substitute – 25
- “(b) regulations under”;
- (c) for the words from “unless a draft” to the end substitute “, or
- (c) regulations under section 7AZA or 30A that amend or repeal provision made by an Act, may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.” 30
- (4) After subsection (4) insert –
- “(5) This section does not apply in relation to Procedure Rules (the procedure for which is dealt with by Schedule A1).”
- 27 In section 42(1) (interpretation) – 35
- (a) omit –
- (i) the definition of “Appeal Tribunal procedure rules”;
- (ii) the definition of “employment tribunal procedure regulations”;
- (b) in the appropriate place insert – 40
- ““Procedure Rules” shall be construed in accordance with sections 7 and 30;”.

SCHEDULE 11

Section 50

COURT AND TRIBUNAL STAFF: LEGAL ADVICE AND JUDICIAL FUNCTIONS

PART 1

COURTS

<i>Criminal Justice Act 1972</i>	5
1 In section 51 of the Criminal Justice Act 1972 (execution of process between England and Wales and Scotland), omit subsection (4).	
<i>Solicitors Act 1974</i>	
2 In section 3(1) of the Solicitors Act 1974 (admission as solicitor), omit the words from the beginning to “clerk),”.	10
<i>Bail Act 1976</i>	
3 In section 8(4)(a) of the Bail Act 1976 (recognizance of surety), omit “, a justices’ clerk”.	
<i>Magistrates’ Courts Act 1980</i>	
4 The Magistrates’ Courts Act 1980 is amended as follows.	15
5 (1) Section 12 (non-appearance of accused: plea of guilty) is amended as follows.	
(2) In subsection (7), omit “by the clerk of the court”.	
(3) In subsection (7ZA), at the end insert—	
“(c) specify the persons, or description of persons, who must—	20
(i) read out the things mentioned in such of those paragraphs as apply, and	
(ii) give the account mentioned in subsection (7A).”	
(4) In subsection (7A), omit “by the clerk of the court”.	
6 In section 77(6)(a) (postponement of issue of warrant: reference of application to court), omit “clerk of the”.	25
7 In section 114 (recognizances and fees on case stated)—	
(a) for “justices’ clerk” substitute “designated officer for the court”, and	
(b) omit “for the court”.	
8 (1) Section 125C (disclosure of information for enforcing warrants) is amended as follows.	30
(2) In subsection (1), omit “(or to a justices’ clerk who is specified in the application)”.	
(3) In subsection (3)(c) omit “justices’ clerk or other”.	
9 In section 125CB(1)(c) (use of information supplied under disclosure order), omit “justices’ clerk or other”.	35

10 In section 144 (rules of procedure), for subsections (1) and (1ZA) substitute –

“(1) The Lord Chief Justice may, with the concurrence of the Lord Chancellor, make rules for regulating and prescribing, except in relation to any criminal cause or matter, the procedure and practice to be followed –

- (a) in magistrates’ courts, and
- (b) by designated officers for magistrates’ courts.”

5

Highways Act 1980

11 In section 116(9) of the Highways Act 1980 (power of magistrates’ court to authorise stopping up or diversion of highway), for “justices’ clerk” substitute “designated officer for the court”.

10

Matrimonial and Family Proceedings Act 1984

12 The Matrimonial and Family Proceedings Act 1984 is amended as follows.

13 In section 31C(2) (precedent in the family court), for “justices’ clerk or an assistant to a justices’ clerk,” substitute “person authorised under section 67A(2) of the Courts Act 2003,”.

15

14 For section 31O substitute –

“31O Function of giving legal advice to judges

(1) The Lord Chief Justice may authorise a person –

- (a) to give advice to judges of the family court about matters of law (including procedure and practice) on questions arising in connection with the discharge by them of functions conferred on them or the court, including questions arising when the person is not personally attending on them, and
- (b) to bring to the attention of judges of the family court, at any time when the person thinks appropriate, any point of law (including procedure and practice) that is or may be involved in any question so arising.

20

25

(2) The Lord Chief Justice may authorise a person under subsection (1) only if the person –

30

- (a) is appointed under section 2(1) of the Courts Act 2003 or section 40(1) of the Tribunals, Courts and Enforcement Act 2007, and
- (b) has such qualifications as may be prescribed by regulations made by the Lord Chancellor with the agreement of the Lord Chief Justice.

35

(3) An authorisation under subsection (1) –

- (a) may be subject to conditions, and
- (b) may be varied or revoked by the Lord Chief Justice at any time.

40

(4) The Lord Chief Justice may give directions to a person authorised to exercise functions under subsection (1).

-
- (5) Apart from such directions, a person authorised to exercise functions under subsection (1) is not subject to the direction of the Lord Chancellor or any other person when exercising the functions.
- (6) The Lord Chief Justice may nominate one or more of the following to exercise the Lord Chief Justice’s functions under the preceding provisions of this section – 5
- (a) a judicial office holder;
- (b) a person appointed under section 2(1) of the Courts Act 2003 or section 40(1) of the Tribunals, Courts and Enforcement Act 2007. 10
- (7) A person nominated under subsection (6)(b) is not subject to the direction of any person other than the Lord Chief Justice or a judicial office holder when exercising the Lord Chief Justice’s functions under this section.
- (8) In this section “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.” 15
- 15 In section 31P (orders, regulations and rules), omit subsection (2).
- Police and Criminal Evidence Act 1984*
- 16 Omit section 47A of the Police and Criminal Evidence Act 1984 (early administrative hearings). 20
- Civil Procedure Act 1997*
- 17 In Schedule 1 to the Civil Procedure Act 1997 (civil procedure rules), omit paragraph 2.
- Crime and Disorder Act 1998*
- 18 The Crime and Disorder Act 1998 is amended as follows. 25
- 19 (1) Section 49 (powers of magistrates’ courts exercisable by single justice) is amended as follows.
- (2) In subsection (1) –
- (a) omit “for any area”, and
- (b) omit “for that area”. 30
- (3) Omit subsections (2) to (5).
- 20 In section 50 (early administrative hearings), in subsection (4), for the words from the beginning to “such a clerk” substitute “Where the powers of a single justice are exercised by a person authorised under section 67A(2) of the Courts Act 2003, nothing in subsection (3)(b) above authorises the person”. 35
- Courts Act 2003*
- 21 The Courts Act 2003 is amended as follows.

22 For sections 27 to 29 substitute –

“Legal advice

28 Function of giving legal advice to justices of the peace

- (1) The Lord Chief Justice may authorise a person –
- (a) to give advice to justices of the peace about matters of law (including procedure and practice) on questions arising in connection with the discharge of their functions, including questions arising when the person is not personally attending on them, and 5
 - (b) to bring to the attention of justices of the peace, at any time when the person thinks appropriate, any point of law (including procedure and practice) that is or may be involved in any question so arising. 10
- (2) For the purposes of subsection (1), the functions of justices of the peace do not include functions as a judge of the family court or the Crown Court. 15
- (3) The Lord Chief Justice may authorise a person under subsection (1) only if the person –
- (a) is appointed under section 2(1) of this Act or section 40(1) of the Tribunals, Courts and Enforcement Act 2007, and 20
 - (b) has such qualifications as may be prescribed by regulations made by the Lord Chancellor with the agreement of the Lord Chief Justice.
- (4) An authorisation under subsection (1) –
- (a) may be subject to conditions, and 25
 - (b) may be varied or revoked by the Lord Chief Justice at any time.
- (5) The Lord Chief Justice may nominate one or more of the following to exercise the Lord Chief Justice’s functions under the preceding provisions of this section –
- (a) a judicial office holder; 30
 - (b) a person appointed under section 2(1) of the Courts Act 2003 or section 40(1) of the Tribunals, Courts and Enforcement Act 2007.
- (6) A person nominated under subsection (5)(b) is not subject to the direction of any person other than the Lord Chief Justice or a judicial office holder when exercising the Lord Chief Justice’s functions under this section. 35
- (7) In this section “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005. 40

29 Directions and independence

- (1) The Lord Chief Justice may give directions to a person authorised to exercise functions under section 28(1).

- (2) Apart from such directions, a person authorised to exercise functions under section 28(1) is not subject to the direction of the Lord Chancellor or any other person when exercising the functions.
- (3) The Lord Chief Justice may nominate one or more of the following to exercise the Lord Chief Justice’s functions under subsection (1) – 5
- (a) a judicial office holder;
- (b) a person appointed under section 2(1) of this Act or section 40(1) of the Tribunals, Courts and Enforcement Act 2007.
- (4) A person nominated under subsection (3)(b) is not subject to the direction of any person other than the Lord Chief Justice or a judicial office holder when exercising the Lord Chief Justice’s functions under subsection (1). 10
- (5) In this section “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.”
- 23 In section 31 (immunity for acts within jurisdiction), omit subsection (2). 15
- 24 In section 32 (immunity for certain acts beyond jurisdiction), omit subsection (2).
- 25 (1) Section 34 (costs in legal proceedings) is amended as follows.
- (2) Omit subsection (2).
- (3) In subsection (3) – 20
- (a) for “subsections (1) and (2) do” substitute “subsection (1) does”, and
- (b) omit “, justices’ clerk or assistant clerk”.
- (4) In subsection (4), for “or (2) from ordering a justice of the peace, justices’ clerk or assistant clerk” substitute “from ordering a justice of the peace”.
- 26 (1) Section 35 (indemnity) is amended as follows. 25
- (2) In subsection (1), omit “, justices’ clerk or assistant clerk” (in both places).
- (3) In subsection (3), omit “, justices’ clerk or assistant clerk”.
- (4) In subsection (4), omit “, justices’ clerk or assistant clerk”.
- 27 In section 37(2) (designated officers and magistrates’ courts) – 30
- (a) omit the “and” at the end of paragraph (a), and
- (b) omit paragraph (b).
- 28 After Part 6 insert –

