

Courts and Tribunals Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Ministry of Justice, are published separately as Bill 389—EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary David Lammy has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Courts and Tribunals Bill are compatible with the Convention rights.

Courts and Tribunals Bill

[AS INTRODUCED]

CONTENTS

PART 1

PROCEEDINGS IN THE CRIMINAL COURTS

Determining mode of trial

- 1 Removal of right to elect trial on indictment
- 2 Written indication of guilty plea: removal of right to object to venue

Trial on indictment without jury

- 3 Trial on indictment without a jury: general rule for allocation
- 4 Trial on indictment without a jury: complex or lengthy cases
- 5 Consequential amendments relating to sections 3 and 4

Sentencing powers of magistrates' courts

- 6 Increase in maximum custodial sentence in magistrates' court

Appeals from magistrates' courts

- 7 Appeals from magistrates' courts

Admissibility of evidence

- 8 Restriction on evidence or questions about complainant's sexual history
- 9 Compensation claims in proceedings for sexual offences
- 10 Evidence about previous false complaints relating to sexual offences
- 11 Evidence of propensity to commit offences involving domestic abuse

Special measures directions

- 12 Use of screens etc
- 13 Witness to be accompanied while giving evidence
- 14 Exclusion of persons from court
- 15 Editing of video recorded cross-examination and re-examination
- 16 Application of special measures to victim personal statements etc

PART 2

OTHER PROVISION ABOUT COURTS AND TRIBUNALS

Decisions of courts under Children Act 1989

- 17 Welfare of the child: repeal of presumption of parental involvement

Tribunals

- 18 Leadership of tribunals

Lay justices' allowances

- 19 Lay justices' allowances

The Crown Court in the City of London

- 20 Special provision when Crown Court sits in City of London

PART 3

FINAL PROVISIONS

- 21 Power to make consequential amendments
 22 Power to make transitional or saving provision
 23 Power to state effect of provisions commencing Sentencing Code amendments
 24 Regulations
 25 Extent
 26 Commencement
 27 Short title

-
- Schedule 1 – New Schedule 3ZA to the Criminal Justice Act 2003
 Schedule 2 – Appeals from magistrates' courts
 Part 1 – Amendments of Magistrates' Courts Act 1980
 Part 2 – Amendments of other legislation
 Schedule 3 – Leadership of tribunals
 Part 1 – Amendments of Constitutional Reform Act 2005
 Part 2 – Amendments of Tribunals, Courts and Enforcement Act 2007
 Part 3 – Amendments of Employment Tribunals Act 1996
 Part 4 – Amendments of other Acts

[AS INTRODUCED]

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Make provision in relation to criminal courts in England and Wales; to make provision about the leadership of tribunals; to amend section 1 of the Children Act 1989 to remove the presumption relating to the involvement of parents in the life of a child; and for connected purposes.

BE IT ENACTED by the King’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

PROCEEDINGS IN THE CRIMINAL COURTS

Determining mode of trial

1 Removal of right to elect trial on indictment

- (1) Part 1 of the Magistrates’ Courts Act 1980 (criminal jurisdiction and procedure) is amended in accordance with subsections (2) to (8). 5
- (2) In section 17ZA (option to indicate plea in writing) (as inserted by section 6 of the Judicial Review and Courts Act 2022), in subsection (6), for “neither subsection (3) nor subsection (5) of that section has effect” substitute “subsection (3) does not have effect”. 10
- (3) In section 17ZC (option to decline summary trial etc following written indication of not guilty plea) (as inserted by section 6 of the Judicial Review and Courts Act 2022)—
 - (a) for the heading substitute “Option for mode of trial to be decided on papers following written indication of not guilty plea”; 15
 - (b) in subsection (1), omit “or (5)”; 15
 - (c) in subsection (2), for “neither subsection (3) nor subsection (5) has effect” substitute “subsection (3) does not have effect”; 15
 - (d) in subsection (3)—
 - (i) for the words from “If” to “court” substitute “A magistrates’ court”; 20

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- (ii) for paragraph (b) substitute –
- “(b) ask the accused whether the accused wishes to make an election for written allocation proceedings.”;
- (e) in subsection (4) – 5
- (i) in paragraph (a)(i), for “questions” substitute “question”;
- (ii) in paragraph (a)(ii), for the words from “doing” to the end substitute “making or failing to make an election for written allocation proceedings”;
- (iii) in paragraph (b), omit “give a written indication of non-consent to summary trial or”;
- (f) omit subsections (5) to (7);
- (g) in subsection (8), for “Otherwise, where subsection (3) or (5)” substitute “Where subsection (3)”;
- (h) in subsection (9) – 15
- (i) in paragraph (a)(i), for “the questions required by subsection (3) or (5)” substitute “the question required by subsection (3)”;
- (ii) in paragraph (a)(ii), omit “or (6)(b)”;
- (iii) omit paragraph (b);
- (iv) for paragraph (c) substitute – 20
- “(c) references to a person’s failing to make an election for written allocation proceedings are to a person’s –
- (i) having been provided with the information and asked the question required by subsection (3), and 25
- (ii) not having, within the period indicated under subsection (4)(b), made an election for written allocation proceedings.”
- (4) In section 18 (initial procedure on information against adult for offence triable either way) – 30
- (a) in subsection (1) (as substituted by paragraph 6(7)(a) of Schedule 2 to the Judicial Review and Courts Act 2022) –
- (i) in paragraph (a), omit sub-paragraph (ii) (and the “and” at the end of sub-paragraph (i)); 35
- (ii) in paragraph (b), omit the “and” at the end of sub-paragraph (i);
- (iii) in that paragraph, omit sub-paragraph (ii) (but not the “or” after it);
- (b) in subsection (1A) (as substituted by paragraph 6(7)(a) of that Schedule) – 40
- (i) in paragraph (a), omit “that is not a scheduled offence”;
- (ii) in that paragraph, omit sub-paragraph (ii) (but not the “and” after it);

- (iii) omit paragraph (b) (but not the “or” after it);
 - (iv) in paragraph (c), for “neither subsection (3) nor subsection (5) of section 17ZC has effect” substitute “section 17ZC(3) does not have effect”;
 - (c) in subsection (4A) (as inserted by paragraph 6(7)(b) of that Schedule), for the words from “where” to the end substitute “where a person charged with an offence—
 - (a) has given a written indication of a not guilty plea, and
 - (b) has made an election for written allocation proceedings (see section 17ZC(9)).”
- (5) In section 20 (procedure where summary trial appears more suitable)—
 - (a) in subsection (2)—
 - (i) in paragraph (a), for “it appears to the court more suitable” substitute “the court has decided that it is more suitable”;
 - (ii) omit paragraph (b) (but not the “and” after it);
 - (iii) in paragraph (c), omit “is tried summarily and”;
 - (b) in subsection (3), omit “to be tried summarily for the offence and”;
 - (c) for subsection (9) substitute—

“(9) The court is to proceed to the summary trial of the information.”
- (6) In section 22 (certain offences triable either way to be tried summarily if value involved is small), after subsection (2) insert—

“(2A) If, where subsection (1) applies—

 - (a) it appears to the court clear that, for the offence charged, the value involved exceeds the relevant sum, or
 - (b) it otherwise does not appear to the court clear that, for the offence charged, the value involved does not exceed the relevant sum,

the court shall proceed in accordance with sections 19 to 21.”
- (7) In section 22A (low-value shoplifting to be a summary offence), omit subsection (2).
- (8) In section 23 (power of court to proceed in absence of accused), in subsection (4), for the words from “then” to the end substitute “, section 20 does not apply and the court is to proceed to the summary trial of the information.”
- (9) In section 46ZA of the Senior Courts Act 1981 (power of Crown Court to send persons back to magistrates’ court for trial), in subsection (3), omit paragraph (b) (and the “and” at the end of paragraph (a)).
- (10) In section 47 of the Crime and Disorder Act 1998 (powers of youth courts), omit subsection (1C).
- (11) In consequence of the amendments made by this section—

- (a) in section 51 of the Crime and Disorder Act 1998 (sending cases to the Crown Court: adults), in subsection (2)(b), for “20(9)(b), 21, 22A(2)(b), 23(4)(b) and (5)” substitute “21, 23(5)”;
- (b) in the Criminal Justice and Courts Act 2015, omit section 52;
- (c) in the Judicial Review and Courts Act 2022 – 5
 - (i) in section 6, omit subsection (3) (written procedure for determining mode of trial in cases of low-value shoplifting);
 - (ii) omit section 7 (initial option for adult accused to reject summary trial at hearing);
 - (iii) in paragraph 6 of Schedule 2, omit sub-paragraphs (2)(c), (3)(a), (4), (7)(c) and (9)(a); 10
 - (iv) in paragraph 10(2) of that Schedule, for “20(9)(b), 21, 22A(2)(b), 23(4)(b) and (5)” substitute “21, 23(5)”;
- (d) in section 40(2) of the Crime and Policing Act 2026, omit paragraphs (c), (f) and (g). 15

2 Written indication of guilty plea: removal of right to object to venue

- (1) Section 17ZB of the Magistrates’ Courts Act 1980 (proceedings following written indication of guilty plea) (as inserted by section 6 of the Judicial Review and Courts Act 2022) is amended as follows.
- (2) In subsection (5), for paragraph (b) substitute – 20

“(b) invite the accused to make representations as to whether, if the accused were to plead guilty at a summary trial of the offence and be convicted, the sentencing powers of the court would be adequate.”
- (3) In subsection (6) – 25
 - (a) in paragraph (a)(i), for “asked the question set out in” substitute “invited to make representations as mentioned in”;
 - (b) in paragraph (a)(ii), for the words from “objecting” to the end substitute “failing to make any such representations”;
 - (c) in paragraph (b), for “object to being so sent” substitute “make any such representations”. 30
- (4) In subsection (7) –
 - (a) in paragraph (b), for the words from “may” to the end substitute “may make representations as to whether, if the accused were to plead guilty at a summary trial of the offence and be convicted, the sentencing powers of the court would be adequate”; 35
 - (b) for paragraph (c) substitute –

“(c) invite the prosecutor to make such representations.”
- (5) In subsection (8) –

- (a) at the end of paragraph (b) insert “and
 - (ba) after considering any representations made by the accused or the prosecutor in accordance with the explanation provided under subsection (6)(b) or (as the case may be) subsection (7)(b), the court is satisfied that, were the accused to plead guilty at a summary trial of the offence and be convicted, the court would commit the accused to the Crown Court for sentence under Chapter 2 of Part 2 of the Sentencing Code;” 5
- (b) omit paragraphs (c) and (d). 10

Trial on indictment without jury

3 Trial on indictment without a jury: general rule for allocation

- (1) In Part 3 of the Senior Courts Act 1981 (practice and procedure of the Crown Court, etc), after section 74 insert—

“Allocation of cases for trial without jury” 15

74A Allocation of cases for trial without a jury

- (1) This section applies where one or more defendants are to be tried on indictment for one or more offences.
- (2) The court must, at the prescribed time or times, determine in accordance with this section whether the trial is to be conducted with or without a jury. 20
- (3) The trial is to be conducted with a jury if—
 - (a) the offence, or any of the offences, is triable only on indictment, or
 - (b) the court considers that the condition in subsection (5) is met in relation to the defendant, or any of the defendants. 25
- (4) In any other case, the trial is to be conducted without a jury.
- (5) The condition in this subsection is met in relation to a defendant if the defendant, if convicted of the offence or offences for which the defendant is to be tried, would be likely to receive a sentence of imprisonment or detention of more than three years for the offence or offences (taken together). 30
- (6) See—
 - (a) section 74B, for provision about when a court that has made a determination under this section is required to make a fresh determination; 35
 - (b) sections 74C and 74D, for further provision about determinations under this section or section 74B.

74B Reallocation of cases following changes to the indictment, etc

- (1) In a case where—
- (a) a court has made a determination that a trial is to be conducted without a jury,
 - (b) at any time before the conclusion of the trial, there is a relevant change of circumstances (see subsection (8)), and
 - (c) as a result, the condition in section 74A(3)(a) is met,
- the court must determine that the trial is to be conducted with a jury. 5
- (2) In a case where—
- (a) a court has made a determination that a trial is to be conducted without a jury,
 - (b) at any time before the conclusion of the trial, there is a relevant change of circumstances, and
 - (c) subsection (1) does not apply,
- the court must determine in accordance with subsections (3) and (4) whether the trial is to be conducted with or without a jury. 10 15
- (3) The trial is to be conducted with a jury unless—
- (a) the condition in section 74A(3)(b) is not met in relation to the defendant, or any of the defendants,
 - (b) the court considers that it would not be appropriate to reallocate the trial (see section 74C(6) and (7)), or
 - (c) the prosecution and the defendant or defendants each consent to the trial being conducted without a jury.
- 20
- (4) Where subsection (3)(a), (b) or (c) applies, the trial is to be conducted without a jury. 25
- (5) In a case where—
- (a) a court has made a determination that a trial is to be conducted with a jury, and
 - (b) at any time before the beginning of the trial, there is a relevant change of circumstances,
- the court must determine in accordance with subsections (6) and (7) whether the trial is to be conducted with or without a jury. 30
- (6) The trial is to be conducted without a jury unless—
- (a) the condition in subsection (3)(a) of section 74A is met in relation to the offence, or any of the offences, to be tried,
 - (b) the condition in subsection (3)(b) of that section is met in relation to the defendant, or any of the defendants, or
 - (c) the court considers that it would not be appropriate to reallocate the trial (see section 74C(6) and (7)).
- 35
- (7) In a case where subsection (6)(a), (b) or (c) applies, the trial is to be conducted with a jury. 40

- (8) For the purposes of this section, there is a relevant change of circumstances in relation to a trial on indictment if—
- (a) the defendants to be tried, or the offences for which they are to be tried, have changed since the last determination (whether as a result of severing an indictment, joining two or more indictments or otherwise), or 5
 - (b) it appears to the court that there is new evidence that would or might affect whether or not the condition in section 74A(5) is met in relation to a defendant to be tried on the indictment.
- (9) For the purposes of this section— 10
- (a) a trial begins with the opening of the prosecution case;
 - (b) a reference to a trial being conducted without a jury includes, in a case where the trial has begun, a reference to the trial being continued without a jury;
 - (c) a reference to reallocating a trial is— 15
 - (i) where the last determination made in relation to the trial was for the trial to be conducted without a jury, a reference to making a determination that the trial is to be conducted with a jury;
 - (ii) where the last such determination was for the trial to be conducted with a jury, a reference to making a determination that the trial is to be conducted without a jury; 20
 - (d) “determination” means a determination under section 74A or this section. 25

74C Procedure for making determinations under section 74A or 74B

- (1) This section applies where a court is required to make a determination under section 74A or 74B in relation to a trial on indictment.
- (2) In making the determination, the court must have regard to any allocation guidelines (or revised allocation guidelines) issued as definitive guidelines under section 122 of the Coroners and Justice Act 2009. 30
- (3) Before determining for the purposes of section 74A or 74B the sentence which a defendant would be likely to receive for any offence or offences, the court— 35
- (a) must give the prosecution, the defendant and any co-defendant an opportunity to make representations about that matter, and
 - (b) must give the prosecution an opportunity to inform the court of the defendant’s previous convictions (if any).
- (4) In determining for the purposes of section 74A or 74B the sentence which a defendant would be likely to receive for any offence or offences, the court— 40

- (a) must consider any representations made under subsection (3)(a);
 - (b) must, to such extent as may be prescribed, have regard to any sentencing guidelines that are relevant to the defendant’s case;
 - (c) must disregard any offences charged in the indictment to which the defendant has pleaded guilty; 5
 - (d) must, in a case where in accordance with section 4(5) of the Criminal Procedure (Insanity) Act 1964 (finding of unfitness to plead) it is determined that the defendant is under a disability, disregard that disability. 10
- (5) Before determining for the purposes of section 74B whether or not it would be appropriate to reallocate the trial, the court must give the prosecution and the defendant (or defendants) an opportunity to make representations about the matters relevant to reallocation (see subsection (7)). 15
- (6) In determining that question, the court—
- (a) must have regard to the matters relevant to reallocation;
 - (b) must consider any representations made under subsection (5) about any of those matters;
 - (c) may not have regard to any other matters. 20
- (7) The matters relevant to reallocation are—
- (a) where the court has, for the purposes of section 74B, determined the sentence which a defendant would be likely to receive for any offence or offences, the extent to which that sentence differs from the threshold sentence; 25
 - (b) the interests of any person who it is alleged is a victim of the offence, or any of the offences, charged in the indictment;
 - (c) the desirability of avoiding the need for any witness to give evidence again;
 - (d) any delay to the proceedings that would or might result from reallocating the trial; 30
 - (e) any costs that would or might be wasted as a result of reallocating the trial;
 - (f) any effect which reallocating the trial would or might have on other business of the Crown Court; 35
 - (g) any other prescribed matters.
- (8) The court, when having regard to a matter in accordance with subsection (6)(a), must also have regard to any provision prescribed in relation to the matter for the purposes of this section.
- (9) In this section—
- “co-defendant”, in relation to a defendant charged on an indictment, means any other person who is charged on that indictment;
 - “previous conviction” means—

- (a) a previous conviction by a court in the United Kingdom,
or
 - (b) a previous conviction of a service offence within the
meaning of the Armed Forces Act 2006;
- and for the purposes of paragraph (b) “conviction” includes 5
anything that under section 376(1) and (2) of that Act is to be
treated as a conviction;
- “sentencing guidelines” means sentencing guidelines issued by
the Sentencing Council for England and Wales under section 10
120 of the Coroners and Justice Act 2009 as definitive
guidelines, as revised by any subsequent guidelines so issued;
- “the threshold sentence” means a sentence of imprisonment or
detention of three years.
- (10) Any reference in this section to reallocating a trial is to be read in
accordance with section 74B(9)(c). 15

74D Further provision about determinations under section 74A or 74B

- (1) There is no right of appeal against a determination under section 74A
or 74B.
 - (2) A court may make a determination under section 74B without a
hearing. 20
 - (3) Sections 74A(3) and 74B(3) and (7) are subject to any other enactment
that enables a trial on indictment to be conducted without a jury.
 - (4) Nothing in sections 74A to 74C prevents a court from passing a
sentence of imprisonment or detention of more than three years on a
person convicted of an offence. 25
 - (5) For the purposes of sections 74A to 74C and this section, two or more
consecutive sentences are to be treated as a single sentence.”
- (2) The amendments made by subsection (1) apply in relation to any trial on
indictment of a person beginning on or after the specified day (regardless of
whether the arraignment of the person on the indictment took place before, 30
or on or after, that day or the day on which this Act is passed).
- (3) For the purposes of subsection (2) –
- (a) a trial begins with the opening of the prosecution case;
 - (b) “the specified day” means a day that –
- (i) falls after the end of the period of three months beginning with 35
the day on which subsection (1) comes into force, and
 - (ii) is specified in regulations made by the Lord Chancellor.
- (4) In a case where section 74A of the Senior Courts Act 1981 applies in relation
to a trial on indictment of a person and the arraignment of the person on the
indictment took place before the coming into force of that section – 40

- (a) the court must, as soon as is reasonably practicable, make a determination under that section as to whether the trial is to be conducted with or without a jury, and
- (b) the court may make that determination without a hearing.

4 Trial on indictment without a jury: complex or lengthy cases 5

- (1) The Criminal Justice Act 2003 is amended in accordance with subsections (2) to (5).
- (2) After Part 6 insert –

“PART 6A

TRIALS ON INDICTMENT WITHOUT A JURY: COMPLEX OR LENGTHY CASES 10

42A Power to order certain complex or lengthy cases to be tried without a jury in England and Wales

- (1) This section applies where –
 - (a) one or more defendants are to be tried on indictment for one or more offences, 15
 - (b) one or more of the offences is an offence listed in Part 1 of Schedule 3ZA,
 - (c) none of the offences is an excluded offence (see section 42B), and
 - (d) a preparatory hearing has been ordered under section 7 of the Criminal Justice Act 1987 or section 29 of the Criminal Procedure and Investigations Act 1996. 20
- (2) The court may, at any time before the beginning of the trial, make an order under this section that the trial is to be conducted without a jury (but see subsection (3)). 25
- (3) The court may make an order under this section only if –
 - (a) the court is satisfied that the likely complexity of the trial or the likely length of the trial (or both) makes it appropriate for the trial to be conducted without a jury,
 - (b) the court does not consider that it is in the public interest for the trial to be conducted with a jury, and 30
 - (c) the court does not consider that there are any other reasons why it would be more appropriate for the trial to be conducted with a jury.
- (4) Where the court is proposing to make an order under this section, the court must – 35
 - (a) give the prosecution and the defendant (or defendants) an opportunity to make representations about whether or not it should make the order, and
 - (b) consider any such representations. 40

- (5) There is no right of appeal against a decision to make, or not to make, an order under this section.
- (6) For the purposes of this section, a trial begins with the opening of the prosecution case.
- (7) For provision enabling or requiring the court to revoke an order made under this section, see section 42C. 5
- (8) See also section 79A of the Senior Courts Act 1981 (which contains further provision about trials conducted without a jury by virtue of this section).

