Draft Order laid before Parliament under section 108(2) and (3)(c)(ii) of the Courts Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES
MAGISTRATES' COURTS,
ENGLAND AND WALES

The Courts Act 2003 (Consequential Amendments) Order 2004

Made - - - -	*2004*
Coming into force - -	*1st September 2004*

Whereas a draft of this Order has been laid before and approved by resolution of each House of Parliament;

Now therefore, in exercise of the powers conferred on him by section 109(4) and (5) of the Courts Act 2003(**1**), the Lord Chancellor hereby makes the following Order:

Citation

1. This Order may be cited as the Courts Act 2003 (Consequential Amendments) Order 2004.

Commencement

2.—(1) This Order comes into force on 1st September 2004.

(2) But the amendment of any enactment by this Order—

(a) so far as it relates to Criminal Procedure Rules, shall not affect the operation of the enactment amended in relation to rules of court other than Criminal Procedure Rules during the period between the coming into force of this Order and the coming into force of the first Criminal Procedure Rules made under section 69 of the Courts Act 2003,

(b) so far as it relates to Family Procedure Rules, shall not affect the operation of the enactment amended in relation to rules of court other than Family Procedure Rules during the period

(**1**) 2003 c. 39.

between the coming into force of this Order and the coming into force of the first Family Procedure Rules made under section 75 of the Courts Act 2003.

Consequential amendments and repeals

3. The enactments set out in the Schedule are amended and repealed as specified in that Schedule.

Parliamentary Under Secretary of State
Dated 2004 Department for Constitutional Affairs

SCHEDULE Article 3

Administration of Justice (Miscellaneous Provisions) Act 1933

1.—(1) Amend section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933(**2**) (procedure for indictment of offenders) as follows.

(2) In subsection (6)(**3**)—

(a) for "The Lord Chancellor may make rules" substitute "Rules may make provision", and

(b) for "in particular for making" substitute ", in particular,".

(3) After subsection (6), insert—

"(6A) In subsection (6) above "rules"—

(a) in relation to the preferment of a bill of indictment by the direction or with the consent of a judge of the High Court, means rules made by the Lord Chancellor, and

(b) in any other case, means Criminal Procedure Rules."

Maintenance Orders (Reciprocal Enforcement) Act 1972

2.—(1) Amend section 38A(**4**) of the Maintenance Orders (Reciprocal Enforcement) Act 1972(**5**) (rules of court) as follows.

(2) In subsection (1), for the words preceding "may make provision" substitute "Rules of court".

(3) In subsection (2), for "rules made under section 144 of the Magistrates' Courts Act 1980" substitute "rules of court".

(4) Omit subsection (3)(**6**).

(5) In the section heading, for "Magistrates' courts rules" substitute "Rules of court".

Greater London Council (General Powers) Act 1972

3. In section 17(3)(a) of the Greater London Council (General Powers) Act 1972(**7**) (duty to give information in certain cases), for "rules made under section 15 of the Justices of the Peace Act 1949" substitute "Criminal Procedure Rules".

Adoption Act 1976

4. Amend the Adoption Act 1976(**8**) as follows.

5. In section 61(**9**) (evidence of agreement and consent), for "rules" (in both places) substitute "Family Procedure Rules".

(**2**) 1933 c. 36.
(**3**) 1933 c. 36; section 2(6) was partially repealed by the Courts Act 1971 (c. 23), Schedule 11, Part 4.
(**4**) 1972 c. 18; section 38A was inserted by the Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), Schedule 1, Part 2, paragraph 18.
(**5**) 1972 c. 18.
(**6**) 1972 c. 18; section 38A(3)(b) was repealed by S.I.1995/755 (N.I. 2), article 185(2) and Schedule 10.
(**7**) 1972 c. lx
(**8**) 1976 c. 36; the whole Act (except Part 4 and Schedule 2, paragraph 6) is repealed by the Adoption and Children Act 2002 (c. 38), Schedule 5, with effect from a day to be appointed by the Secretary of State.
(**9**) 1976 c. 36; section 61(1) was partially repealed by the Adoption (Intercountry Aspects) Act 1999 (c. 18), sections 15(2), 17 and Schedule 3.

6. In section 62(2)(c)(**10**) (authorised county courts), for the words from "rules" onwards substitute "Family Procedure Rules".

7.—(1) Amend section 65 (duties of officers of the Service) as follows.

(2) In subsection (1)(**11**), for "rules shall" substitute "Family Procedure Rules shall".

(3) In subsection (3)(**12**), for "Rules of court" substitute "Family Procedure Rules".

8.—(1) Amend section 66 (rules of procedure) as follows.

(2) In subsection (1)—

(a) omit "in regard to any matter to be prescribed under this Act and", and

(b) omit "all matters of procedure and".

(3) Omit subsection (2)(**13**).

(4) In each of subsections (3) and (4), for "rules" substitute "Family Procedure Rules".

(5) In subsection (5), for "Rules" substitute "Family Procedure Rules".

9. In section 72(1)(**14**) (interpretation)—

(a) in the definition of "prescribed", for "rules" substitute "Family Procedure Rules", and

(b) omit the definition of "rules".