“PART 6A

EXERCISE OF JUDICIAL FUNCTIONS BY AUTHORISED PERSONS

67A Authorisation

35

- (1) Any power to make rules of court in relation to a court to which the general duty of the Lord Chancellor under section 1 of this Act

-
- applies includes power for the rules to provide for the exercise of functions of the court, or of any judge of the court, by persons who –
- (a) are appointed under section 2(1) of this Act or section 40(1) of the Tribunals, Courts and Enforcement Act 2007, and
 - (b) satisfy any requirements specified in the rules as to qualifications or experience. 5
- (2) A person may exercise functions by virtue of subsection (1) only if authorised to do so by the Lord Chief Justice.
- (3) Such a person is referred to in this Part as an “authorised person”.
- (4) An authorisation under subsection (2) – 10
- (a) may be subject to conditions, and
 - (b) may be varied or revoked by the Lord Chief Justice at any time.
- (5) The Lord Chief Justice may nominate one or more of the following to exercise the Lord Chief Justice’s functions under the preceding provisions of this section – 15
- (a) a judicial office holder;
 - (b) a person appointed under section 2(1) of this Act or section 40(1) of the Tribunals, Courts and Enforcement Act 2007.
- (6) A person nominated under subsection (5)(b) is not subject to the direction of any person other than the Lord Chief Justice or a judicial office holder when exercising the Lord Chief Justice’s functions under this section. 20
- (7) In this Part, references to the functions of a judge of a court – 25
- (a) include references to any judicial functions of a person holding an office that entitles the person to exercise functions as a judge of the court, and
 - (b) in relation to a magistrates’ court, include anything that is a function of one or more justices of the peace.
- (8) But nothing in this Part applies in relation to any function of a committee of justices. 30
- (9) In this section “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.
- 67B Directions and independence: authorised persons**
- (1) The Lord Chief Justice may give directions to an authorised person. 35
- (2) Apart from such directions, an authorised person is not subject to the direction of the Lord Chancellor or any other person when exercising the functions of a court or judge.
- (3) The Lord Chief Justice may nominate one or more of the following to exercise the Lord Chief Justice’s functions under subsection (1) – 40
- (a) a judicial office holder;
 - (b) a person appointed under section 2(1) of this Act or section 40(1) of the Tribunals, Courts and Enforcement Act 2007.
- (4) A person nominated under subsection (3)(b) is not subject to the direction of any person other than the Lord Chief Justice or a judicial 45

office holder when exercising the Lord Chief Justice’s functions under subsection (1).

- (5) In this section “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.

67C Protection of authorised persons 5

- (1) No action lies against an authorised person in respect of what the person does or omits to do—
- (a) in the execution of the person’s duty as an authorised person exercising, by virtue of rules of court, a function of a court or judge, and 10
 - (b) in relation to a matter within the person’s jurisdiction.
- (2) An action lies against an authorised person in respect of what the person does or omits to do—
- (a) in the purported execution of the person’s duty as an authorised person exercising, by virtue of rules of court, a function of a court or judge, but 15
 - (b) in relation to a matter not within the person’s jurisdiction, if, but only if, it is proved that the person acted in bad faith.
- (3) If an action is brought in circumstances in which subsection (1) or (2) provides that no action lies, the court in which the action is brought— 20
- (a) may, on the application of the defendant, strike out the proceedings in the action, and
 - (b) if it does so, may if it thinks fit order the person bringing the action to pay costs. 25

67D Costs in legal proceedings: authorised persons

- (1) A court may not order an authorised person to pay costs in any proceedings in respect of what the person does or omits to do in the execution (or purported execution) of the person’s duty as an authorised person exercising, by virtue of rules of court, a function of a court or judge. 30
- (2) But subsection (1) does not apply in relation to any proceedings in which an authorised person—
- (a) is being tried for an offence or is appealing against a conviction, or 35
 - (b) is proved to have acted in bad faith in respect of the matters giving rise to the proceedings.
- (3) *A court which is prevented by subsection (1) from ordering an authorised person to pay costs in any proceedings may instead order the Lord Chancellor to make a payment in respect of the costs of a person in the proceedings.* 40
- (4) The Lord Chancellor may, after consulting the Lord Chief Justice, make regulations specifying—
- (a) circumstances in which a court must or must not exercise the power conferred on it by subsection (3), and 45
 - (b) how the amount of any payment ordered under subsection (3) is to be determined.

- (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 the Lord Chief Justice’s functions under this section.

67E Indemnification of authorised persons

- (1) “Indemnifiable amounts”, in relation to an authorised person, means – 5
- (a) costs which the person reasonably incurs in or in connection with proceedings in respect of anything done or omitted to be done in the exercise (or purported exercise) of the person’s duty as an authorised person, 10
 - (b) costs which the person reasonably incurs in taking steps to dispute a claim which might be made in such proceedings,
 - (c) damages awarded against the person or costs ordered to be paid by the person in such proceedings, or
 - (d) sums payable by the person in connection with a reasonable settlement of such proceedings or such a claim. 15
- (2) Indemnifiable amounts relate to criminal matters if the duty mentioned in subsection (1)(a) relates to criminal matters.
- (3) *The Lord Chancellor must indemnify an authorised person in respect of –*
- (a) *indemnifiable amounts which relate to criminal matters, unless it is proved, in respect of the matters giving rise to the proceedings or claim, that the person acted in bad faith, and* 20
 - (b) *other indemnifiable amounts if, in respect of the matters giving rise to the proceedings or claim, the person acted reasonably and in good faith.* 25
- (4) *The Lord Chancellor may indemnify an authorised person in respect of other indemnifiable amounts unless it is proved, in respect of the matters giving rise to the proceedings or claim, that the person acted in bad faith.*
- (5) Any question whether, or to what extent, an authorised person is to be indemnified under this section is to be determined by the Lord Chancellor. 30
- (6) The Lord Chancellor may, if the person claiming to be indemnified so requests, make a determination for the purposes of this section with respect to – 35
- (a) costs such as are mentioned in subsection (1)(a) or (b), or
 - (b) sums such as are mentioned in subsection (1)(d),
- before the costs are incurred or the settlement in connection with which the sums are payable is made.
- (7) But a determination under subsection (6) before costs are incurred – 40
- (a) is subject to such limitations (if any) as the Lord Chancellor thinks proper and to the subsequent determination of the costs reasonably incurred, and
 - (b) does not affect any other determination which may fall to be made in connection with the proceedings or claim in question.” 45

29 (1) Section 70 (Criminal Procedure Rule Committee) is amended as follows.

- (2) In subsection (2), for paragraph (f) substitute –
 “(f) one person authorised under section 28(1) (authorisation to provide legal advice to justices of the peace),”.
- (3) After subsection (4) insert –
 “(4A) A person falling within subsection (2)(f) exercising a function as a member of the Criminal Procedure Rule Committee is not subject to the direction of the Lord Chancellor or any other person.” 5
- 30 In section 76(2) (scope of Family Procedure Rules) –
 (a) omit the “and” at the end of paragraph (a), and
 (b) omit paragraph (aa). 10
- 31 (1) Section 77 (membership of Family Procedure Rule Committee) is amended as follows.
(2) In subsection (2), for paragraph (g) substitute –
 “(g) one person authorised under section 31O(1) of the Matrimonial and Family Proceedings Act 1984 (authorisation to provide legal advice to judges of the family court),” 15
(3) After subsection (5) insert –
 “(5A) A person falling within subsection (2)(g) exercising a function as a member of the Family Procedure Rule Committee is not subject to the direction of the Lord Chancellor or any other person.” 20

Mental Capacity Act 2005

- 32 In section 51(2) of the Mental Capacity Act 2005 (scope of Court of Protection Rules), omit paragraph (d).

PART 2

TRIBUNALS 25

Tribunals, Courts and Enforcement Act 2007

- 33 The Tribunals, Courts and Enforcement Act 2007 is amended as follows.
- 34 In section 8(2) (functions of Senior President of Tribunals excluded from general power to delegate), at the appropriate places insert –
 “section 29F;
 section 29H;”, and
 “paragraph 3 of Schedule 5;
 paragraph 2 of Schedule A1 to the Employment Tribunals Act 1996.” 30

35 After Chapter 2 of Part 1 insert—

“CHAPTER 2A

EXERCISE OF TRIBUNAL FUNCTIONS BY AUTHORISED PERSONS

29E Meaning of “authorised person”

- In this Chapter “authorised person” means a person authorised— 5
- (a) under paragraph 3 of Schedule 5 to exercise functions of the First-tier Tribunal or Upper Tribunal, or
 - (b) under paragraph 2 of Schedule A1 to the Employment Tribunals Act 1996 to exercise functions of an employment tribunal or the Employment Appeal Tribunal. 10

29F Directions and independence: authorised persons

- (1) The Senior President of Tribunals may give directions to an authorised person.
- (2) Apart from such directions, an authorised person is not subject to the direction of the Lord Chancellor or any other person when exercising the functions of a tribunal. 15
- (3) The Senior President of Tribunals may delegate to one or more of the following the Senior President of Tribunals’ functions under subsection (1)—
 - (a) a judicial office holder; 20
 - (b) a person appointed under section 2(1) of the Courts Act 2003 or section 40(1) of this Act.
- (4) A person to whom functions are delegated under subsection (3)(b) is not subject to the direction of any person other than the Senior President of Tribunals or a judicial office holder when exercising the functions. 25
- (5) Subsections (3) to (5) of section 8 apply to a delegation under subsection (3) of this section as they apply to a delegation under subsection (1) of that section.
- (6) In this section “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005. 30