42B Excluded offences for purposes of section 42A 10

- (1) This section applies for the purposes of section 42A.
- (2) “Excluded offence” means –
 - (a) a homicide offence;
 - (b) a sexual offence that is triable only on indictment;
 - (c) an ancillary offence in relation to an offence within paragraph (a) or (b). 15
- (3) “Homicide offence” means any of the following offences –
 - (a) murder;
 - (b) manslaughter;
 - (c) an offence under section 4 of the Offences against the Person Act 1861 (conspiring or soliciting to commit murder); 20
 - (d) an offence of child destruction under section 1(1) of the Infant Life (Preservation) Act 1929;
 - (e) an offence of infanticide under section 1 of the Infanticide Act 1938; 25
 - (f) an offence under section 2 of the Suicide Act 1961 (encouraging or assisting suicide, etc);
 - (g) an offence under section 1, 3ZB, 3ZC, 3A, 3D(1), 27A or 34C(1) of the Road Traffic Act 1988 (offences of causing death by dangerous driving or cycling, etc); 30
 - (h) an offence under section 22B of that Act (offence of causing danger to road-users resulting in death), where the offence relates to causing a person’s death;
 - (i) an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing the death of a child or vulnerable adult); 35
 - (j) an offence of corporate manslaughter under section 1 of the Corporate Manslaughter and Corporate Homicide Act 2007.
- (4) “Sexual offence” means –
 - (a) an offence under Part 1 of the Sexual Offences Act 1956, or 40
 - (b) an offence under Part 1 of the Sexual Offences Act 2003.

- (5) “Ancillary offence”, in relation to an offence within subsection (2)(a) or (b) (a “relevant offence”) means –
- (a) an offence of attempting or conspiring to commit a relevant offence;
 - (b) an offence under Part 2 of the Serious Crime Act 2007 in relation to a relevant offence; 5
 - (c) an offence of inciting a person to commit a relevant offence;
 - (d) an offence of aiding, abetting, counselling or procuring the commission of a relevant offence.

42C Revocation of orders made under section 42A 10

- (1) This section applies where a court has made an order under section 42A in relation to a trial on indictment.
- (2) The court may revoke the order at any time before the conclusion of the trial.
- (3) The court must revoke the order if, at any time before the conclusion of the trial – 15
- (a) the condition in section 42A(1)(c) ceases to be met, or
 - (b) the court considers that it is in the public interest for the trial to be conducted with a jury.
- (4) The court must revoke the order if, at any time before the conclusion of the trial – 20
- (a) the condition in section 42A(1)(b) ceases to be met, or
 - (b) the court is no longer satisfied that the likely complexity of the trial or the likely length of the trial (or both) makes it appropriate for the trial to be conducted without a jury. 25
- (5) But an order may not be revoked under subsection (4) if –
- (a) the court considers that it would not be appropriate to do so, or
 - (b) the prosecution and the defendant or defendants each consent to the trial being conducted (or continued) without a jury. 30
- (6) Before revoking an order under subsection (2) or (4), the court must give the prosecution and the defendant (or defendants) an opportunity to make representations about whether it would be appropriate to do so.
- (7) For the purposes of determining whether to revoke an order under subsection (2) or (4), the court – 35
- (a) must consider any representations made under subsection (6);
 - (b) may have regard to any matters it considers relevant;
 - (c) in a case where subsection (4) applies, must have regard to the matters relevant to revocation (see subsection (8)). 40
- (8) The matters relevant to revocation are –

- (a) the interests of any person who it is alleged is a victim of the offence, or any of the offences, charged in the indictment;
 - (b) the desirability of avoiding the need for any witness to give evidence again;
 - (c) any delay to the proceedings that would or might result from revoking the order; 5
 - (d) any costs that would or might be wasted as a result of revoking the order;
 - (e) any effect which revoking the order would or might have on other business of the Crown Court; 10
 - (f) any other matters specified in Criminal Procedure Rules.
- (9) The court, when having regard to a matter in accordance with subsection (7)(c), must also have regard to any provision specified in relation to the matter for the purposes of this section. In this subsection “specified” means specified in Criminal Procedure Rules. 15
- (10) There is no right of appeal against a decision made for the purposes of this section.
- (11) The court may determine without a hearing whether or not an order under section 42A is to be revoked under this section. 20
- (12) Nothing in this section prevents the making of a fresh order under section 42A in relation to the trial.”
- (3) In the heading of Part 7 (trials on indictment without a jury), at the end insert “: jury tampering”.
- (4) In section 330 (orders and rules), in subsection (5)(a)– 25
 - (a) omit the “and” after “section 325(7)”, and
 - (b) after the entry relating to section 325(7) insert –
“paragraph 20 of Schedule 3ZA,”.
- (5) After Schedule 3 insert the Schedule 3ZA set out in Schedule 1.
- (6) The amendments made by subsections (2) to (5) apply in relation to any trial beginning on or after the specified day (regardless of whether the preparatory hearing was ordered before, or on or after, that day or the day on which this Act is passed). 30
- (7) In a case where section 42A of the Criminal Justice Act 2003 applies in relation to a trial and the preparatory hearing was ordered before the day on which subsections (2) to (5) come into force, an order may be made under that section without a hearing. 35
- (8) For the purposes of subsections (6) and (7)–
 - (a) a trial begins with the opening of the prosecution case;
 - (b) “the specified day” means a day that– 40

- (i) falls after the end of the period of three months beginning with the day on which subsections (2) to (5) come into force, and
- (ii) is specified in regulations made by the Lord Chancellor;
- (c) “preparatory hearing” means a preparatory hearing under section 7 of the Criminal Justice Act 1987 or section 29 of the Criminal Procedure and Investigations Act 1996.

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5 Consequential amendments relating to sections 3 and 4

- (1) In section 4A of the Criminal Procedure (Insanity) Act 1964 (finding that the accused did the act or made the omission charged), after subsection (5) insert—

“(6) In the case of a trial that is to be, or is being, conducted without a jury by virtue of section 74A or 74B of the Senior Courts Act 1981 or section 42A of the Criminal Justice Act 2003, the determination under subsection (2) is to be made by the court without a jury; and references in this section to the jury are to be read accordingly.”

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- (2) The Senior Courts Act 1981 is amended in accordance with subsections (3) and (4).

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- (3) In section 79 (practice and procedure in connection with indictable offences and appeals), in subsection (2)(a), omit “by jury”.

- (4) After section 79 insert—

“79A Trials on indictment without a jury: supplementary provision

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- (1) This section applies where, by virtue of section 74A or 74B of this Act or section 42A of the Criminal Justice Act 2003, a trial is conducted without a jury.

- (2) The court is to have all the powers, authorities and jurisdiction which the court would have had if the trial had been conducted with a jury (including power to determine any question and to make any finding which would be required to be determined or made by a jury).

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- (3) Except where the context otherwise requires, any reference in an enactment, or an instrument made under an enactment, to a jury, the verdict of a jury or the finding of a jury is to be read, in relation to a trial conducted without a jury, as a reference to the court, the verdict of the court or the finding of the court.

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- (4) Where the court convicts or (as the case may be) acquits a defendant, the court must give a judgment which states the reasons for the conviction or acquittal.

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- (5) The judgment must be given at, or as soon as reasonably practicable after, the time of the conviction or acquittal.

- (6) Where the court convicts the defendant, the reference in section 18(2) of the Criminal Appeal Act 1968 (notice of appeal or of application for leave to appeal to be given within 28 days from date of conviction

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etc) to the date of the conviction is to be read as a reference to the date of the judgment given for the purposes of subsection (4).”

- (5) In section 48 of the Criminal Justice Act 2003 (further provision about trials without a jury), after subsection (5) insert—

“(5A) Where a trial is conducted or continued without a jury and the court acquits a defendant, the court must give a judgment which states the reasons for the acquittal at, or as soon as reasonably practicable after, the time of the acquittal.” 5

- (6) In section 19 of the Domestic Violence, Crime and Victims Act 2004 (effect of order that certain counts in indictment to be tried without jury), after subsection (4) insert— 10

“(4A) Where a trial of a count is conducted or continued without a jury because of an order under section 17(2) and the court acquits the defendant of that count, the court must give a judgment which states the reasons for the acquittal at, or as soon as reasonably practicable after, the time of the acquittal.” 15

- (7) In section 122 of the Coroners and Justice Act 2009 (allocation guidelines), in subsection (1), after paragraph (b) insert—

“(c) decisions by the Crown Court under section 74A or 74B of the Senior Courts Act 1981 as to whether a trial is to be conducted with or without a jury.” 20

Sentencing powers of magistrates’ courts

6 Increase in maximum custodial sentence in magistrates’ court

Maximum for single offence

- (1) In Schedule 23 to the Sentencing Act 2020 (powers to amend the Sentencing Code), in paragraph 14A (general limit on magistrates’ court’s power to impose custodial sentence), for sub-paragraph (1) substitute— 25

“(1) The Secretary of State may by regulations amend section 224(1A)(b) (general limit on custodial sentence for either-way offence in magistrates’ court) so as to substitute a reference to any period listed in sub-paragraph (1A) for a reference to any other period listed in that sub-paragraph. 30

- (1A) The periods referred to in sub-paragraph (1) are—

- (a) 6 months;
- (b) 12 months; 35
- (c) 18 months;
- (d) 24 months.”

Maximum for two or more offences

- (2) In section 133 of the Magistrates’ Courts Act 1980 (consecutive terms of imprisonment) –
- (a) in subsection (2), for “12 months”, in both places it occurs, substitute “the relevant limit”;
 - (b) after subsection (2) insert – 5
 - “(2ZA) In subsection (2) “the relevant limit” means –
 - (a) the general limit in a magistrates’ court, or
 - (b) if the general limit in a magistrates’ court is less than 12 months, 12 months.”
- (3) In consequence of the amendments made by subsection (2) – 10
- (a) omit section 155 of the Criminal Justice Act 2003;
 - (b) in Schedule 2 to the Judicial Review and Courts Act 2022, omit paragraph 19(2).
- Cases where general limit exceeds maximum term on indictment*
- (4) In Part 10 of the Sentencing Act 2020 (custodial sentences), in Chapter 1 (general provisions), after section 224 insert – 15
- “224A Cases where general limit exceeds maximum term on indictment**
- (1) This section applies if –
 - (a) a person is convicted by a magistrates’ court of an offence triable either way, and 20
 - (b) at the time of conviction, the period specified in section 224(1A)(b) is greater than the maximum term of imprisonment on conviction on indictment for the offence (“the relevant maximum”).
 - (2) The magistrates’ court does not have power to impose imprisonment or detention in a young offender institution for a term exceeding the relevant maximum.” 25
- (5) In section 32 of the Magistrates’ Courts Act 1980 (penalties on summary conviction for offences triable either way), after subsection (1) insert –
- “(1A) For provision limiting the sentencing powers of a court where the general limit in a magistrates’ court is greater than the maximum term of imprisonment on conviction on indictment for an offence, see section 224A of the Sentencing Code.” 30
- (6) In section 282 of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way), after subsection (3) insert – 35
- “(3A) For provision limiting the sentencing powers of a court where the general limit in a magistrates’ court is greater than the maximum term of imprisonment on conviction on indictment for an offence, see section 224A of the Sentencing Code.” 40

- (7) In section 13 of the Judicial Review and Courts Act 2022 (maximum term of imprisonment on summary conviction for either-way offence), after subsection (7) insert—
- “(7A) For provision limiting the sentencing powers of a court where the general limit in a magistrates’ court is greater than the maximum term of imprisonment on conviction on indictment for an offence, see section 224A of the Sentencing Code.” 5
- (8) On the coming into force of section 61 of the Criminal Justice and Courts Services Act 2000 (abolition of sentences of detention in a young offender institution), in section 224A(2) of the Sentencing Act 2020, omit “or detention in a young offender institution”. 10

Appeals from magistrates’ courts

7 Appeals from magistrates’ courts

Schedule 2 contains provision about—

- (a) appeals against conviction or sentence by magistrates’ courts, and 15
(b) appeals against certain other decisions of magistrates’ courts.

Admissibility of evidence

8 Restriction on evidence or questions about complainant’s sexual history

- (1) In the Youth Justice and Criminal Evidence Act 1999 (“the 1999 Act”), Part 2 (giving of evidence or information for purposes of criminal proceedings) is amended in accordance with subsections (2) to (7). 20
- (2) In the heading of Chapter 3, for “in proceedings for sexual offences” substitute “: restrictions on certain evidence or questions”.
- (3) Before section 41 insert—
- “*Sexual behaviour of the complainant*”. 25
- (4) In section 41 (restriction on evidence or questions about complainant’s sexual history)—
- (a) in subsection (1)—
- (i) for the words from the beginning to “then” substitute “At the trial of any offence”; 30
- (ii) in the words after paragraph (b), omit “at the trial”;
- (b) in subsection (2), for the words from “satisfied” to the end substitute “satisfied that the evidence which the accused proposes to adduce, or which the question is intended to elicit—
- (a) has substantial probative value in relation to a matter which— 35
- (i) is a matter in issue in the proceedings, and

- (ii) is of substantial importance in the context of the case as a whole, or
- (b) is important explanatory evidence.”;
- (c) after subsection (2) insert –
- “(2A) In assessing the probative value of evidence for the purposes of subsection (2)(a) the court must have regard to the following factors (and to any others it considers relevant) –
- (a) the nature and number of the events, or other things, to which the evidence relates;
- (b) when those events or things are alleged to have happened or existed;
- (c) where it is suggested that the evidence has probative value by reason of similarity between –
- (i) the sexual behaviour to which the evidence relates, and
- (ii) any other alleged sexual behaviour of the complainant,
- the nature and extent of the similarities and the dissimilarities between each of the alleged instances of sexual behaviour;
- (d) the extent to which the evidence is, in the opinion of the court, necessary to enable evidence adduced, or to be adduced, by or on behalf of another party to be rebutted or explained by or on behalf of the accused;
- (e) the extent to which the suggested probative value of the evidence relies on a matter which is disputed by another party but which is not itself of substantial importance in the context of the case as a whole;
- (f) the extent to which the suggested probative value of the evidence relies on the drawing of an inference that does not appear to the court to be one which may properly be drawn from the evidence.
- (2B) For the purposes of subsection (2)(b) evidence is important explanatory evidence if –
- (a) without it, the court or jury would find it impossible or difficult properly to understand other evidence in the case, and
- (b) its value for understanding the case as a whole is substantial.”;
- (d) omit subsections (3) to (5);
- (e) for subsection (6) substitute –
- “(6) For the purposes of subsection (2) the evidence must relate to a specific instance (or specific instances) of alleged sexual behaviour on the part of the complainant (and accordingly

- nothing in that subsection is capable of applying in relation to the evidence to the extent that it does not so relate.”;
- (f) omit subsection (7).
- (5) In section 42 (interpretation and application of section 41) –
- (a) for subsection (1) substitute – 5
- “(1) In section 41 “sexual behaviour” means any sexual behaviour or other sexual experience, whether or not involving any accused or other person; but this is subject to subsection (1A).
- (1A) Where the offence with which the accused is charged is a sexual offence, references in section 41 to “sexual behaviour” (except in section 41(2A)(c)(ii)) do not include anything alleged to have taken place as part of the event which is the subject matter of the charge.”; 10
- (b) omit subsection (2).
- (6) In section 43 (procedure on applications under section 41), in subsection (3)(a), for “subsection (3) or (5) of section 41” substitute “section 41(2)”. 15
- (7) In section 62 (meaning of “sexual offence” and other references to offences), in subsection (2), for the words after “include” substitute “ –
- (a) a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, the substantive offence, and 20
- (b) a reference to an offence under Part 2 of the Serious Crime Act 2007 in relation to which the substantive offence is the offence (or one of the offences) which the person intended or believed would be committed.” 25
- (8) In consequence of the repeal made by subsection (5)(b), in section 64 of the 1999 Act (regulations and orders), in subsection (3)(a), omit “, 42(2)”.
- 9 Compensation claims in proceedings for sexual offences**
- (1) Chapter 3 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (giving of evidence for purposes of criminal proceedings: protection of complainants) is amended as follows. 30
- (2) After section 43 insert –
- “Compensation claims relating to sexual offences*
- 43A Restriction on evidence or questions about compensation claims in proceedings for sexual offences** 35
- (1) If at a trial a person is charged with a sexual offence, then, except with the leave of the court –
- (a) no evidence may be adduced, and

- (b) no question may be asked in cross-examination, by or on behalf of any party at the trial, about any relevant claim made by the complainant.
- (2) In this section “relevant claim” means any claim or application for damages or compensation in respect of injury, loss or damage resulting from the sexual offence with which the accused is charged. 5
- (3) The court may give leave in relation to any evidence or question only on an application made by or on behalf of the party seeking to adduce the evidence or ask the question.
- (4) The court may not give such leave unless it is satisfied that the evidence which it is proposed be adduced, or which the question is intended to elicit, has substantial probative value in relation to a matter which— 10
- (a) is a matter in issue in the proceedings, and
- (b) is of substantial importance in the context of the case as a whole. 15
- (5) In assessing the probative value of evidence for the purposes of subsection (4), the court must have regard to the extent to which the suggested probative value of the evidence relies on the drawing of an inference that does not appear to the court to be one which may properly be drawn from the evidence. 20
- (6) Where this section applies in relation to a trial by virtue of the fact that one or more of a number of persons charged in the proceedings is or are charged with a sexual offence—
- (a) it ceases to apply in relation to the trial if the prosecutor decides not to proceed with the case against that person or those persons in respect of that charge, but 25
- (b) it does not cease to do so in the event of that person or those persons pleading guilty to, or being convicted of, that charge.
- (7) Nothing in this section authorises any evidence to be adduced or any question to be asked which cannot be adduced or asked apart from this section. 30

43B Application of section 43A and procedure on applications

- (1) Section 43A applies in relation to the following proceedings as it applies to a trial— 35
- (a) proceedings before a magistrates’ court inquiring into an offence as examining justices,
- (b) the hearing of an application under paragraph 5(1) of Schedule 6 to the Criminal Justice Act 1991 (application to dismiss charge following notice of transfer of case to Crown Court), 40
- (c) the hearing of an application under paragraph 2(1) of Schedule 3 to the Crime and Disorder Act 1998 (application to dismiss

- charge by person sent for trial under section 51 or 51A of that Act),
- (d) any hearing held, between conviction and sentencing, for the purpose of determining matters relevant to the court’s decision as to how the accused is to be dealt with, and 5
- (e) the hearing of an appeal,
- and references in section 43A to a person charged with an offence accordingly include a person convicted of an offence.
- (2) Criminal Procedure Rules may make provision about applications for leave under section 43A, and may in particular make provision— 10
- (a) requiring applications for leave to specify, in relation to each item of evidence or question to which they relate, particulars of the grounds on which it is asserted that leave should be given by virtue of section 43A(4);
- (b) enabling the court to request a party to the proceedings to provide the court with information which it considers would assist it in determining an application for leave; 15
- (c) for the manner in which confidential or sensitive information is to be treated in connection with such an application, and in particular as to its being disclosed to, or withheld from, parties to the proceedings.” 20
- (3) After section 43B (inserted by subsection (2)) insert—

“General

43C Assumption of truth in assessment of probative value

- (1) Subject to subsection (2), a reference in this Chapter to the probative value of evidence is a reference to its probative value on the assumption that it is true. 25
- (2) In assessing the probative value of an item of evidence for any purpose of this Chapter, a court need not assume that the evidence is true if it appears, on the basis of any material before the court (including any evidence it decides to hear on the matter), that no court or jury could reasonably find it to be true.” 30

10 Evidence about previous false complaints relating to sexual offences

- (1) In Part 11 of the Criminal Justice Act 2003, Chapter 1 (evidence of bad character) is amended in accordance with subsections (2) and (3). 35
- (2) In section 100 (non-defendant’s bad character)—
- (a) after subsection (1) insert—
- “(1A) See section 100A (previous false complaints relating to sexual offences) for additional restrictions on the admissibility of evidence of the bad character of the complainant.”; 40

(b) for subsection (4) substitute –

“(4) Evidence of the bad character of a person other than the defendant must not be given without leave of the court unless –

- (a) subsection (1)(c) applies, and
- (b) the evidence is not previous false complaint evidence within the meaning given by section 100A(3).”

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(3) After section 100 insert –

“100A Previous false complaints relating to sexual offences

(1) In criminal proceedings for an offence, evidence of the bad character of the complainant which is previous false complaint evidence is not admissible unless the court is satisfied that the proper evidential basis condition is met (see subsection (4)).

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(2) Subsection (1) applies in addition to section 100.

(3) For the purposes of subsection (1) evidence is “previous false complaint evidence” if the evidence relates to an allegation that –

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(a) the complainant has at any time made an allegation (“the previous allegation”) that the complainant is a person against or in relation to whom a sexual offence, other than the offence with which the defendant is now charged (if it is a sexual offence), has been committed, and

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(b) the previous allegation was false.

(4) The proper evidential basis condition is that there is material before the court on the basis of which the court or jury could properly conclude that –

(a) the complainant made the previous allegation, and

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(b) the previous allegation was false.

(5) For the purposes of this section, material is not to be regarded as material on the basis of which the court or jury could properly conclude that the previous allegation was false merely because it is material on the basis of which the court or jury could reasonably find one or more of the matters specified in subsection (6) to be true.