Magistrates' Courts Act 1980

10. Omit paragraphs 141 and 142 of Schedule 7 to the Magistrates' Courts Act 1980(**15**) (amendments of the Adoption Act 1976).

Supreme Court Act 1981

11. Amend the Supreme Court Act 1981(**16**) as follows.

12. In each of the following provisions, for "Crown Court Rules" substitute "Rules of court"—

(a) section 52(1) (costs in the Crown Court),

(b) section 73(2) (general provisions), and

(c) section 74(2), (3) and (7)(**17**) (appeals and committals for sentence).

13. In section 77(1)(**18**) (committal for trial: date of trial), for "Crown Court Rules" substitute "Criminal Procedure Rules".

(**10**) 1976 c. 36; section 62(2)(c) was amended by the County Courts Act 1984 (c. 28), Schedule 2, Part 5, paragraph 58. It was further amended by the Matrimonial and Family Proceedings Act 1984 (c. 42), Schedule 1, paragraph 20(a), with effect from a day to be appointed by the Secretary of State.

(**11**) 1976 c. 36; section 65(1) was amended by the Criminal Justice and Court Services Act 2000 (c. 43), Schedule 7, Part 2, paragraphs 51 and 52(a) and Schedule 8.

(**12**) 1976 c. 36; section 65(3) was inserted by the Criminal Justice and Court Services Act 2000 (c. 43), Schedule 7, Part 2, paragraphs 51 and 52(c).

(**13**) 1976 c. 36; section 66(2) was amended by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 141.

(**14**) 1976 c. 36; a relevant amendment was made to section 72(1) by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 142.

(**15**) 1980 c. 43; paragraph 141 amended section 66(2) of the Adoption Act 1976 (c. 36) and paragraph 142 amended the definition of "rules" in section 72(1) of that Act.

(**16**) 1981 c. 54.

(**17**) 1981 c. 54; section 74(7) was partially repealed (with savings) by the Access to Justice Act 1999 (c. 22) Schedule 15, Part 5(4) and Schedule 14, paragraph 27.

(**18**) 1981 c. 54; section 77(1) was amended by the Criminal Justice Act 1987 (c. 38) Schedule 2, paragraph 11. It is further amended (and partially repealed) by the Prosecution of Offences Act 1985 (c. 23), Schedule 1, Part 3, paragraph 11 and Schedule 2, from a day to be appointed.

14. In section 81(2) (bail), for "Crown Court Rules" substitute "rules of court".

15.—(1) Amend section 84 (power to make rules of court) as follows.

(2) In subsection (1)(**19**)—

(a) after "prescribing" insert ", except in relation to any criminal cause or matter,", and

(b) omit "and the criminal division of the Court of Appeal".

(3) In each of subsections (5) and (5A)(**20**)—

(a) in paragraph (a), omit "or", and

(b) after paragraph (b), insert—

"(c) Criminal Procedure Rules, or

(d) Family Procedure Rules,".

(4) In subsection (9)(**21**), after "Civil Procedure Rule Committee", insert ", the Family Procedure Rule Committee, the Criminal Procedure Rule Committee,".

16.—(1) In section 86(1)(**22**) (Crown Court Rule Committee), omit—

(a) "in relation to the Crown Court and the criminal division of the Court of Appeal", and

(b) paragraph (d).

17.—(1) Amend section 87 (particular matters for which rules of court may provide) as follows.

(2) In subsection (3)(**23**)—

(a) after "Rules of court" insert "made under section 84", and

(b) for "or the criminal division of the Court of Appeal" substitute "(except so far as relating to criminal causes or matters)".

(3) In subsection (4), for "Criminal Appeal Rules" substitute "Criminal Procedure Rules".

(4) In subsection (5)—

(a) for "Crown Court Rules" substitute "Rules of court made under section 84", and

(b) after "such appeals" insert "(except so far as relating to criminal causes or matters)".

18. In section 151(4)(**24**) (interpretation), omit the definitions of "Criminal Appeal Rules" and "Crown Court Rules".

Local Government (Miscellaneous Provisions) Act 1982

19. In section 16(6) of the Local Government (Miscellaneous Provisions) Act 1982(**25**) (provisions supplementary to ss 14 and 15), for "Crown Court Rules" substitute "Criminal Procedure Rules".

(**19**) 1981 c. 54; section 84(1) was amended by the Civil Procedure Act 1997 (c. 12) Schedule 2, paragraph 1(4)(a).
(**20**) 1981 c. 54; section 84(5) was substituted by, and section 84(5A) was inserted by, the Civil Procedure Act 1997 (c. 12), Schedule 2, paragraph 1(4)(c).
(**21**) 1981 c. 54; section 84(9) was amended by the Civil Procedure Act 1997 (c. 12) Schedule 2, paragraph 1(4)(d).
(**22**) 1981 c. 54; section 86(1) was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 36(2).
(**23**) 1981 c. 54; section 87(3) was amended by the Civil Procedure Act 1997 (c. 12) Schedule 2, paragraph 1(6)(b).
(**24**) 1981 c. 54; section 151(4) was amended by the Civil Procedure Act 1997 (c. 12), Schedule 2, paragraph 1(7)(b).
(**25**) 1982 c. 30.