29G Protection of authorised persons

- (1) No action lies against an authorised person in respect of what the person does or omits to do—
 - (a) in the execution of the person’s duty as an authorised person exercising, by virtue of Tribunal Procedure Rules or Employment Tribunal Procedure Rules, functions of a tribunal, and 35
 - (b) in relation to a matter within the person’s jurisdiction.
- (2) An action lies against an authorised person in respect of what the person does or omits to do— 40

- (a) in the purported execution of the person’s duty as an authorised person exercising, by virtue of Tribunal Procedure Rules or Employment Tribunal Procedure Rules, functions of a tribunal, but
 - (b) in relation to a matter not within the person’s jurisdiction, if, but only if, it is proved that the person acted in bad faith. 5
- (3) If an action is brought in a court in Scotland in circumstances in which subsection (1) or (2) provides that no action lies, the court in which the action is brought –
 - (a) may, on the application of the defender, dismiss the action, and 10
 - (b) if it does so, may find the person bringing the action liable in expenses.
- (4) If an action is brought in any other court in circumstances in which subsection (1) or (2) provides that no action lies, the court in which the action is brought –
 - (a) may, on the application of the defendant, strike out the proceedings in the action, and 15
 - (b) if it does so, may if it thinks fit order the person bringing the action to pay costs. 20

29H Costs or expenses in legal proceedings: authorised persons

- (1) A court may not order an authorised person to pay costs in any proceedings in respect of what the person does or omits to do in the execution (or purported execution) of the person’s duty as an authorised person exercising, by virtue of Tribunal Procedure Rules or Employment Tribunal Procedure Rules, a function of a tribunal. 25
- (2) But subsection (1) does not apply in relation to any proceedings in which an authorised person –
 - (a) is being tried for an offence or is appealing against a conviction, or 30
 - (b) is proved to have acted in bad faith in respect of the matters giving rise to the proceedings.
- (3) *A court which is prevented by subsection (1) from ordering an authorised person to pay costs in any proceedings may instead order the Lord Chancellor to make a payment in respect of the costs of a person in the proceedings.* 35
- (4) The Lord Chancellor may, after consulting the Senior President of Tribunals, make regulations specifying –
 - (a) circumstances in which a court must or must not exercise the power conferred on it by subsection (3), and 40
 - (b) how the amount of any payment ordered under subsection (3) is to be determined.
- (5) The power to make regulations under subsection (4) includes power to make –
 - (a) any supplementary, incidental or consequential provision, and 45
 - (b) any transitory, transitional or saving provision, which the Lord Chancellor considers necessary or expedient.

- (6) The Senior President of Tribunals may delegate the Senior President of Tribunals' functions under subsection (4) to a person who is a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005).
- (7) Subsections (3) to (5) of section 8 apply to a delegation under subsection (6) of this section as they apply to a delegation under subsection (1) of that section. 5
- (8) In the application of this section to Scotland –
- (a) references to a court ordering an authorised person to pay costs are to be read as references to a court finding an authorised person liable in expenses, and 10
- (b) the second reference to costs in subsection (3) is to be read as a reference to expenses.

29I Indemnification of authorised persons

- (1) “Indemnifiable amounts”, in relation to an authorised person, means – 15
- (a) costs which the person reasonably incurs in or in connection with proceedings in respect of anything done or omitted to be done in the exercise (or purported exercise) of the person's duty as an authorised person, 20
- (b) costs which the person reasonably incurs in taking steps to dispute a claim which might be made in such proceedings,
- (c) damages awarded against the person or costs ordered to be paid by the person in such proceedings, or
- (d) sums payable by the person in connection with a reasonable settlement of such proceedings or such a claim. 25
- (2) *The Lord Chancellor must indemnify an authorised person in respect of indemnifiable amounts if, in respect of the matters giving rise to the proceedings or claim, the person acted reasonably and in good faith.*
- (3) *The Lord Chancellor may indemnify an authorised person in respect of other indemnifiable amounts unless it is proved, in respect of the matters giving rise to the proceedings or claim, that the person acted in bad faith.* 30
- (4) Any question whether, or to what extent, an authorised person is to be indemnified under this section is to be determined by the Lord Chancellor. 35
- (5) The Lord Chancellor may, if an authorised person claiming to be indemnified so requests, make a determination for the purposes of this section with respect to –
- (a) costs such as are mentioned in subsection (1)(a) or (b), or
- (b) sums such as are mentioned in subsection (1)(d), 40
- before the costs are incurred or the settlement in connection with which the sums are payable is made.
- (6) But a determination under subsection (5) before costs are incurred –
- (a) is subject to such limitations (if any) as the Lord Chancellor thinks proper and to the subsequent determination of the costs reasonably incurred, and 45

- (b) does not affect any other determination which may fall to be made in connection with the proceedings or claim in question.
- (7) In the application of this section to Scotland, references to costs are to be read as references to expenses.” 5
- 36 In section 49 (orders and regulations under Part 1: supplemental and procedural provisions), after subsection (8) insert—
- “(8A) A statutory instrument that contains regulations under section 29H is subject to annulment in pursuance of a resolution of either House of Parliament.” 10
- 37 (1) In Schedule 5 (Tribunal Procedure Rules), paragraph 3 is amended as follows.
- (2) In sub-paragraph (1), for “40(1)” substitute “2(1) of the Courts Act 2003 or section 40(1) of this Act”.
- (3) At the end insert— 15
- “(3) A person may exercise functions by virtue of this paragraph only if authorised to do so by the Senior President of Tribunals.
- (4) An authorisation under this paragraph—
- (a) may be subject to conditions, and
- (b) may be varied or revoked by the Senior President of Tribunals at any time. 20
- (5) The Senior President of Tribunals may delegate to one or more of the following the Senior President of Tribunals’ functions under the preceding provisions of this paragraph—
- (a) a judicial office holder; 25
- (b) a person appointed under section 2(1) of the Courts Act 2003 or section 40(1) of this Act.
- (6) A person to whom functions are delegated under sub-paragraph (5)(b) is not subject to the direction of any person other than the Senior President of Tribunals or a judicial office holder when exercising the functions. 30
- (7) Subsections (3) to (5) of section 8 apply to a delegation under sub-paragraph (5) as they apply to a delegation under subsection (1) of that section.
- (8) In this paragraph “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.” 35

SCHEDULE 12

Section 51

ABOLITION OF LOCAL JUSTICE AREAS

Magistrates’ Courts Act 1980

- 1 The Magistrates’ Courts Act 1980 is amended as follows. 40

- 2 (1) In section 27A (power to transfer criminal proceedings), for subsections (1) and (2) substitute –
- “(1) A magistrates’ court may at any time, whether before or after beginning to hear –
- (a) the trial of any person for an offence, or 5
- (b) an inquiry into the offence as examining justices, transfer the matter to another magistrates’ court.”
- 3 In section 43(2) (bail on arrest: enforcement of recognizance), omit the words following “court”.
- 4 In section 57A(1) (power to transfer civil proceedings other than family proceedings), for “hearing” substitute “matter”. 10
- 5 In section 77(5) (postponement of issue of warrant: reference of application to court), omit “acting in the local justice area in which the warrant has been or would have been issued”.
- 6 In section 84(1) (power to require statement of assets and other financial circumstances), omit “acting in the same local justice area as that court”. 15
- 7 (1) Section 87 (enforcement of payment of fines by High Court and county court) is amended as follows.
- (2) In subsection (1A), for “the fines” substitute “a fines”.
- (3) In subsection (3A), for “The fines” (in the first place) substitute “A fines”. 20
- 8 Omit section 89 (transfer of fine order).
- 9 (1) Section 90 (transfer of fines to Scotland or Northern Ireland) is amended as follows.
- (2) In subsection (1) –
- (a) for “the fines” (in the first place) substitute “a fines”, 25
- (b) omit the “or” at the end of paragraph (a),
- (c) omit paragraph (b), and
- (d) omit “or, as the case may be, in that petty sessions district”.
- (3) After that subsection insert –
- “(1A) Where – 30
- (a) a magistrates’ court has, or is treated by any enactment as having, adjudged a person by a conviction to pay a sum, and
- (b) it appears to the court (or where that sum is the subject of a collection order, it appears to the court or a fines officer as the case may be) that the person is residing in Northern Ireland, 35
- the court (or the fines officer as the case may be) may order that payment of the sum shall be enforceable in Northern Ireland.”
- (4) In subsection (2) –
- (a) for “this section” substitute “subsection (1)”,
- (b) omit “or petty sessions district in which”, 40
- (c) omit the “and” at the end of paragraph (a), and
- (d) omit paragraph (b).

(5) At the end insert –

“(4) In this section, references to this Part of this Act do not include references to section 81(1).”

10 For section 91 substitute –

“91 Transfer of fines from Scotland or Northern Ireland” 5

(1) Where a transfer order provides that payment of a sum is enforceable in England and Wales, any magistrates’ court in England and Wales, any designated officer for such a court and any fines officer have the same functions under any enactment in respect of the sum (including power to make an order under section 90) as they would have if – 10

(a) the sum were a sum adjudged to be paid by a conviction of a magistrates’ court in England and Wales, and

(b) any order made under the Criminal Procedure (Scotland) Act 1995 or the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) in respect of the sum before the making of the transfer order had been made by a magistrates’ court in England and Wales. 15

(2) For the purpose of determining the period of imprisonment which may be imposed under this Act in default of payment of a fine originally imposed by a court in Scotland, Schedule 4 to this Act has effect as if for the Table set out in paragraph 1 there were substituted the Table set out in section 219 of the Criminal Procedure (Scotland) Act 1995. 20

(3) In this section “transfer order” means an order under –

(a) section 222 of the Criminal Procedure (Scotland) Act 1995, or 25

(b) Article 95 of the Magistrates’ Courts (Northern Ireland) Order 1981.”