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(6) The matters mentioned in subsection (5) are –

(a) that the previously alleged offence was not reported to the police or another investigating authority as soon as reasonably practicable after its alleged commission;

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(b) that the complainant did not cooperate with a request made for the purposes of –

- (i) the investigation of the previously alleged offence, or
- (ii) the prosecution of the alleged perpetrator;

(c) that the alleged perpetrator –

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(i) denies having committed the previously alleged offence,

- (ii) has not been prosecuted for the previously alleged offence, or
 - (iii) has been acquitted of the previously alleged offence.
- (7) In subsection (6) –
 - (a) “the previously alleged offence” means the sexual offence to which the previous allegation related, and 5
 - (b) “the alleged perpetrator” means the person alleged by the complainant to have committed the previously alleged offence.
- (8) References in this section to a sexual offence are to an act which, at the time at which the act is alleged to have been done – 10
 - (a) constituted an England and Wales sexual offence,
 - (b) constituted an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) was an England and Wales sexual offence, or 15
 - (c) where the act is alleged to have been done in a country outside England and Wales –
 - (i) constituted an offence under the law of that country, and
 - (ii) if done in England and Wales, would have constituted an England and Wales sexual offence. 20
- (9) In this section –
 - “complainant”, in relation to the offence mentioned in subsection (1), means a person against or in relation to whom the offence is alleged to have been committed; 25
 - “England and Wales sexual offence” means –
 - (a) any offence under Part 1 of the Sexual Offences Act 2003;
 - (b) an offence under section 2 of the Modern Slavery Act 2015 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation); 30
 - (c) a relevant superseded offence;
 - (d) an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence within paragraph (a), (b) or (c); 35
 - (e) an offence under Part 2 of the Serious Crime Act 2007 in relation to which the offence (or one of the offences) which the person intended or believed would be committed is an offence within paragraph (a) or (b); 40
 - “investigating authority” means a person with the function of investigating offences;
 - “relevant superseded offence” means –
 - (a) rape, or burglary with intent to rape; 45

- (b) an offence under any of sections 2 to 12 and 14 to 17 of the Sexual Offences Act 1956 (unlawful intercourse, indecent assault, forcible abduction etc);
 - (c) an offence under section 128 of the Mental Health Act 1959 (unlawful intercourse with person receiving treatment for mental disorder by member of hospital staff etc); 5
 - (d) an offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards child under 14); 10
 - (e) an offence under section 54 of the Criminal Law Act 1977 (incitement of child under 16 to commit incest)."
- (4) In Schedule 6 to the Criminal Justice Act 2003 (evidence of bad character: armed forces), the reference in paragraph 1 to sections 98 to 106 of that Act includes a reference to – 15
- (a) section 100 of that Act as amended by subsection (2) of this section, and
 - (b) section 100A of that Act as inserted by subsection (3) of this section.

11 Evidence of propensity to commit offences involving domestic abuse

- (1) Section 103 of the Criminal Justice Act 2003 (defendant bad character evidence: matters in issue between defendant and prosecution) is amended in accordance with subsections (2) to (7). 20
- (2) In subsection (2) –
- (a) omit the “or” at the end of paragraph (a);
 - (b) at the end of paragraph (b) insert “, or” 25
 - (c) a domestic abuse offence, if it is alleged that the offence with which the defendant is charged involved behaviour by the defendant amounting to domestic abuse.”
- (3) In subsection (4), at the end insert –
- “(c) an offence under the law of England and Wales is a “domestic abuse offence” if it involves behaviour by the defendant amounting to domestic abuse.” 30
- (4) In subsection (7), at the end insert “and for the purpose of determining if the previous offence is a domestic abuse offence”.
- (5) In subsection (8), at the end insert – 35
- “(c) the previous offence is a “domestic abuse offence” if it involves behaviour by the defendant amounting to domestic abuse.”
- (6) In subsection (10), at the end insert –
- “(c) the previous service offence is a “domestic abuse offence” if it involves behaviour by the defendant amounting to domestic abuse.” 40

- (7) In subsection (11), before the definition of “Her Majesty’s forces” insert –
““domestic abuse” has the same meaning as in the Domestic Abuse Act 2021 (see section 1 of that Act);”.
- (8) In Schedule 6 to the Criminal Justice Act 2003 (evidence of bad character: armed forces), the reference in paragraph 1 to sections 98 to 106 of that Act includes a reference to section 103 of that Act as amended by this section.

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Special measures directions

12 Use of screens etc

- (1) Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (special measures directions in case of vulnerable and intimidated witnesses) is amended as follows.

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- (2) After section 22A insert –

“22B Special provisions relating to use of screens etc: witnesses eligible by virtue of section 17

- (1) This section applies where, in any criminal proceedings –
- (a) a party to the proceedings makes an application under section 19(1)(a) for a special measures direction in relation to a witness in the proceedings,
 - (b) the party requests that the special measures direction make such provision as is described in section 23 (use of screens etc), and
 - (c) the court determines for the purposes of section 19(2) that the witness is eligible for assistance by virtue of section 17.

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- (2) The court must –

- (a) first have regard to subsections (3) and (4), and
- (b) then have regard to section 19(2);

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and for the purposes of section 19(2), as it then applies to the witness, any special measure required to be applied in relation to the witness by virtue of this section is to be treated as if it were a measure determined by the court, pursuant to section 19(2)(a) and (b)(i), to be one that (with any other special measures) would be likely to maximise, so far as practicable, the quality of the witness’s evidence.

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- (3) If a special measures direction is given in relation to the witness that –
- (a) provides for the witness’s evidence, or any part of it, to be given by means of a live link, or
 - (b) provides for any cross-examination of the witness, and any re-examination, to be recorded by means of video recording under section 28,

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the special measures direction must also make such provision as is described in section 23(1)(b).

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- (4) The requirement in subsection (3) does not apply to the extent that it appears to the court that it would be contrary to the interests of justice to give a direction complying with the requirement.
- (5) In determining whether it would be contrary to the interests of justice to give a special measures direction complying with the requirement in subsection (3), the court must take into account, in particular—
- (a) the extent to which provision such as is described in section 23 would, in its opinion, be likely to improve the quality of evidence given by the witness;
 - (b) whether such provision might tend to inhibit the evidence given by the witness being effectively tested by a party to the proceedings.”
- (3) In section 23 (screening witness from accused)—
- (a) for the heading substitute “Use of screens etc”;
 - (b) for subsection (1) substitute—
- “(1) A special measures direction may—
- (a) provide for the witness, while giving testimony or being sworn in court, to be prevented by means of a screen or other arrangement from seeing the accused;
 - (b) provide for the accused to be prevented, by means of a screen or other arrangement, from seeing the witness giving evidence.”;
- (c) after subsection (3) insert—
- “(4) For the purposes of subsection (1)(b), the reference to the witness giving evidence includes the witness—
- (a) giving testimony or being sworn in court,
 - (b) giving evidence by means of a live link, or
 - (c) being cross-examined or re-examined in pursuance of section 28.
- (5) References in this section to a person seeing, or being seen by, another person are to be read as including a person seeing, or being seen by, another person by means of—
- (a) a live link, or
 - (b) arrangements put in place for the purposes of section 28(2).”
- (4) In section 28 (video recorded cross-examination or re-examination), after subsection (3) insert—
- “(3A) The requirement in subsection (2)(b) that the accused be able to see any cross-examination or re-examination of the witness is subject to any provision made by virtue of section 23(1)(b) (use of screens etc).”

13 Witness to be accompanied while giving evidence

- (1) After section 22B of the Youth Justice and Criminal Evidence Act 1999 (as inserted by section 12 of this Act) insert—

“22C Special provisions relating to independent supporters

- (1) This section applies where, in any criminal proceedings— 5

- (a) a party to the proceedings makes an application under section 19(1)(a) for a special measures direction in relation to a witness in the proceedings,
- (b) the party requests that the direction provide under section 24A for a person specified in the application, or a person of a description specified in the application, to accompany the witness, and 10
- (c) the person, or description of person, specified in the application is an independent supporter.

- (2) The court must— 15

- (a) first have regard to subsections (3) and (4), and
- (b) then have regard to section 19(2);

and for the purposes of section 19(2), as it then applies to the witness, any special measure required to be applied in relation to the witness by virtue of this section is to be treated as if it were a measure determined by the court, pursuant to section 19(2)(a) and (b)(i), to be one that (whether on its own or with any other special measures) would be likely to maximise, so far as practicable, the quality of the witness’s evidence. 20

- (3) The court must give a special measures direction in relation to the witness which provides under section 24A for an independent supporter to accompany the witness. 25

- (4) The requirement in subsection (3) does not apply to the extent that it appears to the court that it would be contrary to the interests of justice to give a direction complying with the requirement. 30

- (5) In this section “independent supporter” means an individual who performs a role which involves the provision of support to witnesses in criminal proceedings or victims of criminal conduct, where the support relates to those proceedings or that conduct.

- (6) For the purposes of subsection (5), “victim” and “criminal conduct” have the same meaning as in Part 1 of the Victims and Prisoners Act 2024 (see section 1 of that Act).” 35

- (2) After section 24 of the Youth Justice and Criminal Evidence Act 1999—

“24A Witness to be accompanied while giving evidence

- (1) A special measures direction may provide for a person specified in the direction, or a person of a description specified in the direction, to accompany the witness while the witness is giving evidence. 40

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- (2) In determining who may accompany the witness, the court must have regard to the wishes of the witness.
- (3) The reference in subsection (1) to accompanying a witness while the witness is giving evidence includes accompanying the witness while the witness is— 5
- (a) giving testimony or being sworn in court,
 - (b) giving evidence by means of a live link, or
 - (c) being cross-examined or re-examined in pursuance of section 28.”
- (3) In consequence of the provision made by subsection (2)— 10
- (a) in section 24 of the Youth Justice and Criminal Evidence Act 1999, omit subsections (1A) and (1B);
 - (b) in section 27 of that Act, omit subsection (9A);
 - (c) in the Coroners and Justice Act 2009, omit section 102.
- 14 Exclusion of persons from court** 15
- (1) Section 25 of the Youth Justice and Criminal Evidence Act 1999 (evidence given in private) is amended as follows.
- (2) For the heading substitute “Exclusion of persons from court”.
- (3) In subsection (1), for “persons of any description” substitute “any person, or persons of any description,”. 20
- (4) In subsection (2)—
- (a) omit the “or” at the end of paragraph (b);
 - (b) at the end of paragraph (c) insert—
- “(d) the witness’s supporter (if there is one),
 - (e) representatives of news gathering or reporting 25
organisations, or
 - (f) persons carrying out research with approval from a body appointed by a research institution for the purpose of assessing the ethics of research involving individuals.”
- (5) After subsection (2) insert— 30
- “(2A) For the purposes of subsection (2)(d), “the witness’s supporter” means—
- (a) where provision made under section 24A provides for a person to accompany the witness, that person;
 - (b) in any other case, one named person who has been nominated 35
by the witness for those purposes.”
- (6) Omit subsection (3).
- (7) In subsection (5), omit the words from “(whether” to “organisations)”.

(8) At the end insert –

“(6) In subsection (2)(f) “research institution” has the same meaning as in Chapter 4A of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (see section 457 of that Act).

(7) Nothing in this section is to be regarded as affecting any other power of a court to exclude a person from the court (in the exercise of its inherent jurisdiction or otherwise).” 5

15 Editing of video recorded cross-examination and re-examination

(1) Section 28 of the Youth Justice and Criminal Evidence Act 1999 (video recorded cross-examination or re-examination) is amended as follows. 10

(2) In subsection (4), for the words from “it” to the end substitute “the recording, or a part of the recording, is not to be so admitted if –

(a) any requirement of subsection (2) or Criminal Procedure Rules or the direction has not been complied with to the satisfaction of the court, or 15

(b) the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording, or that part of it, should not be admitted under this section.”

(3) After subsection (4) insert – 20

“(4A) In considering for the purposes of subsection (4)(b) whether any part of a recording should not be admitted under this section, the court must consider whether any prejudice to the accused which might result from that part being so admitted is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded examination.” 25

16 Application of special measures to victim personal statements etc

In section 33 of the Youth Justice and Criminal Evidence Act 1999 (interpretation etc of Chapter 1), at the end insert –

“(7) Subsection (8) applies where, in proceedings for an offence, a person has for the purposes of sentencing made a written statement of the effect of the offence on that person, or on persons including that person (an “impact statement”). 30

(8) Any reference in this Chapter to the giving of evidence or testimony by a witness includes a reference to – 35

(a) the reading out in court of an impact statement by the person who made it, and

(b) any cross-examination or re-examination of that person in respect of that statement,

and related expressions are to be read accordingly.” 40

PART 2

OTHER PROVISION ABOUT COURTS AND TRIBUNALS

*Decisions of courts under Children Act 1989***17 Welfare of the child: repeal of presumption of parental involvement**

- (1) In section 1 of the Children Act 1989 (welfare of the child), omit subsections (2A), (2B), (6) and (7) (which provide for a presumption, in certain circumstances and for certain purposes, that the involvement of each parent in the life of a child will further the child’s welfare). 5
- (2) In consequence of the repeal made by subsection (1), omit section 11 of the Children and Families Act 2014. 10

*Tribunals***18 Leadership of tribunals**

- (1) Section 7 of the Constitutional Reform Act 2005 (which provides for the Lord Chief Justice of England and Wales to be President of the Courts of England and Wales and Head of the Judiciary of England and Wales) is amended in accordance with subsections (2) to (4). 15
- (2) For “President of the Courts of England and Wales”, in each place it occurs (including the heading), substitute “President of the Courts and Tribunals of England and Wales”.
- (3) After subsection (2) insert— 20
- “(2A) In subsection (2) “the judiciary of England and Wales” includes every person who is—
- (a) a judge, or other member, of the First-tier Tribunal or Upper Tribunal exercising functions wholly or mainly in England and Wales, 25
- (b) a member of a panel of members of employment tribunals established for England and Wales (whether or not a panel of Employment Judges), or
- (c) a judge, or other member, of the Employment Appeal Tribunal exercising functions wholly or mainly in England and Wales. 30
- (2B) In subsection (2)(a) “the judiciary of England and Wales” also includes every person who—
- (a) is, or is a member of, a tribunal in a list in Schedule 6 to the Tribunals, Courts and Enforcement Act 2007 that has effect for the purposes of section 30 of that Act, and 35
- (b) exercises functions wholly or mainly in England and Wales.
- (2C) The responsibility that the Lord Chief Justice, as President of the Courts and Tribunals of England and Wales, has under subsection (2)(c)

includes (so far as it would not otherwise do so, and subject to having regard to the responsibilities of the Senior President of Tribunals) responsibility for the maintenance of appropriate arrangements for—

- (a) the deployment to tribunals of judiciary deployable to tribunals, and
- (b) the deployment to courts in England and Wales of judiciary deployable to such courts.”

5

(4) After subsection (4) insert—

“(4A) See also section 3 of the Tribunals, Courts and Enforcement Act 2007 (which provides that the Lord Chief Justice is to preside, in England and Wales, over both of the First-tier Tribunal and the Upper Tribunal).

10

(4B) A holder of the office of Lord Chief Justice must, in carrying out the functions of that office, have regard to—

- (a) the need for tribunals to be accessible,
- (b) the need for proceedings before tribunals—
 - (i) to be fair, and
 - (ii) to be handled quickly and efficiently,
- (c) the need for members of tribunals to be experts in the subject-matter of, or the law to be applied in, cases in which they decide matters, and
- (d) the need to develop innovative methods of resolving disputes that are of a type that may be brought before tribunals.

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(4C) In this section “tribunals” means—

- (a) the First-tier Tribunal,
- (b) the Upper Tribunal,
- (c) employment tribunals, and
- (d) the Employment Appeal Tribunal.”

25

(5) After section 9 of the Constitutional Reform Act 2005 insert—

“9A Head and Deputy Head of Tribunals Justice

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

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- (5) The Lord Chief Justice may nominate a senior judge (as defined in section 109(5)) to exercise the functions of the Lord Chief Justice under this section.”
- (6) In section 3 of the Tribunals, Courts and Enforcement Act 2007 (the First-tier Tribunal and the Upper Tribunal) – 5
- (a) after subsection (3) insert –
- “(3A) The Lord Chief Justice of England and Wales is to preside, in England and Wales, over both of the First-tier Tribunal and the Upper Tribunal.”;
- (b) in subsection (4), after “preside” insert “, in Scotland and Northern Ireland,”. 10
- (7) Schedule 3 contains further provision about –
- (a) functions of the office of Lord Chief Justice of England and Wales relating to tribunals, and
- (b) the office of Senior President of Tribunals. 15

Lay justices’ allowances

19 Lay justices’ allowances

- (1) In the Courts Act 2003, for section 15 (lay justices’ allowances) substitute –
- “15 Lay justices’ allowances**
- (1) The Lord Chancellor may by regulations make provision entitling a lay justice to payments in respect of – 20
- (a) expenditure, or expenditure of a specified description, incurred by the lay justice in connection with the performance of the lay justice’s duties;
- (b) financial losses, or financial losses of a specified description, suffered by the lay justice as a result of the performance of those duties; 25
- (c) other expenditure of a specified description incurred, or to be incurred, by the lay justice.
- (2) The provision that may be made by regulations under this section includes (among other things) – 30
- (a) provision as to matters which are, or are not, to be treated as duties of a lay justice;
- (b) provision about when expenditure is, or is not, to be regarded as incurred by a lay justice in connection with the performance of any duties; 35
- (c) provision about when financial losses are, or are not, to be regarded as suffered by a lay justice as a result of the performance of any duties;
- (d) provision about making a claim for a payment under the regulations; 40

- (e) provision for exceptions to any entitlement to a payment under the regulations;
 - (f) provision for avoiding duplication between payments under the regulations and under other arrangements in a case where expenditure is incurred for more than one purpose. 5
- (3) *Any amounts to which a lay justice is entitled by virtue of this section –*
- (a) *are to be paid by the Lord Chancellor;*
 - (b) *may be paid at a rate determined by the Lord Chancellor.*
- (4) In this section “specified” means specified in the regulations.”
- (2) In consequence of the amendment made by subsection (1), in Schedule 4 to the Constitutional Reform Act 2005, omit paragraph 317. 10

The Crown Court in the City of London

20 Special provision when Crown Court sits in City of London

- (1) Section 8 of the Senior Courts Act 1981 (the Crown Court) is amended as follows. 15
- (2) In subsection (3) (which provides for the Crown Court sitting in the City of London to be known as the Central Criminal Court), after “City of London” insert “at the premises made available for that purpose in accordance with section 29(1) of the Courts Act 1971,”.
- (3) After that subsection insert – 20
- “(3A) If the Crown Court sits at any other premises in the City of London, the entitlement for the time being exercisable by virtue of subsection (3) in relation to the Central Criminal Court may also be exercised to the same extent in relation to the Crown Court sitting at those other premises.” 25

PART 3

FINAL PROVISIONS

21 Power to make consequential amendments

- (1) The Lord Chancellor may by regulations make provision that is consequential on any provision made by this Act. 30
- (2) The power to make regulations under this section may, in particular, be exercised by amending or repealing provision made by an Act passed before, or in the same session of Parliament as, this Act (as well as provision made under such an Act).
- (3) A statutory instrument that contains (with or without other provisions) regulations under this section that amend or repeal any provision made by 35

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.

- (4) A statutory instrument containing any other regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

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22 Power to make transitional or saving provision

- (1) The Lord Chancellor may by regulations make such transitional or saving provision as the Lord Chancellor considers appropriate in connection with the coming into force of any provision of this Act.

- (2) Regulations under this section may (among other things) –

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- (a) make provision in addition to, or different from, that made by this Act;
- (b) make any adaptations of any provisions of this Act brought into force that appear to be appropriate in consequence of other provisions of this Act not yet having come into force.

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23 Power to state effect of provisions commencing Sentencing Code amendments

The power in section 419(1) of the Sentencing Act 2020 (power to state effect of commencement provisions) applies in relation to any amendment or repeal made by or under this Act of provision made by that Act as it applies in relation to an amendment or repeal made by Schedule 22 to that Act.

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24 Regulations

- (1) Any power of the Lord Chancellor to make regulations under this Act is exercisable by statutory instrument.

- (2) Regulations under this Act may –

- (a) make different provision for different purposes or different areas;
- (b) contain supplementary, incidental, consequential, transitional or saving provision.

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- (3) Subsection (2) does not apply to regulations under section 26 (see instead subsection (4) of that section).

25 Extent

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- (1) Except as set out below, Parts 1 and 2 of this Act extend to England and Wales only.

- (2) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland –

- (a) section 7;
- (b) section 18(6) and (7);
- (c) this Part.

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- (3) An amendment or repeal made by Schedule 2 or 3 has the same extent within the United Kingdom as the provision amended or repealed.
- (4) Sections 10(4) and 11(8) have the same extent as Schedule 6 to the Criminal Justice Act 2003 (see section 337 of that Act).
- (5) The power conferred by section 338 of the Criminal Justice Act 2003 (power to extend to Channel Islands and Isle of Man) is exercisable in relation to any amendment of that Act that is made by or under this Act. 5

26 Commencement

- (1) The following provisions of this Act come into force on the day on which this Act is passed – 10
 - (a) sections 21 to 25, this section and section 27;
 - (b) any power to make regulations or rules by virtue of this Act.
- (2) The following provisions of this Act come into force at the end of the period of two months beginning with the day on which this Act is passed –
 - (a) section 6 (increase in maximum custodial sentence in magistrates' court); 15
 - (b) section 20 (special provision when Crown Court sits in City of London).
- (3) The other provisions of this Act come into force in accordance with regulations made by the Lord Chancellor.
- (4) Regulations under subsection (3) may make different provision for different purposes or different areas. 20

27 Short title

This Act may be cited as the Courts and Tribunals Act 2026.