11 In section 148(2) (meaning of “magistrates’ court”) –

(a) for “this Act” substitute “any enactment”, and

(b) omit “acting in the same local justice area as that court”. 30

12 In section 150(1) (interpretation), omit the definition of “the fines officer”.

Senior Courts Act 1981

13 In section 8 of the Senior Courts Act 1981 (the Crown Court), omit subsection (2).

Police and Criminal Evidence Act 1984 35

14 For section 46 of the Police and Criminal Evidence Act 1984 substitute –

“46 Detention after charge

(1) This section applies where a person –

(a) is charged with an offence; and

(b) after being charged – 40

(i) is kept in police detention; or

(ii) is detained by a local authority in pursuance of arrangements made under section 38(6).

- (2) The person must be brought before a magistrates' court as soon as practicable, and in any event not later than—
- (a) if the day after the charge day is Christmas Day, Good Friday or a Sunday, the first day after the charge day which is not one of those days; and 5
 - (b) in any other case, the day after the charge day.
- (3) “The charge day” is the day on which the person is charged with the offence.
- (4) Nothing in this section requires a person who is in hospital to be brought before a court if the person is not well enough.” 10

Local Government (Wales) Act 1994

- 15 (1) Section 55 of the Local Government (Wales) Act 1994 (magistrates' courts, justices of the peace etc) is amended as follows.
- (2) In subsection (2) —
- (a) omit the “and” at the end of paragraph (a), and 15
 - (b) omit paragraph (b).
- (3) Omit subsection (3).
- (4) Nothing in this paragraph affects any order made under section 55 before this paragraph comes into force.

Powers of Criminal Courts (Sentencing) Act 2000 20

- 16 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- 17 Omit section 10 (power of magistrates' court to remit case to another magistrates' court for sentence).
- 18 In section 22(2A) (attendance at panel meetings), omit the words following “youth court”. 25
- 19 In section 36B(10) (electronic monitoring requirement: relevant area for purposes of attendance centre order), omit “local justice”.
- 20 In section 73(6) (reparation orders), for “proposed to be named in the order under section 74(4) below” substitute “in which it appears to the court that the offender resides or will reside”. 30
- 21 (1) Section 74 (requirements and provisions of reparation order, and obligations of persons subject to it) is amended as follows.
- (2) Omit subsection (4).
 - (3) For subsection (5)(a) substitute — 35
 - “(a) an officer of a provider of probation services;”.
 - (4) Omit subsections (6) and (6A).
- 22 (1) Section 103 (period of supervision) is amended as follows.
- (2) In subsection (3)(a), omit “an officer of a local probation board or”.
 - (3) Omit subsections (4) and (4A).

- 23 In section 104 (breach of supervision requirements), for subsection (2) substitute –
- “(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought before a youth court.”
- 24 (1) Section 140 (enforcement of fines imposed and recognizances forfeited by Crown Court) is amended as follows. 5
- (2) For subsection (1) substitute –
- “(1) Subject to subsection (5) below, a fine imposed or a recognizance forfeited by the Crown Court shall be treated for the purposes of collection, enforcement and remission of the fine or other sum – 10
- (a) as having been imposed or forfeited by a magistrates’ court, and
- (b) in the case of a fine, as having been so imposed on conviction by such a court.”
- (3) In subsection (4), omit “(except the references in subsection (1)(b))”. 15
- (4) In subsection (6) –
- (a) for “Justices of the Peace Act 1997” substitute “Courts Act 2003”, and
- (b) for “60 of that Act (application of fines and fees)” substitute “38 of that Act (application of receipts)”.
- 25 (1) Schedule 1 (youth offender panels: further court proceedings) is amended as follows. 20
- (2) In paragraph 1(2) –
- (a) in paragraph (a), omit the words from “acting in” to “will reside”, and
- (b) in paragraph (b), omit “acting in that area”. 25
- (3) In paragraph 3(2), for “acting in the local justice area in which the court acts” substitute “of the peace”.
- (4) In paragraph 9ZB(2) –
- (a) in paragraph (a), omit the words from “acting in” to “will reside”, and
- (b) in paragraph (b), omit “acting in that area”. 30
- (5) In paragraph 9C(2), for “acting in the local justice area in which the court acts” substitute “of the peace”.
- 26 (1) Schedule 5 (breach, revocation and amendment of attendance centre orders) is amended as follows. 35
- (2) For paragraph 1(2) substitute –
- “(2) Any summons or warrant issued under this paragraph shall direct the offender to appear or be brought before a magistrates’ court.”
- (3) For paragraph 4(2)(b)(i) substitute –
- “(i) any magistrates’ court;”. 40
- (4) In paragraph 5 –
- (a) in sub-paragraph (1), for “an appropriate” substitute “a”, and
- (b) omit sub-paragraph (2).

27	(1) Schedule 8 (breach, revocation and amendment of reparation orders) is amended as follows.	
	(2) In paragraph 2, for sub-paragraph (1) substitute –	
	“(1) This paragraph applies if, while a reparation order is in force in respect of an offender, it is proved to the satisfaction of a youth court, on the application of the responsible officer, that the offender has failed to comply with any requirement included in the order.”	5
	(3) In paragraph 5 –	
	(a) in sub-paragraphs (1) and (3), for “the relevant court” substitute “a youth court”, and	10
	(b) omit sub-paragraph (4).	
	(4) In paragraph 6 –	
	(a) in sub-paragraph (4), omit “(“the relevant court””, and	
	(b) omit sub-paragraph (5), and	15
	(c) in sub-paragraph (7) –	
	(i) omit “other than the relevant court”, and	
	(ii) for “the relevant court could” substitute “a youth court could”.	
	<i>Criminal Justice and Police Act 2001</i>	20
28	The Criminal Justice and Police Act 2001 is amended as follows.	
29	In section 3(3)(f) (payment of penalty to designated officer), for “local justice area” substitute “magistrates’ court”.	
30	In section 8(2) (registration certificate to be sent to designated officer), for “the local justice area in which the defaulter appears to that officer to reside” substitute “a magistrates’ court”.	25
31	(1) Section 9 (registration of sums payable in default) is amended as follows.	
	(2) In subsection (1) –	
	(a) for “local justice area” substitute “magistrates’ court”,	
	(b) omit “in that area”, and	30
	(c) for “a magistrates’ court acting for that area” substitute “the magistrates’ court”.	
	(3) Omit subsection (2).	
	<i>Courts Act 2003</i>	
32	The Courts Act 2003 is amended as follows.	35
33	Omit section 8 (local justice areas).	
34	(1) Section 10 (appointment of lay justices etc) is amended as follows.	
	(2) Omit subsections (2), (2ZA) and (2A).	
	(3) In subsection (3) –	
	(a) for “in any local justice area (whether or not he is assigned to it);” substitute “anywhere in England and Wales;”, and	40

- (b) for the words following “made” substitute “under section 10A”.
- (4) Omit subsection (4).
- (5) Omit subsections (6) and (7).
- 35 After section 10 insert –
- “10A Management of lay justices”** 5
- (1) The Lord Chief Justice may make arrangements for –
- (a) the deployment, training, development and appraisal of lay justices,
- (b) the approval of lay justices before they may preside in court, and 10
- (c) the authorisation of lay justices as judges of the family court or as members of youth courts.
- (2) The functions conferred on the Lord Chief Justice by this section may be exercised only after consulting the Lord Chancellor.
- (3) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise the Lord Chief Justice’s functions under this section.” 15
- 36 Omit section 13(2) (entry in supplemental list: chair of lay justices in a local justice area).
- 37 In section 16 (records of lay justices), for subsections (1) to (3) substitute – 20
- “(1) The Lord Chancellor must appoint a person to be keeper of the rolls.
- (2) The keeper of the rolls must be notified, in such manner as the Lord Chancellor may direct, of –
- (a) any appointment of a lay justice, and
- (b) the fact that a lay justice has ceased to be a justice of the peace or that the justice’s name has been entered in or removed from the supplemental list. 25
- (3) The keeper of the rolls must ensure that an accurate record is maintained of all lay justices.”
- 38 Omit sections 17 to 20 (provisions about chairmen, deputy chairmen and the bench). 30
- 39 In section 21(1)(a) (matters affecting lay justices), omit “acting in a local justice area”.
- 40 In section 25(2) (District Judges (Magistrates’ Courts) as justices of the peace), for “in any local justice area” substitute “anywhere in England and Wales”. 35
- 41 Omit section 27(3) to (4C) (assignment of justices’ clerks to local justice areas).
- 42 (1) Section 30 (places, dates and times of sittings) is amended as follows.
- (2) In subsection (2), for “persons resident in each local justice area” substitute “the public”. 40