SCHEDULES

SCHEDULE 1

Section 4(5)

NEW SCHEDULE 3ZA TO THE CRIMINAL JUSTICE ACT 2003

This Schedule sets out the new Schedule 3ZA to the Criminal Justice Act 2003, to be inserted after Schedule 3 to that Act—

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“SCHEDULE 3ZA

Section 42A

TRIAL ON INDICTMENT WITHOUT A JURY: COMPLEX OR LENGTHY CASES

PART 1

OFFENCES TO WHICH SECTION 42A APPLIES

<i>Fraud, etc</i>		10
1	Conspiracy to defraud.	
2	An offence under any of the following provisions of the Fraud Act 2006—	
	(a) section 1(1) (fraud);	
	(b) section 7 (making or supplying articles for use in frauds);	
	(c) section 9 (participating in fraudulent business carried on by sole trader etc).	15
3	An offence under section 993 of the Companies Act 2006 (fraudulent trading).	
<i>Tax evasion, etc</i>		
4	Cheating the public revenue.	20
5	An offence under section 106A of the Taxes Management Act 1970 (fraudulent evasion of income tax).	
6	An offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation of goods).	
7	An offence under section 72(1), (3) or (8) of the Value Added Tax Act 1994 (fraudulent evasion of VAT).	25
<i>False accounting, etc</i>		
8	An offence under section 17 of the Theft Act 1968 (false accounting).	
9	An offence under section 19 of that Act (false statements by company directors, etc).	30
10	An offence under section 89 of the Financial Services Act 2012 (misleading statements).	

Insider dealing

- 11 An offence under section 52 of the Criminal Justice Act 1993 (insider dealing).

Money laundering

- 12 An offence under section 327(1), 328(1) or 329(1) of the Proceeds of Crime Act 2002 (concealing or acquiring, etc criminal property). 5

Terrorist funding

- 13 An offence under section 15, 16, 17 or 18 of the Terrorism Act 2000 (offences relating to terrorist property).

Bribery

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- 14 An offence under any of the following provisions of the Bribery Act 2010—
(a) section 1 (offences of bribing another person);
(b) section 2 (offences relating to being bribed);
(c) section 6 (bribery of foreign public officials).

Historic fraud offences

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- 15 An offence under any of the following provisions (which no longer have effect since the coming into force of the Fraud Act 2006)—
(a) section 15 of the Theft Act 1968 (obtaining property by deception);
(b) section 15A of that Act (obtaining a money transfer by deception);
(c) section 16 of that Act (obtaining pecuniary advantage by deception); 20
(d) section 20(2) of that Act (procuring the execution of a valuable security by deception);
(e) section 25 of that Act (going equipped for cheat), so far as relating to an offence under section 15 of that Act;
(f) section 1 of the Theft Act 1978 (obtaining services by deception); 25
(g) section 2 of that Act (evasion of liability by deception).

Ancillary offences

- 16 An offence of attempting or conspiring to commit an offence specified in any of the preceding paragraphs of this Schedule (a “specified offence”).
- 17 An offence under Part 2 of the Serious Crime Act 2007 in relation to a specified offence. 30
- 18 An offence of inciting a person to commit a specified offence.
- 19 An offence of aiding, abetting, counselling or procuring the commission of a specified offence.

PART 2

POWER TO AMEND PART 1 OF THIS SCHEDULE

- 20 (1) The Secretary of State may by order amend Part 1 of this Schedule so as to—
- (a) add an offence to the list in that Part; 5
 - (b) remove an offence from that list.
- (2) In sub-paragraph (1) “offence” includes an offence under an enactment that is no longer in force.”

SCHEDULE 2

Section 7

APPEALS FROM MAGISTRATES’ COURTS 10

PART 1

AMENDMENTS OF MAGISTRATES’ COURTS ACT 1980

- 1 Part 5 of the Magistrates’ Courts Act 1980 (appeal and case stated) is amended as follows.
- 2 In the italic heading before section 108, for “Appeal” substitute “Right of appeal” 15
- 3 (1) Section 108 (right of appeal to the Crown Court) is amended as follows.
- (2) After subsection (2A) insert—
- “(2B) An appeal under this section may be brought only with the permission of the Crown Court (and nothing in section 79(3) of the Senior Courts Act 1981 (customary practice and procedure with respect to appeals to Crown Court) affects this).” 20
- (3) At the end insert—
- “(6) See—
- (a) section 108A, for further provision about granting permission to appeal; 25
 - (b) sections 108B to 108J, for further provision about appeals against conviction;
 - (c) sections 108P to 108R, for further provision about appeals against sentence.” 30
- 4 After section 108 insert—
- “108A Permission to appeal**
- (1) The Crown Court may grant permission to appeal only if the Crown Court considers that it is reasonably arguable that there are one or more grounds for allowing the appeal. 35

- (2) Subject to subsection (3), the decision to grant permission to appeal is to be made without a hearing.
- (3) The Crown Court may hold a hearing to determine whether to grant permission to appeal –
 - (a) for the purposes of making that determination more quickly, or
 - (b) if it considers that a hearing is necessary for any other reason.
- (4) In this section “permission to appeal” means permission for the purposes of section 108(2B).

Appeals against conviction

108B Grounds for allowing an appeal against conviction

- (1) This section applies on an appeal under section 108 against conviction.
- (2) The Crown Court –
 - (a) must allow the appeal if it considers that the conviction is unsafe;
 - (b) must dismiss the appeal in any other case.
- (3) Subsection (2) is subject to –
 - (a) section 108C (power to substitute conviction of alternative offence);
 - (b) section 108J (power to dismiss appeal following reference by CCRC);
 - (c) any provision requiring the Crown Court in certain circumstances to allow an appeal under section 108 against conviction.
- (4) If the Crown Court allows an appeal under section 108 against conviction, the Crown Court must quash the conviction.
- (5) An order of the Crown Court under this section quashing a conviction operates as a direction to the court of trial to enter, instead of the record of conviction, a record of the dismissal of the information or written charge on which the appellant was tried. This is subject to subsections (6) and (7).
- (6) In a case where the Crown Court makes a hospital order or guardianship order in respect of the appellant by virtue of section 108E(2), the order quashing the conviction operates as a direction to the court of trial to enter, instead of the record of conviction, a record of the hospital order or guardianship order.
- (7) Subsection (5) does not apply where under section 108F the Crown Court orders that the appellant be retried.

108C Power to substitute conviction of alternative offence

- (1) This section applies on an appeal under section 108 against conviction by a magistrates’ court where—
- (a) the appellant has been convicted of an offence to which the appellant did not plead guilty (“the original offence”), 5
 - (b) the magistrates’ court could, at the original trial, have found the appellant guilty of some other offence (“the alternative offence”), and
 - (c) it appears to the Crown Court that the magistrates’ court must have been satisfied of facts which proved the appellant guilty of the alternative offence. 10
- (2) The Crown Court may, instead of allowing or dismissing the appeal—
- (a) substitute, for the conviction of the original offence, a conviction of the alternative offence, and 15
 - (b) quash the sentence passed for the original offence and, in place of it, pass any sentence for the alternative offence which the sentencing court would have had power to pass when dealing with the appellant for that offence (but see subsection (4)). 20
- (3) In subsection (2)(b)—
- (a) “the sentencing court” means the court that sentenced the appellant for the original offence;
 - (b) any reference to the passing of a sentence by a court for an offence includes a reference to the making of any order that may be made by the court when dealing with a person for an offence. 25
- (4) The Crown Court may not exercise the power conferred by subsection (2)(b) in such a way that the appellant is dealt with more severely for the alternative offence than for the original offence. 30

108D Power to re-sentence where appellant remains convicted of connected offences

- (1) This section applies where—
- (a) a person is convicted by a magistrates’ court of two or more connected offences, 35
 - (b) the Crown Court allows an appeal against conviction in respect of one or more of the connected offences, and
 - (c) the person remains convicted of one or more of the connected offences (the “remaining offences”).
- (2) The Crown Court may, in respect of any of the remaining offences— 40
- (a) quash the sentence passed for the offence, and

- (b) in place of it pass any sentence which the sentencing court had power to pass for the offence.

This is subject to subsection (3).

- (3) The Crown Court may not exercise the power conferred by this section in such a way that the person is dealt with more severely for the remaining offences than the person was dealt with for all of the connected offences. 5
- (4) For the purposes of this section, two or more offences of which a person has been convicted are “connected” if—
 - (a) the person is sentenced for the offences on the same day, 10
 - (b) the person is sentenced for the offences on different days, but the court, in passing sentence for one of the offences, states that it is treating that sentence together with the sentences for the other offence or offences as substantially one sentence, or 15
 - (c) the person is sentenced for the offences on different days, but the offences—
 - (i) were tried together, or
 - (ii) would have been tried together if the person had not pleaded guilty to one or more of them. 20
- (5) Where—
 - (a) two or more offences are connected to each other by virtue of subsection (4)(a) or (b), and
 - (b) any one or more of those offences is connected to one or more other offences by virtue of subsection (4)(c), 25all the offences are to be treated as connected for the purposes of this section.
- (6) In this section—
 - (a) “the sentencing court” means the court that sentenced the person for the connected offences; 30
 - (b) any reference to the passing of a sentence by a court for an offence includes a reference to the making of any order that may be made by the court when dealing with a person for an offence.

108E Power to make hospital or guardianship order where appeal allowed 35

- (1) This section applies where—
 - (a) a person is convicted by a magistrates’ court of an offence punishable on summary conviction with imprisonment, and
 - (b) the Crown Court allows an appeal against the conviction.
- (2) The Crown Court may make a hospital order or guardianship order under section 37 of the Mental Health Act 1983 (“the 1983 Act”) in respect of the person if— 40

- (a) at the time of allowing the appeal, the conditions mentioned in subsection (2) of that section are met in relation to the person (and for these purposes references to “the court” in that subsection are to the Crown Court), and
 - (b) the Crown Court is satisfied that the person did the act or made the omission charged. 5
- (3) Subsection (2) is subject to section 37(4) or (as the case may be) (6) of the 1983 Act.

108F Power to order retrial

- (1) This section applies where the Crown Court allows an appeal against conviction of an offence by a magistrates’ court (“the convicting court”). 10
- (2) If the Crown Court considers that the interests of justice require it, the Crown Court may order that the appellant be retried by a magistrates’ court – 15
 - (a) for that offence, or
 - (b) for any other offence of which the convicting court could, at the original trial, have found the appellant guilty.
- (3) Where the Crown Court orders that the appellant be retried, the appellant is to be retried on the information or written charge on which the appellant was tried by the convicting court (and, where subsection (2)(b) applies, the information or charge is to be amended accordingly). 20
- (4) In a case where the convicting court was a youth court –
 - (a) the Crown Court may order that the appellant be retried by a youth court even if the appellant is aged 18 or over at the time of the order; 25
 - (b) an order under this section for retrial by a youth court does not prevent the youth court from –
 - (i) remitting the appellant for retrial to a magistrates’ court other than a youth court under section 47(1) of the Crime and Disorder Act 1998, or 30
 - (ii) sending the appellant to the Crown Court for retrial under section 47(1A) of that Act;
 - (c) where the appellant has already attained the age of 18 at the time of appearing or being brought before a youth court by virtue of an order under this section, the appellant is to be treated for the purposes of section 47 of the Crime and Disorder Act 1998 and section 27 of the Sentencing Code as having attained the age of 18 after that time. 35 40

- (5) The Crown Court may, at the same time as ordering a retrial by a magistrates’ court, provide its opinion on the matter to that magistrates’ court.
- (6) The fact that the Crown Court orders a retrial by a magistrates’ court does not prevent the magistrates’ court from exercising any power it has to stay the proceedings on the retrial. 5

108G Retrial: supplementary provision

- (1) This section applies where, on an appeal under section 108, the Crown Court orders the retrial of a person under section 108F.
- (2) The Crown Court may, on ordering the retrial, make whatever orders appear to it to be necessary or expedient – 10
 - (a) for the person to be detained in custody, or released on bail, until the retrial;
 - (b) for the retention until the retrial of any property or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction. 15
- (3) The Crown Court’s power under this section to release the person on bail is subject to section 25 of the Criminal Justice and Public Order Act 1994 (which limits bail in certain cases where a defendant has a previous conviction for homicide or rape). 20
- (4) If the person was, immediately before the determination of the appeal, liable to be detained in pursuance of an order or direction under Part 3 of the 1983 Act (other than under section 35, 36 or 38 of that Act) –
 - (a) that order or direction continues in force until the retrial as if the appeal had not been allowed, and 25
 - (b) any order made by the Crown Court under this section for the person’s detention in custody or release on bail has effect subject to that order or direction.
- (5) If the person was, immediately before the determination of the appeal, liable to be detained in pursuance of an interim hospital order under section 38 of the 1983 Act, the Crown Court may, if it considers it appropriate, order that the person is to continue to be detained in a hospital or mental nursing home. 30
- (6) Where the Crown Court makes an order under subsection (5) in respect of a person, Part 3 of the 1983 Act applies as if the person – 35
 - (a) had been ordered under this section to be detained in custody until the retrial, and
 - (b) were detained in pursuance of a transfer direction together with a restriction direction. 40
- (7) If the person –

- (a) was liable to be detained in pursuance of an order or direction under Part 3 of the 1983 Act,
 - (b) was then made subject to a community treatment order, and
 - (c) was subject to that community treatment order immediately before the determination of the appeal, 5
- the order or direction under Part 3 of the 1983 Act and the community treatment order continue in force until the retrial as if the appeal had not been allowed.
- (8) In a case where subsection (7) applies, any order made by the Crown Court under this section for the person’s release on bail has effect subject to the community treatment order. 10
 - (9) In this section –
 - (a) “the 1983 Act” means the Mental Health Act 1983;
 - (b) expressions used in this section and in the 1983 Act have the same meaning in this section as they have in that Act. 15

108H Evidence at retrials

- (1) Evidence given at a retrial must be given orally if it was given orally at the original trial.
This is subject to subsection (2).
- (2) Subsection (1) does not apply to evidence given at a retrial if – 20
 - (a) all the parties to the retrial agree that the evidence need not be given orally,
 - (b) section 116 of the Criminal Justice Act 2003 (admissibility of hearsay evidence where a witness is unavailable) applies, or
 - (c) the witness is unavailable to give evidence, otherwise than as mentioned in subsection (2) of that section, and section 114(1)(d) of that Act (admission of hearsay evidence under residual discretion) applies. 25
- (3) Paragraph 5 of Schedule 3 to the Crime and Disorder Act 1998 (use of depositions) does not apply at a retrial to a deposition read as evidence at the original trial. 30
- (4) In this section “retrial” means a retrial ordered under section 108F.

108I Sentence on conviction at retrial

- (1) This section applies where a person who is retried for an offence by a magistrates’ court by virtue of an order under section 108F is convicted at the retrial. 35
- (2) The person may not be dealt with more severely for the offence than on the original conviction.

- (3) Subject to subsection (2), any power of a court to pass a sentence for the offence includes power to pass any sentence which could have been passed in respect of the offence following the person's conviction at the original trial even if, at the date of the conviction at the retrial, the person is no longer of an age at which such a sentence could otherwise be passed. 5
- (4) The reference in subsection (3) to the passing of a sentence by a court includes a reference to the making of any order that may be made by the court when dealing with a person for an offence.
- (5) Where the person is sentenced to imprisonment or other detention, the sentence begins to run from the time when an equivalent sentence passed at the original trial would have begun to run. 10
- (6) But in computing the term of the sentence or the period for which the person may be detained under it (as the case may be), the following are to be disregarded – 15
- (a) any time before the person's conviction at the retrial which would have been disregarded in computing that term or period if the sentence had been passed at the original trial and the original conviction had not been quashed;
 - (b) any time during which the person was released on bail under section 108G(2). 20
- (7) Sections 240ZA and 240A of the Criminal Justice Act 2003 and section 325 of the Sentencing Code (crediting of periods of remand in custody or on bail subject to certain types of condition: terms of imprisonment or detention and detention and training orders) apply to a sentence passed on conviction at the retrial as if it had been passed on the original conviction. 25

108J Power to dismiss appeal following reference by the CCRC

- (1) This section applies where there is an appeal under section 108 against conviction following a reference by the Criminal Cases Review Commission under section 11(1)(a) of the Criminal Appeal Act 1995. 30
- (2) The Crown Court may dismiss the appeal if –
- (a) the only ground for allowing it would be that there has been a development in the law since the date of the conviction, and
 - (b) the condition in subsection (3) is met. 35
- (3) The condition in this subsection is that if –
- (a) the reference had not been made, but
 - (b) the appellant had made (and had been entitled to make) an application for an extension of time within which to seek 40

permission to appeal on the ground of the development in
the law,
the Crown Court would not consider it appropriate to grant the
application.

Appeals against finding of mental disorder, etc

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**108K Appeals under section 45(1) of Mental Health Act 1983 against
finding of mental disorder, etc**

- (1) This section applies where a magistrates’ court has made a hospital order or guardianship order in respect of a person under section 37 of the Mental Health Act 1983 without convicting the person. 10
- (2) Sections 108(2B) and 108A apply to an appeal under section 45(1) of that Act against a finding upon which the order was made (a “section 45(1)(b) appeal”) as they apply to an appeal under section 108.
- (3) On a section 45(1)(b) appeal, the Crown Court— 15
 - (a) must allow the appeal if it considers that the finding is unsafe;
 - (b) must dismiss the appeal in any other case.

**108L Power to make hospital or guardianship order where section 45(1)(b)
appeal allowed**

20

- (1) This section applies where—
 - (a) a magistrates’ court has made a hospital order or guardianship order in respect of a person under section 37 of the Mental Health Act 1983 (“the 1983 Act”) without convicting the person, and 25
 - (b) the Crown Court allows an appeal under section 45(1) of the 1983 Act against a finding that the conditions in section 37(2) of the 1983 Act for making the order were met in relation to the person.
- (2) The Crown Court may make a different order under section 37 of the 1983 Act in respect of the person if— 30
 - (a) notwithstanding the fact that the appeal has been allowed, the conditions in subsection (2) of that section for making that order are met in relation to the person (and for these purposes references to “the court” in that subsection are to the Crown Court), and 35
 - (b) the Crown Court is satisfied that the person did the act or made the omission charged.
- (3) Subsection (2) is subject to section 37(4) or (as the case may be) (6) of the 1983 Act. 40

108M Power to order trial where section 45(1)(b) appeal allowed

- (1) This section applies where –
 - (a) a magistrates’ court (“the original court”) has made a hospital order or guardianship order in respect of a person under section 37 of the Mental Health Act 1983 without convicting the person, and 5
 - (b) the Crown Court allows an appeal under section 45(1) of that Act against a finding that one or more of the conditions in section 37(2) of that Act for making the order were met in relation to the person. 10
- (2) If the Crown Court considers that the interests of justice require it, the Crown Court may order that the person be tried by a magistrates’ court –
 - (a) for the offence with which the person was charged, or
 - (b) for any other offence of which the original court could, on a trial of the information or written charge on which the person appeared before that court, have found the person guilty. 15
- (3) Where the Crown Court orders under this section that a person be tried, the person is to be tried on the information or written charge on which the person appeared before the original court (and, where subsection (2)(b) applies, the information or charge is to be amended accordingly). 20
- (4) In a case where the original court was a youth court –
 - (a) the person may be tried by a youth court even if the person is aged 18 or over; 25
 - (b) an order under this section for trial by a youth court does not prevent the youth court from –
 - (i) remitting the person for trial to a magistrates’ court other than a youth court under section 47(1) of the Crime and Disorder Act 1998, or 30
 - (ii) sending the person to the Crown Court for trial under section 47(1A) of that Act;
 - (c) where the person has already attained the age of 18 at the time of appearing or being brought before a youth court by virtue of an order under this section, the person is to be treated for the purposes of section 47 of the Crime and Disorder Act 1998 and section 27 of the Sentencing Code as having attained the age of 18 after that time. 35
- (5) Any power of a court to pass a sentence for an offence following a trial ordered under this section includes power to pass any sentence which could have been passed in respect of the offence if the person had been convicted by the original court even if, at the date of the 40

conviction of the offence, the person is no longer of an age at which such a sentence could otherwise be passed.

- (6) The reference in subsection (5) to the passing of a sentence by a court includes a reference to the making of any order that may be made by the court when dealing with a person for an offence. 5
- (7) The Crown Court may, at the same time as ordering a trial by a magistrates’ court, provide its opinion on the matter to that magistrates’ court.
- (8) The fact that the Crown Court orders a trial by a magistrates’ court does not prevent the magistrates’ court from exercising any power it has to stay the proceedings on the trial. 10

108N Power to remit matter to magistrates’ court where section 45(1)(b) appeal allowed

- (1) This section applies where—
 - (a) a magistrates’ court (“the original court”) has made a hospital order or guardianship order in respect of a person under section 37 of the Mental Health Act 1983 without convicting the person, 15
 - (b) the Crown Court allows an appeal under section 45(1) of that Act against a finding that the person did the act or made the omission charged, and 20
 - (c) the Crown Court does not at the same time allow such an appeal against a finding that one or more of the conditions in section 37(2) of that Act for making the order were met in relation to the person. 25
- (2) The Crown Court—
 - (a) must quash the finding referred to in subsection (1)(b);
 - (b) may remit the matter to a magistrates’ court for it to determine afresh whether the person did the act or made the omission charged. 30
- (3) In a case where the original court was a youth court, the matter may be remitted to a youth court even if the person is aged 18 or over.
- (4) The Crown Court may, at the same time as remitting a matter to a magistrates’ court under subsection (2)(b), provide its opinion on the matter to that magistrates’ court. 35
- (5) Section 108H (evidence at retrials) applies for the purposes of the hearing of the matter as if—
 - (a) any reference in that section to a retrial were a reference to that hearing, and 40

- (b) any reference in that section to the original trial were a reference to the proceedings in which the finding was made.
- (6) Except where the matter is remitted under subsection (2)(b), an order under subsection (2) quashing a finding operates as a direction to the original court to enter, instead of the record of the finding, a record of the dismissal of the information or written charge on which the person appeared before the original court. 5

108O Appeals against finding of mental disorder, etc: supplementary provision

- (1) Where the Crown Court – 10
 - (a) makes an order under section 108M that a person be tried for an offence, or
 - (b) remits a matter to a magistrates’ court in accordance with section 108N(2)(b),the Crown Court may make whatever orders appear to it to be necessary or expedient for the person’s detention in custody, release on bail or continued detention under the 1983 Act until the trial or (as the case may be) the hearing of that matter. 15
- (2) The Crown Court’s power under this section to release a person on bail is subject to section 25 of the Criminal Justice and Public Order Act 1994 (which limits bail in certain cases where a defendant has a previous conviction for homicide or rape). 20
- (3) Where the Crown Court makes an order under subsection (1) for a person’s continued detention under the 1983 Act, Part 3 of that Act applies as if the person – 25
 - (a) had been ordered under this section to be detained in custody until the trial or hearing, and
 - (b) were detained in pursuance of a transfer direction together with a restriction direction.
- (4) In this section – 30
 - (a) “the 1983 Act” means the Mental Health Act 1983;
 - (b) expressions used in this section and in the 1983 Act have the same meaning in this section as they have in that Act.