- (3) In subsection (5), for “in the local justice area in which” (in each place) substitute “near to where”.
- 43 After section 36A insert –
- “36B Exercise of functions by fines officers**
- Anything authorised or required by any enactment to be done by or to a fines officer by or to whom any other thing was done, or is to be done, may be done by or to any other fines officer.” 5
- 44 In section 37(1) (designated officers and magistrates’ courts) –
- (a) for “court, justice of the peace or local justice area,” substitute “court or justice of the peace,” and 10
- (b) in paragraph (b), for “court, justice of the peace or area” substitute “court or justice of the peace”.
- 45 In section 38(1)(c) (application of receipts of designated officers) –
- (a) omit the “or” at the end of sub-paragraph (i), and
- (b) omit sub-paragraph (ii). 15
- 46 (1) Section 97 (collection of fines and discharge of fines by unpaid work) is amended as follows.
- (2) In subsections (5) and (6) omit “local justice”.
- (3) In subsection (7)(a), for “local justice areas” substitute “of England and Wales”. 20
- (4) Nothing in this paragraph affects any order made under section 97 before this paragraph comes into force.
- 47 In section 108 (rules, regulations and orders), omit subsection (4)(a) (including the “or” at the end).
- 48 (1) Schedule 5 (collection of fines etc) is amended as follows. 25
- (2) In paragraph 7(2), for paragraph (b) substitute –
- “(b) a magistrates’ court.”
- (3) In paragraph 13 –
- (a) in sub-paragraph (1) –
- (i) at the end of paragraph (ca) insert “and”, and 30
- (ii) omit paragraph (d) (including the “and” at the end), and
- (b) omit sub-paragraph (2).
- (4) In paragraph 22(2), for “the fines” substitute “a fines”.
- (5) In paragraph 23(1), for “the magistrates” substitute “a magistrates”.
- (6) In paragraph 26 – 35
- (a) in sub-paragraphs (1) and (2), for “The fines” substitute “A fines”, and
- (b) in sub-paragraph (3), for “the fines” substitute “a fines”.
- (7) In paragraph 30, for “The fines” substitute “A fines”.
- (8) In paragraph 31(1), for “the fines” substitute “a fines”. 40
- (9) In paragraph 32(1), for “the magistrates” substitute “a magistrates”.

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- (10) In paragraph 37 –
- (a) in sub-paragraph (6) –
 - (i) for “The fines” substitute “A fines”, and
 - (ii) in paragraph (a), for “the magistrates” substitute “a magistrates”, and
 - (b) in sub-paragraph (9), for “the magistrates” substitute “a magistrates”.
- (11) In paragraph 37A –
- (a) in sub-paragraph (1)(a), for “the fines” substitute “a fines”, and
 - (b) in sub-paragraph (4), for “the magistrates” substitute “a magistrates”.
- (12) In paragraph 39(1), for “the magistrates” substitute “a magistrates”.
- (13) In paragraph 40A(1), for “the fines” substitute “a fines”.
- (14) In paragraph 40B(1) –
- (a) in paragraph (a), for “the fines” substitute “a fines”, and
 - (b) in paragraph (b), for “the magistrates” substitute “a magistrates”.
- (15) In paragraph 40C –
- (a) in sub-paragraph (2), for “the fines” substitute “a fines”, and
 - (b) in sub-paragraph (3) –
 - (i) in paragraph (a), for “the fines” substitute “a fines”, and
 - (ii) in paragraph (b), for “the magistrates” substitute “a magistrates”, and
 - (c) in sub-paragraph (4)(c), for “the magistrates” substitute “a magistrates”.
- (16) In paragraph 41(2), for “The magistrates” substitute “A magistrates”.
- (17) In paragraph 42 –
- (a) in sub-paragraph (1) –
 - (i) for “The fines” substitute “A fines”, and
 - (ii) for “the magistrates” substitute “a magistrates”, and
 - (b) in sub-paragraph (3), for “the fines” substitute “a fines”.
- (18) In paragraph 42A(1)(c), for “the fines” substitute “a fines”.
- (19) Omit paragraph 53.
- 49 (1) Schedule 6 (discharge of fines by unpaid work) is amended as follows.
- (2) In paragraph 1(2), for paragraph (b) of the definition of “the relevant court” substitute –
 - “(b) a magistrates’ court;”.
 - (3) In paragraph 3 –
 - (a) in sub-paragraph (2) –
 - (i) at the end of paragraph (a) insert “and”,
 - (ii) omit paragraph (b) (including the “and” at the end), and
 - (b) omit sub-paragraph (5).
 - (4) In paragraph 6(1), for “the fines” substitute “a fines”.

(5) In paragraph 8(1), (2) and (5), for “the fines” substitute “a fines”.

(6) In paragraph 9(1), for “the fines” substitute “a fines”.

Criminal Justice Act 2003

- 50 The Criminal Justice Act 2003 is amended as follows.
- 51 In section 23A(6A) (requirement to pay penalty to designated officer for local justice area), for “local justice area” substitute “magistrates’ court”. 5
- 52 Omit section 53(3) (magistrates’ court sitting outside local justice area for purposes of live link).
- 53 In section 56(1) (interpretation of Part 8), omit the definition of “local justice area”. 10
- 54 (1) Section 191 (power to provide review of suspended sentence order) is amended as follows.
- (2) For subsection (3)(a) substitute –
- “(a) where the order has been made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to the Crown Court;” 15
- (3) Omit subsections (4) and (5).
- 55 (1) Section 210 (drug rehabilitation requirement: provision for review by court) is amended as follows.
- (2) For subsection (2)(a) substitute – 20
- “(a) where the order has been made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to the Crown Court;”.
- (3) Omit subsections (3) and (4).
- 56 In section 212A(12) (alcohol abstinence and monitoring requirements), for “local justice area to be specified” substitute “area in which the offender resides or will reside”. 25
- 57 Omit section 216 (requirement to specify local justice area).
- 58 (1) Section 218 (availability of arrangements in local area) is amended as follows. 30
- (2) In subsection (1), omit “local justice”.
- (3) In subsections (7) and (9)(a), for “local justice area proposed to be specified in the order” substitute “area in which the offender resides or will reside”.
- 59 (1) Section 219 (provision of copies of relevant orders) is amended as follows.
- (2) In subsection (1) – 35
- (a) at the end of paragraph (b) insert “and”, and
- (b) for paragraphs (c) and (d) substitute –
- “(c) the Secretary of State.”
- (3) Omit subsections (3) and (4).

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- 60 (1) Section 220A (duty to obtain permission before changing residence) is amended as follows.
- (2) Omit subsection (7).
- (3) In subsection (8), for “16” substitute “17”.
- 61 In section 256AC (breach of supervision requirements imposed under section 256AA), for subsection (2) substitute – 5
- “(2) Any summons or warrant issued under this section must direct the person to appear or be brought before a magistrates’ court.”
- 62 In section 256B(3) (supervision after release by officer of provider of probation services), omit “local justice”. 10
- 63 In section 256C (breach of supervision requirements imposed under section 256B), for subsection (2) substitute –
- “(2) Any summons or warrant issued under this section must direct the offender to appear or be brought before a court.”
- 64 (1) Schedule 8 (breach, revocation or amendment of community order) is amended as follows. 15
- (2) In paragraph 1, omit the definition of “the local justice area concerned”.
- (3) Omit paragraph 5(4).
- (4) Omit paragraph 6(2).
- (5) For paragraph 7(3), substitute – 20
- “(3) Any summons or warrant issued under this paragraph must direct the offender to appear or be brought before a magistrates’ court.”
- (6) In paragraph 13 –
- (a) in sub-paragraph (1), for “the appropriate” substitute “a”, 25
- (b) in sub-paragraph (2), omit “appropriate”, and
- (c) omit sub-paragraph (7).
- (7) Omit paragraphs 16 and 16A.
- (8) In paragraph 17, for sub-paragraph (6) substitute –
- “(6) In this paragraph “the appropriate court” means – 30
- (a) in relation to a community order imposing a drug rehabilitation requirement which is subject to review, the court responsible for the order,
- (b) in relation to a community order which was made by the Crown Court and does not include a direction that any failure to comply with the requirements of the order is to be dealt with by a magistrates’ court, the Crown Court, and 35
- (c) in relation to any other community order, a magistrates’ court.” 40
- (9) In paragraph 18(4), for “16” substitute “17”.

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- (10) In paragraph 19A(5), for “16” substitute “17”.
- (11) In paragraph 20(2), for “16” substitute “17”.
- (12) In paragraph 25(2), omit “a new local justice area or”.
- (13) In paragraph 27 –
- (a) in sub-paragraph (1) – 5
 - (i) at the end of paragraph (a) insert “and”,
 - (ii) omit paragraph (b),
 - (iii) omit the “and” at the end of paragraph (c), and
 - (iv) omit paragraph (d), and
 - (b) omit sub-paragraphs (2) and (4). 10
- 65 (1) Schedule 12 (breach or amendment of suspended sentence order, and effect of further conviction) is amended as follows.
- (2) In paragraph 1, omit the definition of “the local justice area concerned”.
 - (3) Omit paragraph 4(4).
 - (4) Omit paragraph 5(2). 15
 - (5) In paragraph 6(3), for paragraph (b) substitute –
 - “(b) in any other case, before a magistrates’ court.”
 - (6) In paragraph 12(2)(b), for “acting in the local justice area in which the court acted” substitute “of the peace”.
 - (7) In paragraph 13(3)(c), omit “acting in the local justice area concerned”. 20
 - (8) Omit paragraphs 14 and 14A.
 - (9) In paragraph 22 –
 - (a) in sub-paragraph (1) –
 - (i) at the end of paragraph (a) insert “and”,
 - (ii) omit paragraph (b), 25
 - (iii) omit the “and” at the end of paragraph (c), and
 - (iv) omit paragraph (d), and
 - (b) omit sub-paragraphs (2) and (4).
- 66 (1) Schedule 13 (transfer of suspended sentence orders) is amended as follows.
- (2) In paragraph 2, omit “and section 216 (local justice area to be specified) does not apply in relation to an order so made or amended”. 30
 - (3) In paragraph 3(1), for “to (d)” substitute “and (c)”.
 - (4) In paragraph 7, omit “and section 216 (local justice area to be specified) does not apply in relation to an order so made or amended”.
 - (5) In paragraph 8(1), for “to (d)” substitute “and (c)”. 35
 - (6) In paragraph 12 –
 - (a) omit sub-paragraphs (3), (5A) and (6), and
 - (b) in sub-paragraph (8), for “that court” (in both places) substitute “the original court”.
 - (7) In paragraph 20 – 40