Appeals against sentence

108P Grounds for allowing an appeal against sentence

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The Crown Court may allow an appeal against sentence under section 108 only on a ground or grounds on which the Court of Appeal may allow an appeal against sentence under section 9(1) of the Criminal Appeal Act 1968.

108Q Appeals against more than one sentence

- (1) This section applies where a magistrates’ court has sentenced a person for two or more connected offences.
- (2) An appeal, or an application for permission to appeal, under section 108 against the sentence for any one of those offences is to be treated as an appeal or application in respect of the sentences for all of those offences. 5
- (3) Subsection (2) does not apply in relation to an appeal treated as brought under section 108 by virtue of section 11(3) of the Criminal Appeal Act 1995 (references by Criminal Cases Review Commission). 10
- (4) For the purposes of this section, two or more offences of which a person has been convicted are “connected” if—
- (a) the person is sentenced for the offences on the same day,
 - (b) the person is sentenced for the offences on different days, but the court, in passing sentence for one of the offences, states that it is treating that sentence together with the sentences for the other offence or offences as substantially one sentence, or 15
 - (c) the person is sentenced for the offences on different days, but the offences— 20
 - (i) were tried together, or
 - (ii) would have been tried together if the person had not pleaded guilty to one or more of them.
- (5) Where—
- (a) two or more offences are connected to each other by virtue of subsection (4)(a) or (b), and 25
 - (b) any one or more of those offences is connected to one or more other offences by virtue of subsection (4)(c),
- all the offences are to be treated as connected for the purposes of this section. 30
- (6) In this section “sentence” has the same meaning as in section 108 (and “sentenced” is to be read accordingly).

108R Powers of Crown Court on appeal against sentence

- (1) This section applies where the Crown Court allows an appeal under section 108 against sentence by a magistrates’ court. 35
- (2) In the case of an appeal against a sentence passed for a single offence, the Crown Court—
- (a) must quash the sentence, and
 - (b) in place of it may pass any sentence it considers appropriate which the magistrates’ court had power to pass when dealing with the offence. 40

- (3) But the Crown Court may not exercise the power conferred by subsection (2)(b) in such a way that the appellant is dealt with more severely for the offence than the appellant was dealt with by the magistrates’ court for the offence.
- (4) In the case of an appeal against the sentences passed for two or more connected offences (see section 108Q), the Crown Court may – 5
(a) quash the sentence passed for any of those offences, and
(b) in place of it pass any sentence it considers appropriate which the magistrates’ court had power to pass when dealing with the offence. 10
- (5) But the Crown Court may not exercise the power conferred by subsection (4)(b) in such a way that the appellant is dealt with more severely for the connected offences than the appellant was dealt with by the magistrates’ court for those offences.
- (6) In this section, a reference to the passing of a sentence includes a reference to the making of any order that may be made by a magistrates’ court when dealing with a person for an offence. 15
- (7) Subsections (4) and (5) of section 108Q apply for the purposes of this section as they apply for the purposes of that section.

Appeals: supplementary provision 20

108S Transcripts of proceedings in magistrates’ courts

- (1) *Rules of court –*
- (a) *must provide for the making of an audio recording of the following proceedings –*
- (i) *any summary trial of an information or written charge;* 25
(ii) *any hearing at which a magistrates’ court passes sentence on a person;*
- (b) *may provide for the making of any other kind of record of proceedings within paragraph (a)(i) or (ii);*
- (c) *may provide for the making of a record of any other proceedings of a prescribed description in a magistrates’ court.* 30
- (2) *Rules of court –*
- (a) *may provide for the making and verification of a transcript of any record of proceedings made by virtue of subsection (1);*
- (b) *may provide for supplying any such record, or a transcript of any such record, to –* 35
(i) *a prescribed officer of the Crown Court;*
(ii) *such persons, or such persons of a prescribed description, as the Secretary of State may direct;*

(c) *may provide for supplying such a transcript, in such circumstances as may be prescribed, to other persons, or to persons of a prescribed description.*

- (3) Rules made by virtue of subsection (2)(c) may provide for a transcript to be supplied on payment of a fee. 5
- (4) In this section “sentence” has the same meaning as in section 108; and any reference to passing a sentence is to be read accordingly.
- (5) Nothing in this section affects any requirement for records to be kept of proceedings in magistrates’ courts which exists apart from this section. 10

108T Powers to obtain evidence for purposes of appeal

- (1) This section applies for the purposes of –
- (a) an appeal, or an application for permission to appeal, under section 108;
 - (b) an appeal, or an application for permission to appeal, under section 45(1) of the Mental Health Act 1983. 15
- (2) The Crown Court may, if it considers it necessary or expedient in the interests of justice –
- (a) order the production of any document, exhibit or other thing connected with the original proceedings, the production of which appears to it necessary for the determination of the case; 20
 - (b) order any witness to attend for examination and be examined before the Crown Court (whether or not the witness was called in the original proceedings); 25
 - (c) receive any evidence which was not adduced in the original proceedings.
- (3) The power conferred by subsection (2)(a) may be exercised so as to require the production of any document, exhibit or other thing mentioned in that subsection to – 30
- (a) the Crown Court;
 - (b) the appellant;
 - (c) the respondent.
- (4) The Crown Court must, in considering whether to receive any evidence, have regard to (among other things) – 35
- (a) whether the evidence appears to the Crown Court to be capable of belief;
 - (b) whether it appears to the Crown Court that the evidence may provide any ground for allowing the appeal;

- (c) whether the evidence would have been admissible in the original proceedings on an issue that is the subject of the appeal;
 - (d) whether there is a reasonable explanation for the failure to adduce the evidence in those proceedings. 5
- (5) Subsection (2)(c) applies to any evidence of a witness (including the appellant) who is competent but not compellable.
- (6) The Crown Court may, if it considers it necessary or expedient in the interests of justice –
 - (a) order the examination of any witness whose attendance might be required under subsection (2)(b) to be conducted, in the manner provided by rules of court, before any judge or officer of the Crown Court or other person appointed by the Crown Court for the purpose, and 10
 - (b) allow the admission of any depositions so taken as evidence before the Crown Court. 15
- (7) In this section –
 - “the original proceedings”, in relation to an appeal or an application for permission to appeal, means the proceedings from which the appeal lies; 20
 - “respondent” includes a person who will be a respondent if permission to appeal is granted.

108U Effect of appeal on sentence

- (1) The time during which a person is in custody pending the determination of the person’s appeal under section 108 is to be reckoned as part of the term of any sentence to which the person is for the time being subject. 25
- (2) Subsection (1) is subject to any direction which the Crown Court may give to the contrary.
- (3) But the Crown Court may give a direction under subsection (2) only if permission to appeal is not granted. 30
- (4) If the Crown Court gives a direction under subsection (2), it must state its reasons for doing so.
- (5) The term of any sentence passed by the Crown Court under section 108C, 108D or 108R is, unless the Crown Court otherwise directs, to begin to run from the time when it would have begun to run if passed in the proceedings from which the appeal lies. 35

108V Interim hospital orders

- (1) The fact that an appeal is pending against an interim hospital order made under the Mental Health Act 1983 (“the 1983 Act”) by a 40

magistrates’ court does not affect the power of the magistrates’ court to renew or terminate the order or to deal with the appellant on its termination.

- (2) Where the Crown Court –
- (a) quashes an interim hospital order made under the 1983 Act by a magistrates’ court, but
 - (b) does not pass any sentence or make any other order in its place,
- the Crown Court may direct that the appellant is to be detained in custody or released on bail until the appellant is dealt with by that magistrates’ court.
- (3) The Crown Court’s power under this section to release a person on bail is subject to section 25 of the Criminal Justice and Public Order Act 1994 (which limits bail in certain cases where a defendant has a previous conviction for homicide or rape).
- (4) Where, on an appeal under section 108 from a magistrates’ court, the Crown Court makes an interim hospital order, the magistrates’ court is to be treated for the purposes of section 38(7) of the 1983 Act as the court that made the order (and see also section 110).”

PART 2

AMENDMENTS OF OTHER LEGISLATION

Customs and Excise Management Act 1979

- 5 In section 147 of the Customs and Excise Management Act 1979 (proceedings for offences), after subsection (3) insert –
- “(3A) An appeal under subsection (3) against any of the following decisions may be brought only with the permission of the Crown Court –
- (a) the dismissal of an information or written charge;
 - (b) a sentence passed on a person’s conviction;
 - (c) a decision to make, or to refuse to make, any other order on conviction.
- (3B) The Crown Court may grant permission to appeal only if the Crown Court considers that it is reasonably arguable that –
- (a) in the case of an appeal against the dismissal of an information or written charge, a court trying the information or written charge afresh would convict the person of the offence charged;
 - (b) in the case of an appeal against a sentence or other order passed or made on conviction, a court hearing the appeal would pass a different sentence or make a different order;

(c) in the case of an appeal against a refusal to make any order on conviction, a court hearing the appeal would make such an order.

(3C) Section 108A(2) and (3) of the Magistrates’ Courts Act 1980 (permission to appeal) applies to permission to appeal under subsection (3) as it applies to permission for the purposes of section 108(2B) of that Act.” 5

Senior Courts Act 1981

6 The Senior Courts Act 1981 is amended as follows.

7 In section 8 (the Crown Court), in subsection (1)(c), for “sections 74 and 75(2)” substitute “section 75(2)”. 10

8 (1) Section 48 (appeals to Crown Court) is amended as follows.

(2) After subsection (1) insert –

“(1A) Subsection (2) applies to any appeal other than –

(a) an appeal under section 108 of the Magistrates’ Courts Act 1980 (appeals against conviction or sentence by magistrates’ court, etc), or 15

(b) an appeal under section 45(1) of the Mental Health Act 1983 (appeal where hospital or guardianship order made without convicting a person). 20

(For provision about appeals within paragraph (a) or (b), see Part 5 of the Magistrates’ Courts Act 1980.)”

(3) In subsection (2), for “appeal” insert “to which this subsection applies”.

(4) Omit subsections (4), (6), (7) and (8).

9 In section 73 (composition of Crown Court), in subsection (1), omit “, 74”. 25

10 Omit section 74 (composition of Crown Court when hearing appeals, etc).

11 In section 75 (allocation of cases according to composition of court, etc), in subsection (2), for “Subject to section 74(1), the” substitute “The”.

Contempt of Court Act 1981

12 In section 12 of the Contempt of Court Act 1981 (offences of contempt of magistrates’ courts), in subsection (5), for “section 108” substitute “sections 108, 108A, 108P to 108R and 108T to 108V”. 30

Mental Health Act 1983

13 In section 45 of the Mental Health Act 1983 (appeals from magistrates’ courts), for subsection (1) substitute – 35

“(1) Where, on the trial of an information or written charge charging a person with an offence, a magistrates’ court makes a hospital order

or guardianship order in respect of the person without convicting the person—

- (a) the person may appeal against the order as if it had been made on conviction (see section 108(3) of the Magistrates’ Courts Act 1980);
- (b) the person may appeal against any finding upon which the order was made (see section 108K of that Act).”

5

Prosecution of Offences Act 1985

14 (1) The Prosecution of Offences Act 1985 is amended as follows.

(2) In section 16 (defence costs)—

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(a) in subsection (3), for the words from “and” to “awarded;” substitute “and the Crown Court—

- (a) allows an appeal against the conviction,
- (b) substitutes a conviction of another offence (see section 108C of that Act), or
- (c) exercises its powers under section 108R(2)(b) or (4)(b) of that Act (powers where the court considers that the appellant should be sentenced differently for an offence dealt with by the magistrates’ court);”;

15

(b) after that subsection insert—

20

“(3A) Where the Crown Court allows a person’s appeal under section 45(1) of the Mental Health Act 1983 against a finding upon which a hospital order or guardianship order was made in respect of the person under section 37 of that Act, the Crown Court may make a defendant’s costs order in favour of the person.”

25

(3) In section 16A (legal costs), in subsection (3), after paragraph (b) (but before the “or” at the end of that paragraph) insert—

“(ba) section 16(3A),”.

(4) In section 18 (*award of costs against accused*), in subsection (1)(b), after “*appeal*” insert “*or application for permission to appeal*”.

30

Football Spectators Act 1989

15 In section 14A of the Football Spectators Act 1989 (banning orders made on conviction of an offence), after subsection (5A) insert—

“(5AA) An appeal under subsection (5A)(a) may be brought only if the Crown Court gives permission.

35

(5AB) The Crown Court may grant permission to appeal under subsection (5A)(a) only if the Crown Court considers that it is reasonably arguable that a court hearing the appeal would make a banning order.

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(5AC) Section 108A(2) and (3) of the Magistrates’ Courts Act 1980 (permission to appeal) applies to permission to appeal under subsection (5A)(a) as it applies to permission for the purposes of section 108(2B) of that Act.”

Criminal Appeal Act 1995 5

16 (1) Section 11 of the Criminal Appeal Act 1995 (reference by Criminal Cases Review Commission of cases dealt with summarily in England and Wales) is amended as follows.

(2) After subsection (3) insert –

“(3A) Section 108(2B) of the Magistrates’ Courts Act 1980 (requirement for permission of Crown Court to bring appeal from magistrates’ court) does not apply in relation to an appeal treated as brought under section 108(1) of that Act by virtue of subsection (2) or (3) of this section.” 10

(3) Omit subsection (6). 15

Terrorism Act 2000

17 In section 7 of the Terrorism Act 2000 (effect on convictions, etc of successful appeal against a refusal to deproscribe an organisation), in subsection (7)(b), at the end insert “(but does not require permission).”

Terrorism Prevention and Investigation Measures Act 2011 20

18 In Schedule 3 to the Terrorism Prevention and Investigation Measures Act 2011 (appeals against conviction of offence of contravening TPIM notice), in paragraph 4(5) –

(a) omit the “and” at the end of paragraph (c), and
(b) at the end of paragraph (d) insert “; and” 25

(e) in the case of an appeal under section 108(1)(b) of that Act, does not require permission.”

Counter-Terrorism and Security Act 2015

19 In Schedule 4 to the Counter-Terrorism and Security Act 2015 (appeals against conviction of offence of contravening temporary exclusion order), in paragraph 4(5) – 30

(a) omit the “and” at the end of paragraph (c), and
(b) at the end of paragraph (d) insert “; and”

(e) in the case of an appeal under section 108(1)(b) of that Act, does not require permission.” 35

Sentencing Act 2020

20 The Sentencing Act 2020 is amended as follows.

-
- 21 In section 380 (order for parent or guardian to pay fine, costs, compensation or surcharge), in subsection (5), after “magistrates’ court” insert “, as if the parent or guardian had been convicted by a magistrates’ court and the order were a sentence passed on the parent’s or guardian’s conviction”.
- 22 (1) In Schedule 4 (referral order: further court proceedings), paragraph 8 (appeal where offender re-sentenced for offence) is amended as follows. 5
- (2) The existing words become sub-paragraph (1) of that paragraph.
- (3) After that sub-paragraph insert –
- “(2) An appeal under this paragraph is to be treated as if it were an appeal against sentence under section 108 of the Magistrates’ Courts Act 1980.” 10
- 23 (1) Schedule 7 (breach, revocation or amendment of youth rehabilitation order) is amended as follows.
- (2) In paragraph 6 (breach of requirement of order: powers of magistrates’ court), after sub-paragraph (11) insert – 15
- “(12) An appeal under sub-paragraph (11) is to be treated as if it were an appeal against sentence under section 108 of the Magistrates’ Courts Act 1980.”
- (3) In paragraph 12 (youth rehabilitation order subject to magistrates’ court supervision), after sub-paragraph (8) insert – 20
- “(8A) An appeal under sub-paragraph (8) is to be treated as if it were an appeal against sentence under section 108 of the Magistrates’ Courts Act 1980.”
- (4) In paragraph 21 (powers of magistrates’ court following subsequent conviction), after sub-paragraph (6) insert – 25
- “(7) An appeal under sub-paragraph (6) is to be treated as if it were an appeal against sentence under section 108 of the Magistrates’ Courts Act 1980.”
- 24 (1) Schedule 10 (breach, revocation or amendment of community order) is amended as follows. 30
- (2) In paragraph 10 (breach of requirement of order: powers of magistrates’ court), after sub-paragraph (11) insert –
- “(12) An appeal under sub-paragraph (11) is to be treated as if it were an appeal against sentence under section 108 of the Magistrates’ Courts Act 1980.” 35
- (3) In paragraph 14 (community order subject to magistrates’ court supervision), after sub-paragraph (8) insert –
- “(9) An appeal under sub-paragraph (8) is to be treated as if it were an appeal against sentence under section 108 of the Magistrates’ Courts Act 1980.” 40

25 In Schedule 12 (detention and training order), in paragraph 3 (power of youth court to deal with offender for breach of supervision requirement), after sub-paragraph (11) insert –

“(11A) An appeal under sub-paragraph (11) is to be treated as if it were an appeal against sentence under section 108 of the Magistrates’ Courts Act 1980.”

5

National Security Act 2023

26 In Schedule 9 to the National Security Act 2023 (appeals against conviction of offence of contravening Part 2 notice), in paragraph 4(4) –

(a) omit the “and” at the end of paragraph (c), and

10

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

(e) does not require permission.”

Consequential repeals

27 In consequence of the amendments made by this Schedule –

(a) in Schedule 3 to the Mental Health (Amendment) Act 1982, omit paragraph 61;

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(b) in Schedule 4 to the Mental Health Act 1983, omit paragraph 58;

(c) in Schedule 2 to the Criminal Appeal Act 1995, omit paragraph 14;

(d) in Schedule 4 to the Constitutional Reform Act 2005, omit paragraph 133;

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(e) in Schedule 2 to the Armed Forces Act 2011, omit paragraph 3.

SCHEDULE 3

Section 18(7)

LEADERSHIP OF TRIBUNALS

PART 1

AMENDMENTS OF CONSTITUTIONAL REFORM ACT 2005

25

1 The Constitutional Reform Act 2005 is amended as follows.

2 In section 5 (representations to Parliament), after subsection (1) insert –

“(1A) In subsection (1) “the judiciary” includes, in relation to England and Wales, every person who is –

(a) a judge, or other member, of the First-tier Tribunal or Upper Tribunal,

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(b) a member of a panel of members of employment tribunals established for England and Wales (whether or not a panel of Employment Judges),

-
- (c) a judge, or other member, of the Employment Appeal Tribunal, or
- (d) a tribunal, or a member of a tribunal, in a list in Schedule 6 to the Tribunals, Courts and Enforcement Act 2007 that has effect for the purposes of section 30 of that Act, 5
- and who exercises functions wholly or mainly in England and Wales.”
- 3 In the italic heading before section 7, for “and courts” substitute “, courts and tribunals”.
- 4 In section 7 (responsibilities of Lord Chief Justice of England and Wales)— 10
- (a) in subsection (2), in paragraph (c), omit “and the allocation of work within courts”;
- (b) in subsection (3), for the words from “entitled” to the end substitute “—
- (a) responsible for the allocation of work within those courts, and 15
- (b) entitled to sit in any of those courts.”
- 5 In section 16 (functions of the Lord Chief Justice during vacancy or incapacity), in subsection (3), at the end of paragraph (d) insert “, or
- (e) the Senior President of Tribunals, if the offices in paragraphs (a) to (d) are vacant and the Senior President of Tribunals is an ex-officio judge of the Court of Appeal.” 20
- 6 In section 75B (Senior President of Tribunals: selection process)—
- (a) after subsection (1B) insert—
- “(1BA) The judicial members of the panel must include— 25
- (a) the senior judge of the Supreme Court (within the meaning given by section 26(5B)), and
- (b) at least one person who appears to the Commission to have knowledge or experience of one or more of the tribunals listed in subsection (1BB), 30
- and both requirements may be met by the same person’s membership of the panel.
- (1BB) The tribunals are—
- (a) the First-tier Tribunal,
- (b) the Upper Tribunal, 35
- (c) employment tribunals, and
- (d) the Employment Appeal Tribunal.”;
- (b) in subsection (3), before paragraph (a) insert—
- “(za) the Lord Chancellor.”.