- (a) in sub-paragraphs (3) and (4), omit “local justice”,
 - (b) omit sub-paragraph (5), and
 - (c) in sub-paragraph (6) –
 - (i) for paragraph (a) substitute –
 - “(a) provide copies of the amending order to the offender, the relevant officer and a provider of probation services operating in the area in which the offender resides or proposes to reside, and”, 5
 - (ii) in paragraph (b), for “the magistrates’ court acting in that area” substitute “a magistrates’ court”, and 10
 - (iii) in that paragraph, omit “acting in that area” (in the second place).
- 67 (1) Schedule 19A (supervision default orders) is amended as follows.
- (2) Omit paragraph 2(f). 15
- (3) In paragraph 8, for sub-paragraph (2) substitute –
“(2) A summons or warrant issued under this paragraph must direct the person to appear or be brought before a magistrates’ court.”
- (4) In paragraph 10 –
 - (a) in sub-paragraph (1), for “the appropriate” substitute “a”, and 20
 - (b) omit sub-paragraph (9).
- (5) Omit paragraph 11.

Gambling Act 2005

- 68 The Gambling Act 2005 is amended as follows.
- 69 In section 207(1) (premises licence: appeal process), for paragraph (a) substitute – 25
“(a) in a magistrates’ court,”.
- 70 In section 226(3) (temporary use of premises: appeal process), for paragraph (a) substitute –
“(a) in a magistrates’ court,”. 30
- 71 In section 284(6)(a) (removal of exemption: appeal process), for paragraph (a) substitute –
“(a) in a magistrates’ court,”.
- 72 In Schedule 10 (family entertainment centre gaming machine permits), in paragraph 22(2), for paragraph (a) substitute – 35
“(a) in a magistrates’ court,”.
- 73 In Schedule 11 (exempt lotteries), in paragraph 51 –
 - (a) omit sub-paragraph (2)(a), and
 - (b) in sub-paragraph (4)(b), for “(2)(a) and (b)” substitute “(2)(b)”.
- 74 In Schedule 12 (club gaming permits and club machine permits), in paragraph 25(5), for paragraph (a) substitute – 40
“(a) in a magistrates’ court,”.

- 75 In Schedule 13 (licensed premises gaming machine permits), in paragraph 21(2), for paragraph (a) substitute –
“(a) in a magistrates’ court.”
- 76 In Schedule 14 (prize gaming permits), in paragraph 22(2), for paragraph (a) substitute –
“(a) in a magistrates’ court”.

5

Road Safety Act 2006

- 77 (1) Section 16 of the Road Safety Act 2006 (experimental period for alcohol ignition interlock programme orders) is amended as follows.
- (2) In subsection (4)(b), omit “acting for a local justice area”.
- (3) In subsection (6), for “an area” substitute “a court, area”.
- (4) In subsection (7) –
(a) for “an area” substitute “a court, area”, and
(b) in paragraph (a), after “for different” insert “courts,”.

10

Criminal Justice and Immigration Act 2008

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- 78 The Criminal Justice and Immigration Act 2008 is amended as follows.
- 79 In section 4(2) (meaning of “the qualifying officer”), for paragraph (b) substitute –
“(b) an officer of a provider of probation services.”
- 80 In section 80(5)(f) (meaning of “financial penalty”), omit “a local justice area in”.
- 81 (1) Section 84 (requests from other member States: England and Wales) is amended as follows.
- (2) In subsection (2), for “the local justice area in which it appears that the person is normally resident” substitute “a magistrates’ court”.
- (3) Omit subsection (3).
- (4) In subsection (4), omit “Where the Lord Chancellor acts under subsection (2) or (3),”.
- (5) Omit subsection (5).
- 82 (1) Section 85 (procedure on receipt of certificate by designated officer) is amended as follows.
- (2) In subsection (1), for “local justice area” substitute “magistrates’ court”.
- (3) In subsection (2), omit “acting for that area”.
- 83 In section 89(5) (modification of Magistrates’ Courts (Northern Ireland) Order 1981), in the words treated as substituted in Article 95(1) of the Magistrates’ Courts (Northern Ireland) Order 1981 –
(a) omit “any local justice area in”, and
(b) for “that local justice area” substitute “England and Wales”.

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- 84 (1) Schedule 1 (youth rehabilitation orders) is amended as follows.

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- (2) In paragraph 8(3) –
- (a) in paragraph (a), omit “, an officer of a local probation board”,
 - (b) at the end of that paragraph insert “and”,
 - (c) omit the “and” at the end of paragraph (b), and
 - (d) omit paragraph (c). 5
- (3) In paragraph 10 –
- (a) for sub-paragraph (3)(b) substitute –
 - “(b) the court is satisfied that it is feasible to secure compliance with such a requirement.”, and
 - (b) in sub-paragraph (4), omit “, an officer of a local probation board”. 10
- (4) In paragraph 22(4) –
- (a) for paragraph (a) substitute –
 - “(a) the court is satisfied that it is feasible to secure compliance with the requirement.”, and
 - (b) in paragraph (c), omit “, an officer of a local probation board”. 15
- (5) For paragraph 23(3)(a) substitute –
 - “(a) the court is satisfied that it is feasible to secure compliance with the drug testing requirement.”.
- (6) In paragraph 26(6)(a), omit sub-paragraph (i) (including the “and” at the end). 20
- (7) Omit paragraph 33.
- (8) In paragraph 34 –
- (a) in sub-paragraph (1)(c) omit “, to an officer of a local probation board assigned to the court”, and
 - (b) omit sub-paragraphs (2) and (3). 25
- 85 (1) Schedule 2 (breach, revocation or amendment of youth rehabilitation orders) is amended as follows.
- (2) In paragraph 5 –
- (a) in sub-paragraph (3) –
 - (i) in paragraph (a), omit “acting in the relevant local justice area”, and
 - (ii) in paragraph (b), omit “acting in that local justice area”, and
 - (b) omit sub-paragraph (4). 30
- (3) In paragraph 11(8) –
- (a) in paragraph (a), omit “acting in the local justice area specified in the youth rehabilitation order”, and
 - (b) in paragraph (b), omit “acting in that local justice area”. 35
- (4) In paragraph 13 –
- (a) omit sub-paragraphs (2) and (3),
 - (b) in sub-paragraph (5), for “paragraph” substitute “paragraphs 15 and”, and
 - (c) in sub-paragraph (6) –
 - (i) in paragraph (a), omit “acting in the local justice area specified in the youth rehabilitation order”, and
- 40

- (ii) in paragraph (b), omit “acting in that local justice area”.
- (5) In paragraph 14 –
- (a) omit sub-paragraphs (2) and (3), and
 - (b) in sub-paragraph (5), for “paragraph” substitute “paragraphs 15 and”.
- (6) For paragraph 15 substitute –
- “Exercise of powers under paragraph 13(4) or 14(4): change of residence*
- 15 (1) This paragraph applies where a court which proposes to amend a youth rehabilitation order under paragraph 13(4) or 14(4) is satisfied that the offender resides, or proposes to reside, in an area other than the original area (“the new area”).
- (2) If the order imposes a programme requirement which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the original area, the court may not amend the order unless the court is satisfied that a programme which –
- (a) corresponds as nearly as practicable to the programme specified in the order for the purposes of that requirement, and
 - (b) is suitable for the offender, is available in the new area.
- (3) If the order contains any other requirements which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the original area, when amending the order the court must either –
- (a) cancel those requirements, or
 - (b) substitute for those requirements other requirements that can be complied with if the offender resides in the new area.
- (4) In this paragraph “the original area” means the area in which the offender resided –
- (a) when the order was most recently amended, or
 - (b) if the order has not been amended, when it was made.”
- (7) In paragraph 16A(6) –
- (a) in paragraph (a), omit “acting in the local justice area specified in the youth rehabilitation order”, and
 - (b) in paragraph (b), omit “acting in that local justice area”.
- (8) In paragraph 20(2)(c), omit “local justice area or”.
- (9) In paragraph 24 –
- (a) in sub-paragraph (1) –
 - (i) omit paragraphs (c) and (f),
 - (ii) at the end of paragraph (d) insert “and”, and
 - (iii) omit the “and” at the end of paragraph (e), and
 - (b) omit sub-paragraph (2).