- 7 In section 85 (selection of puisne judges and other office holders), in subsection (1), for paragraph (e) substitute –
- “(e) an appointment to an office listed in Table 2A of Part 3 of that Schedule in exercise of the Lord Chief Justice’s function under the enactment listed opposite that office; 5
 - (f) an appointment to an office listed in Table 2B of Part 3 of that Schedule in exercise of the function of the Senior President of Tribunals under the enactment listed opposite that office;
 - (g) an appointment to an office listed in Table 2C of Part 3 of that Schedule in joint exercise of the function of the Lord Chief Justice and the Senior President of Tribunals under the enactment listed opposite that office.” 10
- 8 (1) Section 86 (duty to fill vacancies) is amended as follows.
- (2) In subsection (2A), after “Part 2” insert “, or Table 2A of Part 3,”. 15
 - (3) In subsection (2B), for “Table 2” substitute “Table 2B”.
 - (4) After subsection (2B) insert –
 - “(2C) The Lord Chief Justice and the Senior President of Tribunals, acting jointly, must make an appointment to fill any vacancy in an office listed in Table 2C of Part 3 of that Schedule.” 20
 - (5) In subsection (4), for “and (2B)” substitute “to (2C)”.
- 9 (1) Section 94C (selection process) is amended as follows.
- (2) In subsection (2) –
 - (a) in paragraph (f), after “Part 1 or 2” insert “, or Table 2A of Part 3,”;
 - (b) in paragraph (g), for “Table 2” substitute “Table 2B”; 25
 - (c) after paragraph (g) insert –
 - “(ga) give functions to the Lord Chief Justice and the Senior President of Tribunals, acting jointly, in connection with selection for an office listed in Table 2C of Part 3 of Schedule 14, including – 30
 - (i) power to reject, or require the reconsideration of, initial or subsequent selections made on a request under section 87, and
 - (ii) power to require the reconsideration of a decision mentioned in paragraph (d);” 35
 - (d) after paragraph (q) insert –
 - “(qa) make provision about the exercise of functions given by the regulations to the Lord Chief Justice and the Senior President of Tribunals acting jointly, in reliance on paragraph (ga), including provision prohibiting or restricting delegation of such functions.” 40
 - (3) In subsection (4) –

-
- (a) in paragraph (b), after “Part 1 or 2” insert “, or Table 2A of Part 3,”;
- (b) in paragraph (c), for “Table 2” substitute “Table 2B”;
- (c) after paragraph (c) insert—
- “(d) the Lord Chief Justice and the Senior President of Tribunals, acting jointly, where the selection relates to an office listed in Table 2C of Part 3 of that Schedule.” 5
- 10 In section 99 (complaints: interpretation)—
- (a) in subsection (3A), in paragraph (b), after “Part 2” insert “, or Table 2A or 2C of Part 3,”; 10
- (b) in subsection (3B), in paragraph (b), for “Table 2” substitute “Table 2B or 2C”;
- (c) after subsection (3B) insert—
- “(3C) A complaint by a qualifying complainant of maladministration by the Lord Chief Justice and the Senior President of Tribunals, acting jointly, or anyone acting on behalf of them, in connection with appointment to an office listed in Table 2C of Part 3 of Schedule 14 (a “joint-appointment complaint”), is to be treated as— 15
- (a) an LCJ complaint if made to the Lord Chief Justice, and 20
- (b) an SPT complaint if made to the Senior President of Tribunals.”
- 11 In section 102 (report and recommendations), after subsection (4) insert—
- “(5) In relation to a joint-appointment complaint, the recommendations that may be made under subsection (2)(c) include recommendations about action the Ombudsman recommends should be taken by the Lord Chief Justice and the Senior President of Tribunals, acting jointly.” 25
- 12 (1) Section 103 (report procedure) is amended as follows. 30
- (2) In subsection (2)—
- (a) in paragraph (b), after “LCJ complaint” insert “or a joint-appointment complaint made to the Senior President of Tribunals”;
- (b) in paragraph (c), after “SPT complaint” insert “or a joint-appointment complaint made to the Lord Chief Justice”. 35
- (3) In subsection (5A), after “LCJ complaint” insert “, other than a joint-appointment complaint,”.
- (4) In subsection (5B), after “SPT complaint” insert “, other than a joint-appointment complaint,”.

(5) After subsection (5B) insert—

“(5C) If the complaint was a joint-appointment complaint the Ombudsman must send the report in triplicate to the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals.”

13 (1) Schedule 14 (the Judicial Appointments Commission: relevant offices and enactments) is amended as follows. 5

(2) In Part 1 (appointments by His Majesty)—

(a) in Table 2 (appointments where the Commission reports to the Lord Chief Justice), at the end insert—

“Judge of the Upper Tribunal by appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, but not where it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland	Paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007”;	10
		15

(b) for Table 3 (appointments where the Commission reports to the Senior President of Tribunals) substitute—

“Table 3 Appointments where the Commission reports to the Senior President of Tribunals 20

<i>Office</i>	<i>Enactment</i>	
Judge of the Upper Tribunal, where—	Paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007”.	
(a) the appointment is under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, and		25
(b) it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland.		30

(3) In Part 3 (tribunal-related and other appointments), for Table 2 substitute—
 “Table 2A Appointments by the Lord Chief Justice

<i>Office</i>	<i>Enactment</i>	
Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, where—	Section 7(7) of the Tribunals, Courts and Enforcement Act 2007	35
(a) the chamber is one whose business involves only the application of the law of England and Wales,		

<ul style="list-style-type: none"> (b) the appointment is under section 7(7) of the Tribunals, Courts and Enforcement Act 2007, and (c) the person is not appointed in accordance with paragraph 2(2) to (5) of Schedule 4 to that Act. 	5
<p>Judge of the First-tier Tribunal, where—</p> <ul style="list-style-type: none"> (a) the appointment is under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007, and (b) it is not intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland. 	<p>Paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007</p> <p>10</p>
<p>Other member of the First-tier Tribunal, where—</p> <ul style="list-style-type: none"> (a) the appointment is under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007, and (b) it is not intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland. 	<p>Paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007</p> <p>15</p> <p>20</p>
<p>Other member of the Upper Tribunal, where—</p> <ul style="list-style-type: none"> (a) the appointment is under paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, and (b) it is not intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland. 	<p>Paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007</p> <p>25</p>
<p>Deputy judge of the Upper Tribunal, where—</p> <ul style="list-style-type: none"> (a) the appointment is under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, and (b) it is not intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland. 	<p>Paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007</p> <p>30</p>
<p>Deputy Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, where—</p> <ul style="list-style-type: none"> (a) the chamber is one whose business involves only the application of the law of England and Wales, and (b) the person is not appointed in accordance with paragraph 5(5) to (8) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007. 	<p>Paragraph 5(1) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007</p> <p>35</p> <p>40</p>

<i>Office</i>	<i>Enactment</i>	
Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, where –	Section 7(7) of the Tribunals, Courts and Enforcement Act 2007	
(a) the chamber is one whose business involves only the application of the law of Scotland or Northern Ireland,		5
(b) the appointment is under section 7(7) of the Tribunals, Courts and Enforcement Act 2007, and		10
(c) the person is not appointed in accordance with paragraph 2(2) to (5) of Schedule 4 to that Act.		
Judge of the First-tier Tribunal, where –	Paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007	15
(a) the appointment is under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007, and		
(b) it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland.		20
Other member of the First-tier Tribunal, where –	Paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007	
(a) the appointment is under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007, and		
(b) it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland.		25
Other member of the Upper Tribunal, where –	Paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007	
(a) the appointment is under paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, and		
(b) it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland.		30
Deputy judge of the Upper Tribunal, where –	Paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007	35
(a) the appointment is under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007, and		
(b) it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland.		40
Deputy Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, where –	Paragraph 5(1) of Schedule 4 to the	

- | | |
|---|--|
| <p>(a) the chamber is one whose business involves only the application of the law of Scotland or Northern Ireland, and</p> <p>(b) the person is not appointed in accordance with paragraph 5(5) to (8) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007.</p> | <p>Tribunals, Courts and Enforcement Act 2007</p> <p>5</p> |
|---|--|

Table 2C Appointments by the Lord Chief Justice and the Senior President of Tribunals acting jointly

<i>Office</i>	<i>Enactment</i>	
<p>Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, where –</p> <p>(a) the chamber is one whose business involves the application of the law of England and Wales and the law of Scotland or Northern Ireland,</p> <p>(b) the appointment is under section 7(7) of the Tribunals, Courts and Enforcement Act 2007, and</p> <p>(c) the person is not appointed in accordance with paragraph 2(2) to (5) of Schedule 4 to that Act.</p>	<p>Section 7(7) of the Tribunals, Courts and Enforcement Act 2007</p>	<p>10</p> <p>15</p> <p>20</p>
<p>Deputy Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal, where –</p> <p>(a) the chamber is one whose business involves the application of the law of England and Wales and the law of Scotland or Northern Ireland, and</p> <p>(b) the person is not appointed in accordance with paragraph 5(5) to (8) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007.</p>	<p>Paragraph 5(1) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007”.</p>	<p>25</p> <p>30</p>

PART 2

- | | | |
|----|--|----|
| | AMENDMENTS OF TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007 | 35 |
| 14 | The Tribunals, Courts and Enforcement Act 2007 is amended as follows. | |
| 15 | In section 2 (Senior President of Tribunals), at the end insert – | |
| | “(5) See also section 9A of the Constitutional Reform Act 2005 (which provides that the Senior President of Tribunals is, in England and Wales, Head of Tribunals Justice).” | 40 |
| 16 | (1) Section 7 (chambers: jurisdiction and Presidents) is amended as follows. | |

- (2) In subsection (1), after “concurrence of” insert “the Lord Chief Justice of England and Wales and”.
- (3) In subsection (6), for “The Senior President of Tribunals” substitute “The appropriate authority”.
- (4) In subsection (7), for “The Senior President of Tribunals” substitute “The appropriate authority”. 5
- (5) After subsection (8) insert –
- “(8A) In subsections (6) and (7), and in paragraph 2 of Schedule 4, “the appropriate authority” means –
- (a) in relation to the appointment of a person to preside over a chamber whose business involves only the application of the law of England and Wales, the Lord Chief Justice of England and Wales; 10
- (b) in relation to the appointment of a person to preside over a chamber whose business involves only the application of the law of Scotland or Northern Ireland, the Senior President of Tribunals; 15
- (c) in any other case, the Lord Chief Justice and the Senior President of Tribunals, acting jointly.
- (8B) Each of the Lord Chancellor, the Lord Chief Justice of England and Wales and the Senior President of Tribunals may, with the concurrence of each of the others, by order – 20
- (a) make provision for the allocation of the First-tier Tribunal’s functions in England and Wales between its chambers;
- (b) make provision for the allocation of the Upper Tribunal’s functions in England and Wales between its chambers; 25
- (c) amend or revoke any order made under this subsection.”
- (6) In subsection (9), in paragraphs (a) and (b), after “functions” insert “in Scotland or Northern Ireland”.
- (7) After subsection (9) insert – 30
- “(10) Subsections (11) and (12) apply to provision which –
- (a) allocates a tribunal’s functions in England and Wales between its chambers, and
- (b) is contained in an order under subsection (9) made at any time before the coming into force of subsection (8B). 35
- (11) The Lord Chief Justice of England and Wales may, with the concurrence of the Lord Chancellor and the Senior President of Tribunals, by order amend or revoke the provision.
- (12) Any power to amend or revoke the provision under subsection (9) may only be exercised by the Lord Chancellor or the Senior President of Tribunals with the concurrence of the Lord Chief Justice of England and Wales.” 40

17 After section 7 insert –

“7A Lord Chief Justice: power to delegate

- (1) The Lord Chief Justice of England and Wales (the “Lord Chief Justice”) may delegate any relevant tribunal function –
- (a) to any senior judge; 5
 - (b) to any judge, or other member, of the Upper Tribunal or First-tier Tribunal;
 - (c) to staff appointed under section 2(1) of the Courts Act 2003 or section 40(1) of this Act.
- (2) A function of the Lord Chief Justice under paragraph 1(1) or 2(1) of Schedule 2 may be delegated under subsection (1) only to – 10
- (a) a senior judge, or
 - (b) a Chamber President of a chamber of the Upper Tribunal.
- (3) A function of the Lord Chief Justice under any of the provisions listed in subsection (4) may be delegated under subsection (1) only to a senior judge. 15
- (4) The provisions are –
- section 7(7);
 - section 7(8B) and (11);
 - paragraph 2(1) of Schedule 3; 20
 - paragraph 7(1) of Schedule 3;
 - paragraph 2 of Schedule 4 (but not sub-paragraph (2)(b));
 - paragraph 5(1) and (3) of Schedule 4;
 - paragraph 5(5) of Schedule 4 (but not paragraph (b));
 - paragraph 5(6) to (8) of Schedule 4; 25
 - paragraph 5A(3A) of Schedule 4.
- (5) Subsection (1) does not apply to functions of the Lord Chief Justice under any of the following –
- section 29B;
 - section 29D; 30
 - section 46;
 - paragraphs 3(4) and 6(3)(a) of Schedule 2;
 - paragraphs 3(4) and 6(3)(a) of Schedule 3;
 - paragraphs 2(2)(b) and 5(5)(b) of Schedule 4;
 - paragraph 3 of Schedule 5; 35
 - paragraphs 21(2), 22, 24(A1) and 25(2)(a) of Schedule 5;
 - section 5B of the Employment Tribunals Act 1996;
 - sections 22 to 24 of that Act;
 - paragraph 2 of Schedule A1 to that Act.
- (6) A delegation under subsection (1) is not revoked by the delegator’s becoming incapacitated. 40

- (7) Any delegation under subsection (1) that is in force immediately before a person ceases to be Lord Chief Justice continues in force until varied or revoked by a subsequent holder of the office of Lord Chief Justice.
- (8) The delegation under subsection (1) of a function does not prevent the exercise of the function by the Lord Chief Justice. 5
- (9) In this section –
- “relevant tribunal function” means any function the Lord Chief Justice has relating to tribunals, other than a function conferred on the Lord Chief Justice by or under the Constitutional Reform Act 2005; 10
 - “senior judge” has the meaning given by section 109(5) of the Constitutional Reform Act 2005;
 - “tribunals” means –
 - (a) the First-tier Tribunal, 15
 - (b) the Upper Tribunal,
 - (c) employment tribunals, and
 - (d) the Employment Appeal Tribunal.

7B Further delegation of functions of the Lord Chief Justice

- (1) A senior judge to whom a function of the Lord Chief Justice is delegated under section 7A(1) may further delegate the function – 20
- (a) to any judge, or other member, of the Upper Tribunal or First-tier Tribunal;
 - (b) to staff appointed under section 2(1) of the Courts Act 2003 or section 40(1) of this Act. 25
- (2) A function of the Lord Chief Justice under paragraph 1(1) or 2(1) of Schedule 2 may be further delegated under subsection (1) only to a Chamber President of a chamber of the Upper Tribunal.
- (3) Subsection (1) does not apply to functions of the Lord Chief Justice under any of the provisions listed in section 7A(4). 30
- (4) A delegation under subsection (1) is not revoked by the delegator’s becoming incapacitated.
- (5) Any delegation under subsection (1) that is in force immediately before the delegator ceases to hold office as a senior judge continues in force until varied or revoked by a subsequent holder of the same office or another senior judge. 35
- (6) The delegation under subsection (1) of a function does not prevent the exercise of the function by the delegator (or the Lord Chief Justice).
- (7) In this section – 40

- “the Lord Chief Justice” means the Lord Chief Justice of England and Wales;
“senior judge” has the meaning given by section 109(5) of the Constitutional Reform Act 2005.”
- 18 (1) Section 8 (Senior President of Tribunals: power to delegate) is amended as follows. 5
- (2) In subsection (1)(b), for “section 40(1)” substitute “section 2(1) of the Courts Act 2003 or section 40(1) of this Act”.
- (3) In subsection (2)– 10
- (a) for “section 7(9)” substitute “section 7(8B) and (9)”;
- (b) at the appropriate place insert–
- (i) “section 46;”;
- (ii) “paragraph 5A(3A) of Schedule 4;”;
- (c) omit the following entries– 15
- (i) “paragraph 5A(2)(a) of Schedule 4;”;
- (ii) “paragraph 5A(3)(a) of Schedule 4;”.
- (4) After subsection (5) insert–
- “(6) Subsection (1) does not apply to functions of the Lord Chief Justice of England and Wales delegated to the Senior President of Tribunals under section 7A (but see section 7B for provision about further delegation of such functions).” 20
- 19 (1) Section 23 (practice directions) is amended as follows.
- (2) In subsection (1), for “The Senior President of Tribunals” substitute “The Lord Chief Justice of England and Wales and the Senior President of Tribunals, acting jointly,”. 25
- (3) After subsection (1) insert–
- “(1A) The Lord Chief Justice of England and Wales may give directions–
- (a) as to the practice and procedure of a chamber of the First-tier Tribunal whose business involves only the application of the law of England and Wales; 30
- (b) as to the practice and procedure of a chamber of the Upper Tribunal whose business involves only the application of the law of England and Wales.
- (1B) The Senior President of Tribunals may give directions–
- (a) as to the practice and procedure of a chamber of the First-tier Tribunal whose business involves only the application of the law of Scotland or Northern Ireland; 35
- (b) as to the practice and procedure of a chamber of the Upper Tribunal whose business involves only the application of the law of Scotland or Northern Ireland.” 40
- (4) In subsection (4), after “(1)” insert “, (1A) or (1B)”.

- (5) In subsection (5)–
- (a) before paragraph (a) insert –
 - “(za) the Lord Chief Justice of England and Wales, if the business of the chamber to which the directions relate involves the application of the law of England and Wales,”;
 - (b) in paragraph (a), after “Tribunals,” insert “if the business of the chamber to which the directions relate involves the application of the law of Scotland or Northern Ireland,”.
- 20 (1) Section 29B (directions and independence: authorised persons) is amended as follows. 10
- (2) Before subsection (1) insert –
- “(A1) The Lord Chief Justice of England and Wales may give directions to an authorised person, other than an authorised person who exercises functions wholly or mainly in Scotland or Northern Ireland.” 15
- (3) In subsection (1), at the end insert “who exercises functions wholly or mainly in Scotland or Northern Ireland”.
- (4) After subsection (2) insert –
- “(2A) The Lord Chief Justice of England and Wales may delegate to one or more of the following the Lord Chief Justice’s functions under subsection (A1)– 20
- (a) a judicial office holder;
 - (b) a person appointed under section 2(1) of the Courts Act 2003 or section 40(1) of this Act.” 25
- (5) After subsection (3) insert –
- “(3A) Any function of the Lord Chief Justice of England and Wales delegated to the Senior President of Tribunals under subsection (2A) is to be treated for the purposes of subsection (3) as a function of the Senior President of Tribunals under subsection (1) (and so may be further delegated by the Senior President of Tribunals under subsection (3)).” 30
- (6) In subsection (4)–
- (a) in the words before paragraph (a)–
 - (i) omit “of the Senior President of Tribunals”; 35
 - (ii) for “subsection (3)(b)” substitute “subsection (2A)(b) or (3)(b)”;
 - (b) in paragraph (a), for “the Senior President of Tribunals” substitute “the person who delegated the function”;
 - (c) in paragraph (b), for “the Senior President of Tribunals” substitute “that person”. 40

- (7) After subsection (4) insert –
- “(4A) Subsections (6) to (8) of section 7A apply to –
- (a) a delegation under subsection (2A) of this section, and
 - (b) a nomination by the Lord Chief Justice of England and Wales under subsection (4) of this section,
- 5
- as they apply to a delegation under subsection (1) of that section.”
- (8) In subsection (5)(b), after “nomination” insert “by the Senior President of Tribunals”.
- 21 (1) Section 29D (costs or expenses in legal proceedings: authorised persons) is amended as follows. 10
- (2) In subsection (4), omit “, after consulting the Senior President of Tribunals,”.
- (3) After subsection (4) insert –
- “(4A) Before making regulations under subsection (4), the Lord Chancellor must consult –
- (a) the Lord Chief Justice of England and Wales, and
 - (b) the Senior President of Tribunals.”
- 15
- (4) After subsection (5) insert –
- “(5A) The Lord Chief Justice of England and Wales may delegate the Lord Chief Justice’s functions under subsection (4A) to a person who is a judicial office holder. 20
- (5B) Subsections (6) to (8) of section 7A apply to a delegation under subsection (5A) of this section as they apply to a delegation under subsection (1) of that section.”
- (5) In subsection (6), for “subsection (4)” substitute “subsection (4A)”.
- (6) After subsection (6) insert – 25
- “(6A) Any function of the Lord Chief Justice of England and Wales delegated to the Senior President of Tribunals under subsection (5A) is to be treated for the purposes of subsection (6) as a function of the Senior President of Tribunals under subsection (4A) (and so may be further delegated by the Senior President of Tribunals under subsection (6)).” 30
- 22 In section 40 (tribunal staff and services), in subsection (5), after “consult” insert “the Lord Chief Justice of England and Wales and”.
- 23 In section 42 (fees), in subsection (5), after paragraph (a) insert “and
- (aa) to the extent that the order relates to fees payable in England and Wales, the Lord Chief Justice of England and Wales.” 35
- 24 In section 43 (report by Senior President of Tribunals), in subsection (3) –
- (a) in paragraph (a), after “First-tier Tribunal” insert “in Scotland or Northern Ireland”;

- (b) in paragraph (b), after “Upper Tribunal” insert “in Scotland or Northern Ireland”;
 - (c) in paragraph (c), after “Employment Appeal Tribunal” insert “in Scotland”;
 - (d) in paragraph (d), after “employment tribunals” insert “in Scotland”. 5
- 25 (1) Section 46 (delegation of functions by Lord Chief Justice etc.) is amended as follows.
 - (2) In the heading, before “functions” insert “certain”.
 - (3) In subsection (1), omit the words from “(as” to “2005)”.
 - (4) In subsection (2) – 10
 - (a) for “paragraphs 2(2) and 5(5) of Schedule 4” substitute “paragraphs 2(2)(b) and 5(5)(b) of Schedule 4”;
 - (b) in the entry for Schedule 5, for “24” substitute “24(A1)”.
 - (5) After subsection (2) insert –
 - “(2A) Subsection (2B) applies where the Senior President of Tribunals is nominated under subsection (1) to exercise a function of the Lord Chief Justice of England and Wales. 15
 - (2B) The Senior President of Tribunals may nominate another judicial office holder to exercise the function.
 - (2C) In this section “judicial office holder” has the meaning given by section 109(4) of the Constitutional Reform Act 2005.” 20
- 26 In section 47 (co-operation in relation to judicial training, guidance and welfare), in subsection (4) –
 - (a) before paragraph (a) insert –
 - “(za) the person is the Lord Chief Justice of England and Wales,”; 25
 - (b) in paragraph (b), for “the Senior President of Tribunals or the President of Welsh Tribunals” substitute “a person mentioned in paragraph (za) or (a)”.
- 27 (1) Section 49 (orders and regulations under Part 1) is amended as follows. 30
 - (2) In subsection (1) –
 - (a) after paragraph (a) insert –
 - “(aa) of the Lord Chief Justice of England and Wales to make an order under section 7(8B) or (11),”; 35
 - (b) in paragraph (b), for “section 7(9)” substitute “section 7(8B) or (9)”. 35
 - (3) In subsection (2) –
 - (a) for the words from “power” to “if” substitute “powers mentioned in subsection (1)(aa) and (b) as if the Lord Chief Justice of England and Wales and”; 40
 - (b) after “were” insert “each”.