86	In Schedule 3 (transfer of youth rehabilitation orders to Northern Ireland), in paragraph 3, omit “and paragraph 33 of Schedule 1 (local justice area to be specified in order) does not apply in relation to an order so made or amended”.	
<i>Coroners and Justice Act 2009</i>		5
87	The Coroners and Justice Act 2009 is amended as follows.	
88	Omit section 97(2) (interpretation: witness anonymity orders made by magistrates’ courts).	
89	In section 129(1) (promoting awareness of sentencing practice), for paragraph (a) substitute – “(a) in relation to each location at which magistrates’ courts sit, information regarding the sentencing practice of magistrates’ courts when they sit at that location, and”.	10
<i>Terrorism Prevention and Investigation Measures Act 2011</i>		
90	In Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011 (powers of entry, search, seizure and retention), in paragraph 9(16)(a), for the words following “for” substitute “a magistrates’ court”.	15
<i>Legal Aid, Sentencing and Punishment of Offenders Act 2012</i>		
91	The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.	20
92	(1) Section 94 (requirements for electronic monitoring) is amended as follows. (2) In subsection (5), omit “in each local justice area which is a relevant area”. (3) Omit subsection (7).	
93	(1) Section 95 (requirements for electronic monitoring: extradition cases) is amended as follows. (2) In subsection (5), omit “in each local justice area which is a relevant area”. (3) Omit subsection (7).	25
<i>Anti-social Behaviour, Crime and Policing Act 2014</i>		
94	In section 27 of the Anti-social Behaviour, Crime and Policing Act 2014 (variation or discharge of criminal behaviour orders), omit subsection (6).	30
<i>Serious Crime Act 2015</i>		
95	In Schedule 2 to the Serious Crime Act 2015 (execution of search and seizure warrants), in paragraph 11(2)(a), for the words following “for” substitute “a magistrates’ court”.	
<i>Modern Slavery Act 2015</i>		35
96	The Modern Slavery Act 2015 is amended as follows.	

- 97 (1) Section 15 (slavery and trafficking prevention orders on application) is amended as follows.
- (2) In subsection (5), omit the words following “complaint”.
- (3) Omit subsection (8)(a).
- 98 In section 20(10) (variation, renewal and discharge: the appropriate court), for paragraphs (b) to (d) substitute –
- “(b) where an adult magistrates’ court made the order, any adult magistrates’ court;
- (c) where a youth court made the order and the defendant is under 18, any youth court;
- (d) where a youth court made the order and the defendant is 18 or over, any adult magistrates’ court.”
- 99 (1) Section 23 (slavery and trafficking risk orders) is amended as follows.
- (2) In subsection (4), omit the words following “complaint”.
- (3) Omit subsection (7)(a).
- 100 In section 27(8) (variation, renewal and discharge: the appropriate court), for paragraphs (a) to (c) substitute –
- “(a) where an adult magistrates’ court made the slavery and trafficking risk order, any adult magistrates’ court;
- (b) where a youth court made the order and the defendant is under 18, any youth court;
- (c) where a youth court made the order and the defendant is 18 or over, any adult magistrates’ court.”

Psychoactive Substances Act 2016

- 101 In Schedule 3 to the Psychoactive Substances Act 2016 (search warrants: England and Wales and Northern Ireland), in paragraph 13(2)(a), for the words following “for” substitute “a magistrates’ court”.

SCHEDULE 13

Section 54

TRAFFIC AND AIR QUALITY OFFENCES: USE OF STATEMENTS OF TRUTH

Environment Act 1995 30

- 1 In paragraph 5 of Schedule 11 to the Environment Act 1995 (fixed penalty notices), after sub-paragraph (5) insert –
- “(5A) In the application of paragraph 5(1)(j) to regulations made by the Secretary of State or the Welsh Ministers, “statutory declaration” includes a statement of any other kind.”

London Local Authorities Act 1996 (c. ix)

- 2 (1) Paragraph 10 of Schedule 1 to the London Local Authorities Act 1996 (invalid enforcement notices etc relating to bus lane infringements) is amended in accordance with this paragraph.

- (2) In sub-paragraph (1) –
- (a) in paragraph (b), for “statutory declaration” substitute “witness statement”;
 - (b) in paragraph (c), for “declaration” substitute “witness statement”.
- (3) In sub-paragraphs (2), (3), (4) and (5) (in each place), for “statutory declaration” substitute “witness statement”. 5
- (4) In sub-paragraphs (6) (in each place) and (7), for “declaration” substitute “witness statement”.
- (5) After sub-paragraph (7) insert –
- “(8) In this paragraph “witness statement” means a statement which is a witness statement for the purposes of the Civil Procedure Rules 1998 and which is supported by a statement of truth in accordance with Part 22 of those Rules.” 10

London Local Authorities and Transport for London Act 2003 (c. v)

- 3 (1) The London Local Authorities and Transport for London Act 2003 is amended as follows. 15
- (2) In section 6 (limitation of service of penalty charge notices), in subsection (2)(c), for “statutory declaration” substitute “witness statement”.
- (3) Paragraph 7 of Schedule 1 (invalid penalty charge notices etc relating to road traffic contraventions) is amended as follows. 20
- (4) In sub-paragraph (1) –
- (a) in paragraph (b), for “statutory declaration” substitute “witness statement”;
 - (b) in paragraph (c), for “declaration” substitute “witness statement”.
- (5) In sub-paragraph (2), for “statutory declaration” substitute “witness statement”. 25
- (6) For sub-paragraph (3) substitute –
- “(3) A witness statement under this paragraph is invalid if the person who made the witness statement claims that more than one of the grounds mentioned in sub-paragraph (2) above is met. 30
 - (3A) If a witness statement under this paragraph is invalid, whether under sub-paragraph (3) above or otherwise, sub-paragraph (8) below shall not apply in relation to the declaration.”
- (7) In sub-paragraphs (4), (5), (6), (7) and (8) (in each place), for “statutory declaration” substitute “witness statement”. 35
- (8) In sub-paragraphs (9) (in each place), (10) and (11), for “declaration” substitute “witness statement”.
- (9) After sub-paragraph (11) insert –
- “(12) In this paragraph “witness statement” means a statement which is a witness statement for the purposes of the Civil Procedure Rules 1998 and which is verified by a statement of truth in accordance with Part 22 of those Rules.” 40

SCHEDULE 14

Section 55

ATTACHMENT OF EARNINGS ORDERS IN THE HIGH COURT

- 1 The Attachment of Earnings Act 1971 is amended as follows.
- 2 In section 3 (application for order and conditions of court’s power to make it) – 5
- (a) in subsection (6), after “brought in” insert “the High Court or”;
 - (b) in subsection (7), at the beginning insert “The High Court or”.
- 3 In section 6 (effect and contents of order), in subsection (1A), after “If” insert “the High Court or”.
- 4 In section 6A (the fixed deductions scheme), in subsection (1), after “orders” insert “(whether made by the High Court or the county court)” 10
- 5 In section 8 (interrelation with alternative remedies open to creditors), in subsection (2) –
- (a) after “Where” insert “the High Court or”;
 - (b) for “leave of the county court” substitute “permission of the court”. 15
- 6 In section 9A (suspension of fixed deductions orders) –
- (a) in subsection (1), at the beginning insert “The High Court or”;
 - (b) in subsection (2), at the beginning insert “The High Court or”;
 - (c) in subsection (4), at the beginning insert “The High Court or”;
 - (d) in subsection (5), after “which” insert “the High Court or”. 20
- 7 In section 14 (power of court to obtain statement of earnings etc), in subsection (1A), after “proceedings” insert “the High Court or”.
- 8 In section 17 (consolidated attachment orders) –
- (a) in subsection (1), after “powers of” insert “the High Court or”;
 - (b) in subsection (4), after “which” insert “the High Court or”. 25
- 9 In section 22 (persons employed under the Crown), in subsection (4), for “an official of the Office of Public Service” substitute “a person authorised for this purpose by the Minister for the Civil Service”.
- 10 In section 23 (enforcement provisions)
- (a) in subsection (1ZA) – 30
 - (i) in paragraph (a), after “application to” insert “the High Court or”;
 - (ii) in paragraph (b), after “notice that” insert “the High Court or”;
 - (b) in subsection (2)(c) and (f), omit “or suspension order”. 35
- 11 In section 25 (general interpretation), in the definition of “the court” in subsection (1), after “proceedings in” insert “the High Court,”.

SCHEDULE 15

Section 56

JUDGES WITH LEADERSHIP ROLES

PART 1

LORD CHIEF JUSTICE OR HEAD OF DIVISION WITH A FIXED-TERM APPOINTMENT

Possibility of appointment on a fixed-term 5

- 1 In section 10 of the Senior Courts Act 1981 (appointment of judges of Senior Courts) –
- (a) after subsection (1) insert –
 - “(1A) An appointment to an office under subsection (1) may be made on terms that provide for retirement from the office at a particular time specified in those terms (“the end of the fixed-term”).”; 10
 - (b) after subsection (2) insert –
 - “(2A) If a person is to be appointed to an office under subsection (1) on the terms allowed by subsection (1A), the Lord Chancellor must recommend the person for appointment by Her Majesty under subsection (2) as an ordinary judge of the Court of Appeal. 15
 - (2B) *An appointment as an ordinary judge of the Court of Appeal made on a recommendation given in accordance with subsection (2A) must provide for that appointment to take effect when the person ceases to hold the appointment under subsection (1) (whether that is at the end of the fixed-term or earlier).* 20
 - (2C) The limits on full-time equivalent numbers for the time being imposed by section 2(1) do not prevent an appointment from being made on a recommendation given in accordance with subsection (2A). 25
 - (2D) The duty in subsection (2A) does not apply if the person to be appointed to the office under subsection (1) is a judge of the Supreme Court.” 30

Vacation of office at the end of a fixed-term appointment

- 2 In section 11 of the Senior Courts Act 1981 (tenure of office of judges of Senior Courts), after subsection (2) insert –
- “(2A) But if –
- (a) an appointment to the office of Lord Chief Justice, Master of the Rolls, President of the Queen’s Bench Division, President of the Family Division or Chancellor of the High Court is made on the terms allowed by section 10(1A), and 35
 - (b) the end of the fixed-term is earlier than the time at which the person is otherwise required to retire from that office, 40
- the person vacates that office at the end of the fixed-term unless the person has otherwise ceased to hold it before then (and any appointment as an ordinary judge of the Court of Appeal made on a

recommendation given in accordance with section 10(2A) then takes effect accordingly.”