- (4) In subsection (8)–
 (a) after paragraph (a) insert –
 “(aa) an order made by the Lord Chief Justice of England and Wales under section 7(8B) or (11);”;
 (b) in paragraph (b), for “section 7(9)” substitute “section 7(8B) or (9)”. 5
- 28 (1) Schedule 1 (Senior President of Tribunals) is amended as follows.
- (2) Part 1 (recommendations for appointment) is amended in accordance with sub-paragraphs (3) to (5).
- (3) In paragraph 1 (duty to fill vacancies), in sub-paragraph (2), for “agrees” substitute “, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland agree”. 10
- (4) Omit the italic heading before paragraph 2.
- (5) In paragraph 2–
 (a) omit sub-paragraphs (1) to (4);
 (b) in sub-paragraph (5), for the words from the beginning to “consultation” substitute “Before the Lord Chancellor may recommend a person for appointment to the office of Senior President of Tribunals”. 15
- (6) In Part 2 (selection by the Judicial Appointments Commission), in paragraph 3 (eligibility for selection), before paragraph (a) insert – 20
 “(za) the person is a judge of the Court of Appeal in England and Wales,”.
- (7) Part 3 (terms of office) is amended in accordance with sub-paragraphs (8) and (9).
- (8) In paragraph 6 (tenure and removal)– 25
 (a) omit sub-paragraph (1);
 (b) in sub-paragraph (2)–
 (i) for “Subject to sub-paragraph (1) (and to the 1993 Act), a” substitute “A”;
 (ii) after “shall” insert “(subject to the Judicial Pensions and Retirement Act 1993)”; 30
 (c) omit sub-paragraph (4).
- (9) Omit paragraph 7.
- (10) After Part 3 insert –

“PART 3A

35

FUNCTIONS OF THE SENIOR PRESIDENT DURING VACANCY OR INCAPACITY

Functions of the Senior President during vacancy or incapacity

11A(1) This paragraph applies where –

- (a) the Senior President of Tribunals is unable to exercise the functions of that office, or
 - (b) the office of Senior President of Tribunals is vacant.
- (2) The Lord Chief Justice of England and Wales may, with the concurrence of the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland, appoint a senior judge to exercise specified functions of the Senior President of Tribunals. 5
- (3) An appointment under sub-paragraph (2)–
 - (a) must be in writing, and
 - (b) must set out the duration of the appointment. 10
- (4) In sub-paragraph (2)–
 - “senior judge” has the meaning given by section 109(5) of the Constitutional Reform Act 2005;
 - “specified” means specified in the appointment.”
- (11) Part 4 (certain functions of the Senior President) is amended in accordance with sub-paragraphs (12) to (16). 15
- (12) In the italic heading before paragraph 12, for ““tribunal member”” substitute ““relevant tribunal member””.
- (13) In paragraph 12(1) (meaning of “tribunal member”)–
 - (a) in the words before paragraph (a), for ““tribunal member”” substitute ““relevant tribunal member””; 20
 - (b) in paragraph (a), after “Upper Tribunal” insert “who exercises functions wholly or mainly in Scotland or Northern Ireland”;
 - (c) in paragraph (c), after “employment tribunals” insert “established for Scotland”; 25
 - (d) in paragraph (d), after “Employment Appeal Tribunal” insert “who exercises functions wholly or mainly in Scotland”;
 - (e) for paragraph (e) substitute–
 - “(e) a person who–
 - (i) is, or is a member of, a tribunal in a list in Schedule 6 that has effect for the purposes of section 30, and 30
 - (ii) exercises functions wholly or mainly in Scotland or Northern Ireland.”
- (14) In paragraph 13 (representations to Parliament)–
 - (a) in paragraph (a), for “tribunal members” substitute “relevant tribunal members”; 35
 - (b) in paragraph (b), after “tribunals” insert “in Scotland or Northern Ireland”.
- (15) In paragraph 14 (representation of views of tribunal members), and in the italic heading before it, for “tribunal members” substitute “relevant tribunal members”. 40

- (16) After paragraph 14 insert –
“Training etc.
- 15 The Senior President of Tribunals is responsible, within the resources made available by the Lord Chancellor, for the maintenance of appropriate arrangements for the training, guidance and welfare of – 5
- (a) judges, and other members, of the First-tier Tribunal who exercise functions wholly or mainly in Scotland or Northern Ireland (in their capacities as such judges and other members), 10
- (b) judges, and other members, of the Upper Tribunal who exercise functions wholly or mainly in Scotland or Northern Ireland (in their capacities as such judges and other members),
- (c) members of panels of members of employment tribunals established for Scotland (in their capacities as members of such panels, whether or not panels of Employment Judges), and 15
- (d) judges, and other members, of the Employment Appeal Tribunal who exercise functions wholly or mainly in Scotland (in their capacities as members of the Employment Appeal Tribunal).” 20
- 29 (1) Schedule 2 (judges and other members of the First-tier Tribunal) is amended as follows.
- (2) In paragraph 1 (power to appoint judges) – 25
- (a) in sub-paragraph (1), for “The Senior President of Tribunals” substitute “The appropriate office-holder”;
- (b) in sub-paragraph (2)(d), for “the Senior President of Tribunals” substitute “the appropriate office-holder”;
- (c) in sub-paragraph (3), for “the Senior President of Tribunals” substitute “the appropriate office-holder”; 30
- (d) after sub-paragraph (3) insert –
- “(4) In this paragraph, “the appropriate office-holder” means –
- (a) where it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland, the Senior President of Tribunals; 35
- (b) in any other case, the Lord Chief Justice of England and Wales.”
- (3) In paragraph 2 (power to appoint other members) – 40
- (a) in sub-paragraph (1), for “The Senior President of Tribunals” substitute “The appropriate office-holder”;

- (b) after sub-paragraph (1) insert—
- “(1A) In sub-paragraph (1), “the appropriate office-holder” means—
- (a) where it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland, the Senior President of Tribunals; 5
- (b) in any other case, the Lord Chief Justice of England and Wales.”;
- (c) in sub-paragraph (2), after “concurrence of” insert “the Lord Chief Justice of England and Wales and”. 10
- (4) In paragraph 6 (judges by request)—
- (a) in sub-paragraph (1), before paragraph (a) insert—
- “(za) is not the Lord Chief Justice of England and Wales.”;
- (b) in sub-paragraph (2), for the words from “only” to the end substitute “— 15
- (a) in England and Wales, only if requested to do so by the Lord Chief Justice of England and Wales;
- (b) in Scotland or Northern Ireland, only if requested to do so by the Senior President of Tribunals.”; 20
- (c) in sub-paragraph (3)(a), after “where” insert “the request is made by the Senior President of Tribunals and”;
- (d) in sub-paragraph (3A), after “made”, in the first place it occurs, insert “by the Senior President of Tribunals”.
- (5) Omit paragraph 8 (training etc.) and the italic heading before that paragraph. 25
- (6) In paragraph 9 (oaths)—
- (a) in sub-paragraph (2), in paragraphs (a) and (b), for “the Senior President of Tribunals” substitute “the appropriate office-holder”;
- (b) after sub-paragraph (2) insert— 30
- “(2A) In sub-paragraph (2), “the appropriate office-holder” means—
- (a) in the case of a person appointed under paragraph 1(1) or 2(1), the person who is the appropriate office-holder for the purposes of appointing J; 35
- (b) in the case of a person within sub-paragraph (1)(b)—
- (i) where it appears to the Lord Chancellor that J will carry out functions as a judge or other member of the First-tier Tribunal wholly or mainly in Scotland or Northern Ireland, the Senior President of Tribunals; 40

- (ii) in any other case, the Lord Chief Justice of England and Wales.”
- 30 (1) Schedule 3 (judges and other members of the Upper Tribunal) is amended as follows.
- (2) In paragraph 1 (power to appoint judges)– 5
- (a) in sub-paragraph (2)(d), for “the Senior President of Tribunals” substitute “the appropriate office-holder”;
- (b) in sub-paragraph (3), for “the Senior President of Tribunals” substitute “the appropriate office-holder”;
- (c) after sub-paragraph (3) insert– 10
- “(4) In this paragraph, “the appropriate office-holder” means–
- (a) where it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland, the Senior President of Tribunals; 15
- (b) in any other case, the Lord Chief Justice of England and Wales.”
- (3) In paragraph 2 (power to appoint other members)–
- (a) in sub-paragraph (1), for “The Senior President of Tribunals” substitute “The appropriate office-holder”; 20
- (b) after sub-paragraph (1) insert–
- “(1A) In sub-paragraph (1), “the appropriate office-holder” means–
- (a) where it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland, the Senior President of Tribunals; 25
- (b) in any other case, the Lord Chief Justice of England and Wales.”;
- (c) in sub-paragraph (2), after “concurrence of” insert “the Lord Chief Justice of England and Wales and”. 30
- (4) In paragraph 6 (judges by request)–
- (a) in sub-paragraph (1), before paragraph (a) insert–
- “(za) is not the Lord Chief Justice of England and Wales,”;
- (b) in sub-paragraph (2), for the words from “only” to the end substitute “– 35
- (a) in England and Wales, only if requested to do so by the Lord Chief Justice of England and Wales;
- (b) in Scotland or Northern Ireland, only if requested to do so by the Senior President of Tribunals.”; 40
- (c) in sub-paragraph (3)(a), after “where” insert “the request is made by the Senior President of Tribunals and”.

- (5) In paragraph 7 (deputy judges of the Upper Tribunal) –
- (a) in sub-paragraph (1), for “The Senior President of Tribunals” substitute “The appropriate office-holder”;
 - (b) after sub-paragraph (1) insert –
 - “(1A) In sub-paragraph (1), “the appropriate office-holder” means –
 - (a) where it is intended that the person to be appointed will exercise functions wholly or mainly in Scotland or Northern Ireland, the Senior President of Tribunals;
 - (b) in any other case, the Lord Chief Justice of England and Wales.”
- (6) Omit paragraph 9 (training etc.) and the italic heading before that paragraph.
- (7) In paragraph 10 (oaths) –
- (a) in sub-paragraph (2), in paragraphs (a) and (b), for “the Senior President of Tribunals” substitute “the appropriate office-holder”;
 - (b) after sub-paragraph (2) insert –
 - “(2A) In sub-paragraph (2), “the appropriate office-holder” means –
 - (a) in the case of a person appointed under paragraph 1(1), 2(1) or 7(1), the person who is the appropriate office-holder for the purposes of appointing J;
 - (b) in the case of a person within sub-paragraph (1)(b) –
 - (i) where it appears to the Lord Chancellor that J will carry out functions as a judge or other member of the Upper Tribunal wholly or mainly in Scotland or Northern Ireland, the Senior President of Tribunals;
 - (ii) in any other case, the Lord Chief Justice of England and Wales.”
- 31 (1) Schedule 4 (Chambers and Chamber Presidents: further provision) is amended as follows.
- (2) In paragraph 2 (appointment as Chamber President under section 7(7)) –
- (a) in sub-paragraph (1) –
 - (i) for “The Senior President of Tribunals” substitute “The appropriate authority”;
 - (ii) for “the Senior President of Tribunals appoints” substitute “appointing”;
 - (b) in sub-paragraph (2) –
 - (i) for “the Senior President of Tribunals, in exercise of his” substitute “the appropriate authority, in exercise of the”;

-
- (ii) for the words from “Wales,” to the end substitute “Wales—
 - (a) where the appropriate authority is the Lord Chief Justice of England and Wales, or the Lord Chief Justice and the Senior President of Tribunals acting jointly, the appropriate authority must nominate one of those judges for the purpose; 5
 - (b) where the appropriate authority is the Senior President of Tribunals, the Senior President of Tribunals must first ask the Lord Chief Justice of England and Wales to nominate one of those judges for the purpose.”; 10
 - (c) in sub-paragraph (3)—
 - (i) for “the Senior President of Tribunals, in exercise of his” substitute “the appropriate authority, in exercise of the”; 15
 - (ii) for “the Senior President of Tribunals” (in the second place it occurs) substitute “the appropriate authority”;
 - (d) in sub-paragraph (4)—
 - (i) for “the Senior President of Tribunals, in exercise of his” substitute “the appropriate authority, in exercise of the”; 20
 - (ii) for “the Senior President of Tribunals” (in the second place it occurs) substitute “the appropriate authority”;
 - (e) for sub-paragraph (4A) substitute—
 - “(4A) The appropriate authority may make a request under sub-paragraph (2)(b), (3) or (4) only with the Lord Chancellor’s concurrence. 25
 - (4B) The appropriate authority may make a nomination under sub-paragraph (2)(a) only if the Lord Chancellor concurs that the person appointed should be drawn from among the judges of the Court of Appeal in England and Wales or the puisne judges of the High Court in England and Wales.”; 30
 - (f) in sub-paragraph (5), for the words from “in” to “Tribunals” substitute “, the appropriate authority”.
 - (3) In paragraph 4 (delegation of functions by Chamber Presidents), in sub-paragraph (1)(b), for “section 40(1)” substitute “section 2(1) of the Courts Act 2003 or section 40(1) of this Act”. 35
 - (4) In paragraph 5 (Deputy Chamber Presidents)—
 - (a) in sub-paragraph (1), for “The Senior President of Tribunals” substitute “The appropriate authority”;
 - (b) in sub-paragraph (2), for “The Senior President of Tribunals” substitute “The appropriate authority”; 40
 - (c) in sub-paragraph (3), for “the Senior President of Tribunals” substitute “the appropriate authority”;
 - (d) in sub-paragraph (5)—

- (i) for “the Senior President of Tribunals, in exercise of his” substitute “the appropriate authority, in exercise of the”;
- (ii) for the words from “Wales,” to the end substitute “Wales—
 - (a) where the appropriate authority is the Lord Chief Justice of England and Wales, or the Lord Chief Justice and the Senior President of Tribunals acting jointly, the appropriate authority must nominate one of those judges for the purpose; 5
 - (b) where the appropriate authority is the Senior President of Tribunals, the Senior President of Tribunals must first ask the Lord Chief Justice of England and Wales to nominate one of those judges for the purpose.”; 10
- (e) in sub-paragraph (6) – 15
 - (i) for “the Senior President of Tribunals, in exercise of his” substitute “the appropriate authority, in exercise of the”;
 - (ii) for “the Senior President of Tribunals” (in the second place it occurs) substitute “the appropriate authority”;
- (f) in sub-paragraph (7) – 20
 - (i) for “the Senior President of Tribunals, in exercise of his” substitute “the appropriate authority, in exercise of the”;
 - (ii) for “the Senior President of Tribunals” (in the second place it occurs) substitute “the appropriate authority”;
- (g) for sub-paragraph (7A) substitute – 25
 - “(7A) The appropriate authority may make a request under sub-paragraph (5)(b), (6) or (7) only with the Lord Chancellor’s concurrence.
 - (7B) The appropriate authority may make a nomination under sub-paragraph (5)(a) only if the Lord Chancellor concurs that the person appointed should be drawn from among the judges of the Court of Appeal in England and Wales or the puisne judges of the High Court in England and Wales.”; 30
- (h) in sub-paragraph (8), for the words from “in” to “Tribunals” substitute “, the appropriate authority”; 35
- (i) after sub-paragraph (11) insert –
 - “(12) In this paragraph, “the appropriate authority” means –
 - (a) in relation to the appointment of a person to be Deputy Chamber President of a chamber whose business involves only the application of the law of England and Wales, the Lord Chief Justice of England and Wales; 40
 - (b) in relation to the appointment of a person to be Deputy Chamber President of a chamber whose

- business involves only the application of the law of Scotland or Northern Ireland, the Senior President of Tribunals;
- (c) in any other case, the Lord Chief Justice and the Senior President of Tribunals, acting jointly.” 5
- (5) In paragraph 5A (Chamber Presidents and Deputies: removal from office and extension of appointment) –
- (a) in sub-paragraph (2)(a), omit the words from “with” to “Tribunals”;
- (b) in sub-paragraph (3)(a), omit the words from “with” to “Tribunals”;
- (c) after sub-paragraph (3) insert – 10
- “(3A) The power of the Lord Chancellor to remove a person from office under sub-paragraph (2) or (3) may be exercised only with the concurrence of –
- (a) the Lord Chief Justice of England and Wales, where the person is Chamber President or Deputy Chamber President of a chamber whose business involves only the application of the law of England and Wales; 15
- (b) the Senior President of Tribunals, where the person is Chamber President or Deputy Chamber President of a chamber whose business involves only the application of the law of Scotland or Northern Ireland; 20
- (c) in any other case, the Lord Chief Justice of England and Wales and the Senior President of Tribunals.” 25
- (6) In paragraph 6 (Acting Chamber Presidents) –
- (a) in sub-paragraph (1), for “the Senior President of Tribunals” substitute “the appropriate authority”;
- (b) after sub-paragraph (1) insert –
- “(1A) In sub-paragraph (1), “the appropriate authority” means – 30
- (a) in relation to the appointment of a person to preside over a chamber whose business involves only the application of the law of England and Wales, the Lord Chief Justice of England and Wales; 35
- (b) in relation to the appointment of a person to preside over a chamber whose business involves only the application of the law of Scotland or Northern Ireland, the Senior President of Tribunals;
- (c) in any other case, the Lord Chief Justice of England and Wales and the Senior President of Tribunals, acting jointly.” 40
- (7) In paragraph 8 (oaths) –

- (a) in sub-paragraph (2), in paragraphs (a) and (b), for “the Senior President of Tribunals” substitute “the appropriate authority”;
- (b) after sub-paragraph (2) insert –
 - “(2A) In sub-paragraph (2), “the appropriate authority” has the same meaning as in –
 - (a) section 7(7), in the case of a person appointed as a Chamber President; 5
 - (b) paragraph 5(1), in the case of a person appointed as a Deputy Chamber President;
 - (c) paragraph 6(1), in the case of a person appointed as an Acting Chamber President.” 10
- (8) In the italic heading before paragraph 9, for “is function of Senior President of Tribunals” substitute “of judges and other members to chambers”.
- (9) In paragraph 9 (assignment of judges and other members to chambers) –
 - (a) in sub-paragraph (1) – 15
 - (i) for “The Senior President of Tribunals has” substitute “The Lord Chief Justice of England and Wales and the Senior President of Tribunals each have”;
 - (ii) in paragraphs (a) and (b), for “himself” substitute “themselves”; 20
 - (b) after sub-paragraph (2) insert –
 - “(3) The Lord Chief Justice of England and Wales may not exercise a function under sub-paragraph (1) to assign a particular judge or other member of a tribunal to a particular chamber of the tribunal if it is intended that the person will exercise the functions of that chamber wholly or mainly in Scotland or Northern Ireland. 25
 - (4) The Senior President of Tribunals may exercise a function under sub-paragraph (1) to assign a particular judge or other member of a tribunal to a particular chamber of the tribunal only if it is intended that the person will exercise the functions of that chamber wholly or mainly in Scotland or Northern Ireland.” 30
- (10) In paragraph 11 (assigning members of First-tier Tribunal to its chambers) –
 - (a) in sub-paragraph (3), for the words from the beginning to “First-tier Tribunal”, in the first place it occurs, substitute “A judge or other member of the First-tier Tribunal may be assigned”; 35
 - (b) after sub-paragraph (3) insert –
 - “(3A) The Lord Chief Justice of England and Wales may not end the assignment of a judge or other member of the First-tier Tribunal to a particular chamber of the First-tier Tribunal if the judge or other member exercises the 40

- functions of the chamber wholly or mainly in Scotland or Northern Ireland.
- (3B) The Senior President of Tribunals may end the assignment of a judge or other member of the First-tier Tribunal to a particular chamber of the First-tier Tribunal only if the judge or other member exercises the functions of the chamber wholly or mainly in Scotland or Northern Ireland.”; 5
- (c) in sub-paragraph (4) –
- (i) for “The Senior President of Tribunals may end the” substitute “The”; 10
- (ii) after “Tribunal”, in the second place it occurs, insert “may be ended by the Lord Chief Justice of England and Wales, or the Senior President of Tribunals,”;
- (d) in sub-paragraph (7), for “the Senior President of Tribunals himself” substitute “the Lord Chief Justice of England and Wales or the Senior President of Tribunals”. 15
- (11) In paragraph 12 (assigning members of Upper Tribunal to its chambers) –
- (a) in sub-paragraph (4), for the words from the beginning to “Tribunal”, in the first place it occurs, substitute “A judge or other member of the Upper Tribunal may be assigned”; 20
- (b) after sub-paragraph (4) insert –
- “(4A) The Lord Chief Justice of England and Wales may not end the assignment of a judge or other member of the Upper Tribunal to a particular chamber of the Upper Tribunal if the judge or other member exercises the functions of the chamber wholly or mainly in Scotland or Northern Ireland. 25
- (4B) The Senior President of Tribunals may end the assignment of a judge or other member of the Upper Tribunal to a particular chamber of the Upper Tribunal only if the judge or other member exercises the functions of the chamber wholly or mainly in Scotland or Northern Ireland.”; 30
- (c) in sub-paragraph (5) –
- (i) for “The Senior President of Tribunals may end the” substitute “The”; 35
- (ii) after “Tribunal”, in the second place it occurs, insert “may be ended by the Lord Chief Justice of England and Wales, or the Senior President of Tribunals,”;
- (d) in sub-paragraph (8), for “the Senior President of Tribunals himself” substitute “the Lord Chief Justice of England and Wales or the Senior President of Tribunals”. 40
- (12) In the italic heading before paragraph 13, omit “of Senior President of Tribunals”.

- (13) In paragraph 13 (policy as respects assigning members to chambers etc.)—
- (a) in sub-paragraph (1)—
 - (i) for “The Senior President of Tribunals” substitute “Each of the relevant office-holders”;
 - (ii) for “him” substitute “the office-holder”; 5
 - (iii) for “his”, in both places it occurs, substitute “the office-holder’s”;
 - (b) in sub-paragraph (3), omit “by the Senior President of Tribunals”;
 - (c) in sub-paragraph (4)—
 - (i) for “The Senior President of Tribunals” substitute “A relevant office-holder”; 10
 - (ii) after “adopted” insert “by the office-holder”;
 - (d) at the end insert—
 - “(5) For the purposes of this paragraph, the relevant office-holders are— 15
 - (a) the Lord Chief Justice of England and Wales, and
 - (b) the Senior President of Tribunals.”
- (14) In paragraph 14 (choosing members to decide cases)—
- (a) in sub-paragraph (2), for “the Senior President of Tribunals” substitute “the appropriate office-holder”; 20
 - (b) for sub-paragraph (4) substitute—
 - “(4) In this paragraph—
 - “the appropriate office-holder” means—
 - (a) in relation to a case to be decided in England and Wales, the Lord Chief Justice of England and Wales; 25
 - (b) in relation to a case to be decided in Scotland or Northern Ireland, the Senior President of Tribunals;
 - “member”, in relation to a chamber of a tribunal, means a judge or other member of the tribunal who is assigned to the chamber.” 30
- (15) In paragraph 15 (composition of tribunals)—
- (a) in sub-paragraph (4), for “the Senior President of Tribunals, or a Chamber President,” substitute “a relevant office-holder”; 35
 - (b) in sub-paragraph (5), for “giving, to the Senior President of Tribunals or a Chamber President,” substitute “giving a relevant office-holder”;
 - (c) in sub-paragraph (8), after “consult” insert “the Lord Chief Justice of England and Wales and”;
 - (d) for sub-paragraph (9) substitute— 40
 - “(9) In this paragraph—
 - “qualification” includes experience;

- “relevant office-holder” means any of the following—
- (a) the Lord Chief Justice of England and Wales;
 - (b) the Senior President of Tribunals;
 - (c) a Chamber President.” 5
- 32 (1) Schedule 5 (procedure in First-tier Tribunal and Upper Tribunal) is amended as follows.
- (2) In paragraph 3 (delegation of functions to staff)—
- (a) in sub-paragraph (3), for “the Senior President of Tribunals” substitute “the appropriate office-holder”; 10
 - (b) in sub-paragraph (4), for “the Senior President of Tribunals” substitute “the appropriate office-holder”;
 - (c) after sub-paragraph (4) insert—
 - “(4A) In sub-paragraphs (3) and (4) “the appropriate office-holder” means— 15
 - (a) where it is intended that the member of staff to be authorised will exercise functions wholly or mainly in Scotland or Northern Ireland, the Senior President of Tribunals;
 - (b) in any other case, the Lord Chief Justice of England and Wales. 20
 - (4B) The Lord Chief Justice may delegate to one or more of the following the Lord Chief Justice’s functions under the preceding provisions of this paragraph— 25
 - (a) a judicial office holder;
 - (b) a person appointed under section 2(1) of the Courts Act 2003 or section 40(1) of this Act.”;
 - (d) after sub-paragraph (5) insert—
 - “(5A) Any function of the Lord Chief Justice of England and Wales delegated to the Senior President of Tribunals under sub-paragraph (4B) is to be treated for the purposes of sub-paragraph (5) as a function of the Senior President of Tribunals (and so may be further delegated by the Senior President of Tribunals under sub-paragraph (5)).”; 30
 - (e) for sub-paragraph (6) substitute— 35
 - “(6) A person to whom functions are delegated under sub-paragraph (4B)(b) or (5)(b) is not subject to the direction of any person other than—
 - (a) the person who delegated the functions, or
 - (b) a judicial office holder nominated by that person, when exercising the functions.”; 40
 - (f) after sub-paragraph (6) insert—
 - “(6A) Subsections (6) to (8) of section 7A apply to—

- (a) a delegation under sub-paragraph (4B), and
 - (b) a nomination by the Lord Chief Justice of England and Wales under sub-paragraph (6)(b),
 - as they apply to a delegation under subsection (1) of that section.”; 5
 - (g) in sub-paragraph (7), after “nomination” insert “by the Senior President of Tribunals”.
- (3) In paragraph 20 (membership of Tribunal Procedure Committee) –
 - (a) the existing text becomes sub-paragraph (1);
 - (b) before paragraph (a) of that sub-paragraph insert – 10
 - “(za) the Lord Chief Justice of England and Wales or a person nominated by the Lord Chief Justice;”;
 - (c) after that sub-paragraph insert –
 - “(2) Sub-paragraph (3) applies where –
 - (a) the Lord Chief Justice of England and Wales 15 nominates the Senior President of Tribunals under sub-paragraph (1)(za), and
 - (b) the Senior President of Tribunals nominates a person under sub-paragraph (1)(a).
 - (3) Where this sub-paragraph applies, the person nominated 20 by the Senior President of Tribunals is to be treated as being a member of the Committee by virtue of a nomination under sub-paragraph (1)(za) (as well as sub-paragraph (1)(a)).”
- (4) For the italic heading before paragraph 24 substitute “Appointment of 25 persons with particular experience and knowledge”.
- (5) In paragraph 24 (persons appointed at request of Senior President of Tribunals) –
 - (a) before sub-paragraph (1) insert –
 - “(A1) The Lord Chief Justice may (whether acting at the request 30 of the Senior President of Tribunals or otherwise) appoint a person or persons with experience in and knowledge of –
 - (a) a particular issue, or
 - (b) a particular subject area in relation to which the 35 First-tier Tribunal or the Upper Tribunal has, or is likely to have, jurisdiction,
 - for the purpose of assisting the Committee with regard to that issue or subject area.”;
 - (b) in sub-paragraph (1), after “request of” insert “the Lord Chief Justice 40 of England and Wales or”;

- (c) for sub-paragraph (2) substitute –
- “(2) In sub-paragraph (1) “an appropriate senior judge” means –
- (a) the Lord President of the Court of Session, or
- (b) the Lord Chief Justice of Northern Ireland.”; 5
- (d) in sub-paragraphs (3), (4) and (5), for “sub-paragraph (1)” substitute “this paragraph”.
- (6) In paragraph 25 (power to amend paragraphs 20 to 24), in sub-paragraph (1)(a), for “24(1)” substitute “24(A1) and (1)”.

PART 3

10

AMENDMENTS OF EMPLOYMENT TRIBUNALS ACT 1996

- 33 The Employment Tribunals Act 1996 is amended as follows.
- 34 (1) Section 4 (composition of tribunals) is amended as follows.
- (2) In subsection (1), for “the Senior President of Tribunals” substitute “the appropriate office-holder”. 15
- (3) After subsection (1) insert –
- “(1A) In this section, “the appropriate office-holder” means –
- (a) in relation to employment tribunals in England and Wales, the Lord Chief Justice of England and Wales, and
- (b) in relation to employment tribunals in Scotland, the Senior President of Tribunals.” 20
- (4) In subsection (3), for “The Senior President of Tribunals” substitute “The Lord Chief Justice of England and Wales and the Senior President of Tribunals”.
- (5) In subsection (7), for “the Senior President of Tribunals” substitute “the appropriate office-holder”. 25
- (6) In subsection (8), for “the Senior President of Tribunals” substitute “the appropriate office-holder”.
- (7) In subsection (11), after “consult” insert “the Lord Chief Justice of England and Wales and”. 30
- 35 Omit section 5A (training etc.).
- 36 (1) Section 5C (oaths) is amended as follows.
- (2) Before subsection (1) insert –
- “(A1) Subsection (A2) applies to a person (“the appointee”) –
- (a) who is appointed – 35
- (i) as President of the Employment Tribunals (England and Wales), or

- (ii) as a member of a panel (as defined in section 5B(4)) established for England and Wales, and
 - (b) who has not previously taken the required oaths after accepting another office.
- (A2) The appointee must take the required oaths before – 5
 - (a) the Lord Chief Justice of England and Wales, or
 - (b) an eligible person who is nominated by the Lord Chief Justice for the purpose of taking the oaths from the appointee.”
- (3) In subsection (1)(a) – 10
 - (a) omit sub-paragraph (i);
 - (b) in sub-paragraph (iii), after “section 5B(4)” insert “established for Scotland”.
- (4) Omit subsection (3).
- (5) In subsection (4), for “subsection (2)(b)” substitute “subsections (A2)(b) and (2)(b)”. 15
- 37 (1) Section 5D (judicial assistance) is amended as follows.
- (2) In subsection (2) –
 - (a) in paragraph (a), for “the Senior President of Tribunals,” substitute “ – 20
 - (i) the Lord Chief Justice of England and Wales, in relation to a panel established for England and Wales, or
 - (ii) the Senior President of Tribunals, in relation to a panel established for Scotland,”;
 - (b) in paragraph (d), for the words from “requires” to the end substitute “requires the consent of the relevant judge,”; 25
 - (c) after paragraph (d) insert –
 - “(da) its operation as respects a particular relevant judge requires the appropriate consent (see subsection (3)), except where the relevant judge – 30
 - (i) is within subsection (3)(a)(i) to (vi) and is nominated for the purposes of the provision by the Lord Chief Justice of England and Wales, or
 - (ii) is the Lord Chief Justice of England and Wales, and”. 35
- (3) In subsection (4), in the definition of “relevant tribunal judge”, in paragraph (vii), omit “is”.
- 38 (1) Section 7A (practice directions) is amended as follows.

- (2) Before subsection (A1) insert –
- “(ZA1) The Lord Chief Justice of England and Wales may make directions about the practice and procedure of employment tribunals in England and Wales.”
- (3) In subsection (A1), after “employment tribunals” insert “in Scotland”. 5
- (4) For subsection (1) substitute –
- “(1) The President of the Employment Tribunals (England and Wales) may make directions about the practice and procedure of employment tribunals in England and Wales.
- (1A) The President of the Employment Tribunals (Scotland) may make directions about the practice and procedure of employment tribunals in Scotland.” 10
- (5) In subsection (2A), for “subsections (A1) and (1)” substitute “subsections (ZA1) to (1A)”.
- (6) In subsection (2B), for “subsection (A1)” substitute “subsection (ZA1) or (A1)”. 15
- (7) For subsection (2C) substitute –
- “(2C) Directions under subsection (1) may not be made without the approval of –
- (a) the Lord Chief Justice of England and Wales, and 20
- (b) the Lord Chancellor.
- (2CA) Directions under subsection (1A) may not be made without the approval of –
- (a) the Senior President of Tribunals, and
- (b) the Lord Chancellor.” 25
- (8) In subsection (2D), for “Subsections (2B) and (2C)(b)” substitute “Subsections (2B), (2C)(b) and (2CA)(b)”.
- (9) In subsection (2E), for “Subsections (2B) and (2C)(b)” substitute “Subsections (2B), (2C)(b) and (2CA)(b)”.
- (10) Omit subsection (3). 30
- 39 Omit section 24A (training etc. of members of Appeal Tribunal).
- 40 (1) Section 24B (Appeal Tribunal: oaths) is amended as follows.
- (2) In subsection (2), in paragraphs (a) and (b), for “the Senior President of Tribunals” substitute “the appropriate office-holder”.
- (3) After subsection (2) insert – 35
- “(2A) In subsection (2), “the appropriate office-holder” means –
- (a) where it is intended that the appointee will exercise functions wholly or mainly in Scotland, the Senior President of Tribunals;

- (b) in any other case, the Lord Chief Justice of England and Wales.”
- (4) Omit subsection (3).
- 41 (1) Section 28 (composition of Appeal Tribunal) is amended as follows.
- (2) In subsection (1), for “the Senior President of Tribunals” substitute “the appropriate office-holder”. 5
- (3) After subsection (1) insert –
- “(1A) In this section, “the appropriate office-holder” means –
- (a) in relation to the composition of the Appeal Tribunal for the purpose of deciding a matter relating to England and Wales, the Lord Chief Justice of England and Wales; 10
- (b) in relation to the composition of the Appeal Tribunal for the purpose of deciding a matter relating to Scotland, the Senior President of Tribunals.”
- (4) In subsection (2), for “The Senior President of Tribunals” substitute “The Lord Chief Justice of England and Wales and the Senior President of Tribunals”. 15
- (5) In subsection (6), for “the Senior President of Tribunals” substitute “the appropriate office-holder”.
- (6) In subsection (7), for “the Senior President of Tribunals” substitute “the appropriate office-holder”. 20
- (7) In subsection (10), after “consult” insert “the Lord Chief Justice of England and Wales and”.
- 42 (1) Section 29A (Appeal Tribunal: practice directions) is amended as follows.
- (2) In subsection (1), for paragraph (a) (but not the “or” after it) substitute – 25
- “(a) by the Lord Chief Justice of England and Wales and the Senior President of Tribunals, acting jointly,”.
- (3) In subsection (4), before paragraph (a) insert –
- “(za) the Lord Chief Justice of England and Wales,”.
- (4) In subsection (6), before paragraph (a) insert – 30
- “(za) the Lord Chief Justice of England and Wales,”.
- 43 (1) In Schedule A1 (procedure rules), paragraph 2 (delegation of functions to staff) is amended as follows.
- (2) In sub-paragraph (3), for “the Senior President of Tribunals” substitute “the appropriate office-holder”. 35
- (3) In sub-paragraph (4)(b), for “the Senior President of Tribunals” substitute “the appropriate office-holder”.

- (4) After sub-paragraph (4) insert –
- “(4A) In sub-paragraphs (3) and (4), “the appropriate office-holder” means –
- (a) where it is intended that the member of staff to be authorised will exercise functions wholly or mainly in Scotland, the Senior President of Tribunals; 5
- (b) in any other case, the Lord Chief Justice of England and Wales.
- (4B) The Lord Chief Justice may delegate to one or more of the following the Lord Chief Justice’s functions under the preceding provisions of this paragraph – 10
- (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.” 15
- (5) After sub-paragraph (5) insert –
- “(5A) Any function of the Lord Chief Justice of England and Wales delegated to the Senior President of Tribunals under sub-paragraph (4B) is to be treated for the purposes of sub-paragraph (5) as a function of the Senior President of Tribunals (and so may be further delegated by the Senior President of Tribunals under sub-paragraph (5)).” 20
- (6) For sub-paragraph (6) substitute –
- “(6) A person to whom functions are delegated under sub-paragraph (4B)(b) or (5)(b) is not subject to the direction of any person other than – 25
- (a) the person who delegated the functions, or
- (b) a judicial office holder nominated by that person, when exercising the functions.”
- (7) After sub-paragraph (6) insert – 30
- “(6A) Subsections (6) to (8) of section 7A of the Tribunals, Courts and Enforcement Act 2007 apply to –
- (a) a delegation under sub-paragraph (4B), and
- (b) a nomination by the Lord Chief Justice of England and Wales under sub-paragraph (6)(b), 35
- as they apply to a delegation under subsection (1) of that section.”

PART 4

AMENDMENTS OF OTHER ACTS

Senior Courts Act 1981

44 The Senior Courts Act 1981 is amended as follows.

40

- 45 (1) Section 2 (the Court of Appeal) is amended as follows.
- (2) In subsection (2) –
- (a) in paragraph (c), for “(g)” substitute “(i)”;
 - (b) after paragraph (h) insert –
 - “(i) the Senior President of Tribunals if, at the date of appointment, the holder of that office was, or was qualified for appointment as, an ordinary judge of the Court of Appeal or held an office within paragraphs (d) to (h);”.
- (3) In subsection (6), for “or Chancellor of the High Court” substitute “, Chancellor of the High Court or Senior President of Tribunals”.
- 46 In section 9 (assistance for transaction of judicial business), in subsection (1), after the Table (but before the note concerning the entry in column 2 in relation to a Circuit Judge) insert –
- “The entry in column 2 specifying the Court of Appeal in relation to the Senior President of Tribunals is to be disregarded where the holder of that office is an ex-officio judge of the Court of Appeal by virtue of section 2(2)(i).”
- 47 In section 11 (tenure of office of judges of Senior Courts), in subsection (4), for “(g)” substitute “(i)”.
- 48 In section 13 (precedence of judges of Senior Courts when sitting in Court of Appeal) –
- (a) after subsection (3) insert –
 - “(3A) The Senior President of Tribunals (if an ex-officio judge of the Court of Appeal) shall rank next after the Chancellor of the High Court.”;
 - (b) in subsection (4), after “after” insert “the Senior President of Tribunals or, if the Senior President of Tribunals is not an ex-officio judge of the Court of Appeal,”.

Courts Act 2003 30

- 49 (1) In the Courts Act 2003, section 64 (power of Lord Chancellor to alter judicial titles) is amended as follows.
- (2) In subsection (2), at the appropriate place insert –
- (a) “Deputy Head of Tribunals Justice”;
 - (b) “Head of Tribunals Justice”.
- (3) In subsection (4) –
- (a) omit the “and” at the end of paragraph (c);
 - (b) at the end of paragraph (d) insert “, and
 - (e) the Senior President of Tribunals.”

Crime and Courts Act 2013

- 50 In the Crime and Courts Act 2013, in section 21 (deployment of the judiciary), omit subsections (1) to (3).

Public Service Pensions and Judicial Offices Act 2022

- 51 The Public Service Pensions and Judicial Offices Act 2022 is amended as follows. 5

- 52 In section 124 (appointment to sitting in retirement offices) –

- (a) in subsection (2), after paragraph (b) insert –

“(ba) where the corresponding original office is listed in Part 2A of Schedule 3 – 10

- (i) the Senior President of Tribunals, if it is intended that the person to be appointed will exercise the functions of the sitting in retirement office wholly or mainly in Scotland or Northern Ireland; 15

- (ii) the Lord Chief Justice, in any other case.”;

- (b) in subsection (4), after paragraph (b) insert –

“(ba) where the corresponding original office is listed in Part 2A of Schedule 3, the Lord Chancellor with the concurrence of the Lord Chief Justice and the Senior President of Tribunals;” 20

- 53 (1) Schedule 3 (judicial offices) is amended as follows.

- (2) In Part 1 (Lord Chief Justice as appointing authority for corresponding sitting in retirement office), at the appropriate place insert –

“Employment Judge (England and Wales)”. 25

- (3) In Part 2 (Senior President of Tribunals as appointing authority for corresponding sitting in retirement office), omit the following entries –

- (a) “Deputy Judge of the Upper Tribunal”;
 (b) “Employment Judge (England and Wales)”;
 (c) “Judge of the First-tier Tribunal”; 30
 (d) “Judge of the Upper Tribunal”;
 (e) “Non-judicial Member of the First-tier Tribunal”;
 (f) “Non-judicial Member of the Upper Tribunal”.

- (4) After Part 2 insert the following new Part –

“PART 2A 35

LORD CHIEF JUSTICE OR SENIOR PRESIDENT OF TRIBUNALS AS APPOINTING
 AUTHORITY FOR CORRESPONDING SITTING IN RETIREMENT OFFICE

Deputy Judge of the Upper Tribunal

Judge of the First-tier Tribunal
Judge of the Upper Tribunal
Non-judicial Member of the First-tier Tribunal
Non-judicial Member of the Upper Tribunal”.

Courts and Tribunals Bill

[AS INTRODUCED]

A

B I L L

TO

Make provision in relation to criminal courts in England and Wales; to make provision about the leadership of tribunals; to amend section 1 of the Children Act 1989 to remove the presumption relating to the involvement of parents in the life of a child; and for connected purposes.

*Presented by Secretary David Lammy
supported by the Prime Minister,
Secretary Shabana Mahmood, Darren Jones,
Secretary Bridget Phillipson, Anna Turley,
Sarah Sackman, Alex Davies-Jones and
Jake Richards.*

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