Maximum number of Court of Appeal judges not to include appointees under section 10(2A)

- 3 In section 2 of the Senior Courts Act 1981 (the Court of Appeal), after subsection (7) insert – 5
- “(8) A person is not to count as an ordinary judge of the Court of Appeal in respect of any period when the person holds that office by virtue of an appointment made on a recommendation given in accordance with section 10(2A).”

PART 2 10

OTHER FIXED-TERM APPOINTMENTS IN THE SENIOR COURTS

Possibility of appointment on fixed-term

- 4 (1) Section 89 of the Senior Courts Act 1981 (masters and registrars) is amended as follows.
- (2) After subsection (3C) insert – 15
- “(3D) An appointment to a senior office under subsection (3) may be made on terms that provide for retirement from the senior office at a particular time specified in those terms.
- (3E) If a person’s appointment to a senior office is made on the terms allowed by subsection (3D) – 20
- (a) that appointment to the senior office does not affect the person’s tenure of the qualifying office (in a case where subsection (3A)(a) applies);
- (b) the appointment to the qualifying office is not to be made on terms of that kind (in a case where subsection (3A)(b) applies).” 25
- (3) After subsection (7B) insert –
- “(7C) A person –
- (a) appointed under subsection (1), or
- (b) appointed to a senior office, 30
- is to be paid such allowances as may be determined by the Lord Chancellor with the concurrence of the Treasury.”
- (4) In subsection (8), after “Salaries” insert “and allowances”.

Vacation of office at end of fixed-term appointment

- 5 In section 92 of the Senior Courts Act 1981 (tenure of office), after subsection (3A) insert – 35
- “(3B) If –
- (a) an appointment to the office of Senior Master of the Queen’s Bench Division, Chief Chancery Master, Chief Taxing Master, Chief Bankruptcy Registrar or Senior District Judge of the 40

- Family Division is made on the terms allowed by section 89(3D), and
- (b) the time specified in the terms of that appointment for retirement from that office is earlier than the time at which the person is otherwise required to retire from that office, the person vacates that office at the end of the fixed-term unless the person has otherwise ceased to hold it before then.”

PART 3

DISTRICT JUDGES

Payment of allowances 10

- 6 In section 6 of the County Courts Act 1984 (district judges), in subsection (5), after “salary” insert “, and such allowances,”.

PART 4

SENIOR PRESIDENT OF TRIBUNALS WITH A FIXED-TERM APPOINTMENT

Appointment to Court of Appeal 15

- 7 In paragraph 6 of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007 (tenure, removal, resignation etc of Senior President of Tribunals), after sub-paragraph (4) insert –
- “(5) If a person –
- (a) is to be appointed as Senior President of Tribunals on the terms allowed by sub-paragraph (1)(a), and
- (b) is neither a judge of the Court of Appeal in England and Wales nor a judge of the Supreme Court, the Lord Chancellor must recommend the person for appointment by Her Majesty under section 10(2) of the Senior Courts Act 1981 as an ordinary judge of the Court of Appeal.
- (6) But that duty does not arise unless the person satisfies the judicial-appointment eligibility condition on a 7-year basis.”

PART 5

TRIBUNAL CHAMBER PRESIDENTS AND DEPUTY CHAMBER PRESIDENTS 30

Appointment on a fixed-term

- 8 (1) Schedule 4 to the Tribunals, Courts and Enforcement Act 2007 (Chamber Presidents and Deputies: removal from office and extension of appointment) is amended as follows.
- (2) In paragraph 3 (Chamber Presidents: duration of appointment, remuneration etc), after sub-paragraph (1) insert –
- “(1A) If –
- (a) a person is appointed as a Chamber President 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 Judicial Pensions and
 Retirement Act 1993 to retire from the office, 5
 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.
- (1B) *If a person –*
- (a) *is to be appointed as a Chamber President on the terms allowed
 by sub-paragraph (1A)(a), and* 10
- (b) *is not one of the judges of the Upper Tribunal,
 the Lord Chancellor must recommend the person for appointment by Her
 Majesty under paragraph 1(1) of Schedule 3 as one of the judges of the
 Upper Tribunal.*
- (1C) But that duty does not arise unless the person satisfies the judicial- 15
 appointment eligibility condition on a 7-year basis.
- (1D) An appointment as a judge of the Upper Tribunal made on a
 recommendation given in accordance with sub-paragraph (1B)
 must provide for that appointment to take effect when the person 20
 ceases to hold the appointment as a Chamber President (whether
 that is at the end of the fixed-term or earlier).”
- (3) In paragraph 5 (Deputy Chamber Presidents), after sub-paragraph (9)
 insert –
- “(9A) If –
- (a) a person is appointed as a Deputy Chamber President on 25
 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 30
 the person is required by the Judicial Pensions and
 Retirement Act 1993 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.
- (9B) *If a person –*
- (a) *is to be appointed as a Deputy Chamber President on the terms 35
 allowed by sub-paragraph (9A)(a), and*
- (b) *is not one of the judges of the Upper Tribunal,
 the Lord Chancellor must recommend the person for appointment by Her
 Majesty under paragraph 1(1) of Schedule 3 as one of the judges of the
 Upper Tribunal.* 40
- (9C) But that duty does not arise unless the person satisfies the judicial-
 appointment eligibility condition on a 7-year basis.
- (9D) An appointment as a judge of the Upper Tribunal made on a
 recommendation given in accordance with sub-paragraph (9B)
 must provide for that appointment to take effect when the person 45
 ceases to hold the appointment as a Deputy Chamber President
 (whether that is at the end of the fixed-term or earlier).”

- (4) In paragraph 5A (Chamber Presidents and Deputies: removal from office and extension of appointment) –
- (a) in the heading, omit “and extension of appointment”;
 - (b) omit sub-paragraphs (4) and (5).

PART 6

5

PERSONS HOLDING A FIXED-TERM APPOINTMENT AND ANOTHER OFFICE

Head of Division and Supreme Court judge: membership of Court of Appeal

- 9 In section 2 of the Senior Courts Act 1981 (the Court of Appeal), after subsection (2) insert –

“(2ZA) If (and for as long as) a judge of the Supreme Court is an ex-officio judge of the Court of Appeal under subsection (2)(d), (e), (f), (g) or (h), he or she is not also to be an ex-officio judge of that Court under subsection (2)(c).” 10

Head of Division or Senior President of Tribunals: membership of Supreme Court

- 10 (1) The Constitutional Reform Act 2005 is amended as follows. 15

- (2) In section 23 (the Supreme Court), after subsection (8) insert –

“(9) *But, in calculating the full-time equivalent number of judges of the Court, a judge of the Supreme Court is not to be taken into account during –*

- (a) *any period when he or she also holds a fixed-term appointment as a judge of the Senior Courts of England and Wales or as the Senior President of Tribunals, and* 20
- (b) *any period when, after ceasing to hold that fixed-term appointment, the person continues to be a judge of the Supreme Court.*

- (10) In subsection (9) a reference to a fixed-term appointment –

- (a) as a judge of the Senior Courts of England and Wales is a reference to an appointment under section 10(1) of the Senior Courts Act 1981 (Lord Chief Justice or Head of Division) made on the terms allowed by section 10(1A) of that Act; 25
- (b) as the Senior President of Tribunals is a reference to an appointment made on the terms allowed by paragraph 6(1)(a) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007.” 30

- (3) In section 34 (salaries and allowances), after subsection (6) insert –

“(7) A judge of the Supreme Court is not entitled to any salary or allowance by virtue of this section in respect of any period when the person also holds a fixed-term appointment as a judge of the Senior Courts of England and Wales or as the Senior President of Tribunals (as defined in section 23(10)).” 35

Senior President of Tribunals: membership of Court of Appeal

- 11 (1) The Senior Courts Act 1981 is amended as follows. 40

- (2) In section 2 (the Court of Appeal), after subsection (8) (see paragraph 3

above) insert—

- “(9) *But, in calculating the full-time equivalent number of ordinary judges, an ordinary judge of the Court of Appeal is not to be taken into account during—*
- (a) *any period when he or she also holds a fixed-term appointment as the Senior President of Tribunals, and* 5
 - (b) *any period when, after ceasing to hold that fixed-term appointment, the person continues to be an ordinary judge of the Court of Appeal.*
- (10) In subsection (9) a reference to a fixed-term appointment as the Senior President of Tribunals is a reference to an appointment made on the terms allowed by paragraph 6(1)(a) of Schedule 1 to the Tribunals, Courts and Enforcement Act 2007.” 10
- (3) In section 12 (salaries etc of judges of Senior Courts), after subsection (7) insert—
- “(8) An ordinary judge of the Court of Appeal is not entitled to any salary or allowance by virtue of this section in respect of any period when the person also holds a fixed-term appointment as the Senior President of Tribunals (as defined in section 2(10)).” 15

Prisons and Courts Bill

A

B I L L

[AS AMENDED IN PUBLIC BILL COMMITTEE]

To make provision about prisons; make provision about practice and procedure in courts and tribunals, organisation of courts and tribunals, functions of the judiciary and of courts and tribunals and their staff, appointment and deployment of the judiciary, and functions of the Judicial Appointments Commission; and make provision about whiplash claims.

*Presented by Secretary Elizabeth Truss,
supported by
the Prime Minister,
the Chancellor of the Exchequer,
Secretary Amber Rudd,
Secretary Justine Greening,
Secretary Jeremy Hunt,
Secretary David Mundell,
the Attorney General,
Sir Oliver Heald and Ben Gummer.*

*Ordered, by The House of Commons,
to be Printed, 20 April 2017.*

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