



# Justices of the Peace Act 1979

## 1979 CHAPTER 55

### PART I

#### GENERAL

##### *Areas and commissions of the peace*

#### **1 Commission areas**

There shall in England and Wales be a commission of the peace for the following areas (in this Act referred to as "commission areas") and no others, that is to say—

- (a) every county;
- (b) every London commission area ; and
- (c) the City of London.

#### **2 London commission areas**

(1) Subject to the provisions of section 3 of this Act, the following areas of Greater London, that is to say—

- (a) an area to be known as the "inner London area", consisting of the inner London boroughs ;
- (b) an area to be known as the "north-east London area", consisting of the London boroughs of Barking, Havering, Newham, Redbridge and Waltham Forest;
- (c) an area to be known as the "south-east London area", consisting of the London boroughs of Bexley, Bromley and Croydon;
- (d) an area to be known as the "south-west London area", consisting of the London boroughs of Kingston upon Thames, Merton, Richmond upon Thames and Sutton; and
- (e) an area to be known as the "Middlesex area", consisting of the London boroughs of Barnet, Brent, Ealing, Enfield, Haringey, Harrow, Hillingdon and Hounslow,

are in this Act referred to as " London commission areas ", and the areas specified in paragraphs (b) to (e) above are in this Act referred to as the " outer London areas ".

- (2) Subject to the provisions of this Act, a London commission area shall be deemed to be a non-metropolitan county for all purposes of the law relating to commissions of the peace, justices of the peace, magistrates' courts, magistrates' courts committees, the keeper of the rolls, justices' clerks and matters connected with any of those matters ; and references to a county in any enactment passed or instrument made before the 10th June 1964, and references to a non-metropolitan county in any enactment or instrument as amended or modified by or under the Local Government Act 1972, shall be construed accordingly.
- (3) Subsection (2) above shall not apply to any enactment (including any enactment contained in this Act) to which apart from this subsection it would apply and which expressly refers in the same context both—
- (a) to a county or counties or to a non-metropolitan county or non-metropolitan counties, and
  - (b) to a London commission area or London commission areas or any of those areas ;

and the generality of subsection (2) above shall not be taken to be prejudiced by any enactment to which by virtue of this subsection that subsection does not apply.

### **3 Power to adjust London commission areas**

- (1) Her Majesty may by Order in Council substitute for any one or more of the areas specified in section 2(1) above any other area or areas comprising the whole or part of Greater London, or alter the boundaries of any area so specified; but the City of London shall not by virtue of any such Order be included in a London commission area.
- (2) An Order in Council made under this section may contain such incidental, consequential, transitional or supplementary provisions as may be necessary or expedient for the purposes of the Order (including provisions amending this Act or any other enactment).
- (3) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **4 Petty sessions areas**

- (1) The following areas outside Greater London are petty sessions areas, that is to say—
- (a) every non-metropolitan county which is not divided into petty sessional divisions ;
  - (b) every petty sessional division of a non-metropolitan county;
  - (c) every metropolitan district which is not divided into petty sessional divisions ; and
  - (d) every petty sessional division of a metropolitan district.
- (2) In the following provisions of this Act " petty sessions area " means any of the following, that is to say—
- (a) any of the areas outside Greater London specified in subsection (1) above;

- (b) any London commission area which is not divided into petty sessional divisions ;
- (c) any petty sessional division of a London commission area; and
- (d) the City of London.

## **5 General form of commissions of the peace**

- (1) The commission of the peace for any commission area shall be a commission under the Great Seal addressed generally, and not by name, to all such persons as may from time to time hold office as justices of the peace for the commission area.
- (2) A commission of the peace issued after the commencement of this Act shall be framed so as to take account of the abolition of courts of quarter sessions by section 3 of the Courts Act 1971.

### *Justices other than stipendiary magistrates*

## **6 Appointment and removal of justices of the peace**

- (1) Subject to the following provisions of this Act, justices of the peace for any commission area shall be appointed on behalf and in the name of Her Majesty by instrument under the hand of the Lord Chancellor, and a justice so appointed may be removed from office in like manner.
- (2) The preceding subsection does not apply to stipendiary magistrates and shall be without prejudice to the position of the Lord Mayor and aldermen as justices for the City of London by virtue of the charters of the City.

## **7 Residence qualification**

- (1) Subject to the provisions of this section, a person shall not be appointed as a justice of the peace for a commission area in accordance with section 6 of this Act, nor act as a justice of the peace by virtue of any such appointment, unless he resides in or within fifteen miles of that area.
- (2) If the Lord Chancellor is of opinion that it is in the public interest for a person to act as a justice of the peace for a particular area though not qualified to do so under subsection (1) above, he may direct that, so long as any conditions specified in the direction are satisfied, that subsection shall not apply in relation to that person's appointment as a justice of the peace for the area so specified.
- (3) Where a person appointed as a justice of the peace for a commission area in accordance with section 6 of this Act is not qualified under the preceding provisions of this section to act by virtue of the appointment, he shall be removed from office as a justice of the peace in accordance with section 6 of this Act if the Lord Chancellor is of opinion that the appointment ought not to continue having regard to the probable duration and other circumstances of the want of qualification.
- (4) No act or appointment shall be invalidated by reason only of the disqualification or want of qualification under this section of the person acting or appointed.

## **8 Supplemental list for England and Wales**

- (1) There shall be kept in the office of the Clerk of the Crown in Chancery a supplemental list for England and Wales as provided for by this Act (in this Act referred to as "the supplemental list").
- (2) Subject to the following provisions of this section, there shall be entered in the supplemental list—
  - (a) the name of any justice of the peace who is of the age of 70 years or over and neither holds nor has held high judicial office within the meaning of the Appellate Jurisdiction Act 1876, and
  - (b) the name of any justice of the peace who holds or has held such office and is of the age of 75 years or over.
- (3) A person who on the date when his name falls to be entered in the supplemental list in accordance with subsection (2) above holds office as chairman of the justices in a petty sessions area (whether by an election made, or having effect as if made, under section 17 of this Act, or, in the City of London, as Chief Magistrate or acting Chief Magistrate) shall have his name so entered on the expiry or sooner determination of the term for which he holds office on that date.
- (4) The Lord Chancellor may direct that the name of a justice of the peace for any area shall be entered in the supplemental list if the Lord Chancellor is satisfied either—
  - (a) that by reason of the justice's age or infirmity or other like cause it is expedient that he should cease to exercise judicial functions as a justice for that area, or
  - (b) that the justice declines or neglects to take a proper part in the exercise of those functions.
- (5) On a person's appointment as a justice of the peace for any area the Lord Chancellor may direct that his name shall be entered in the supplemental list, if that person is appointed a justice for that area on ceasing to be a justice for some other area.
- (6) The name of a justice of the peace shall be entered in the supplemental list if he applies for it to be so entered and the application is approved by the Lord Chancellor.
- (7) Nothing in this section shall apply to a person holding office as stipendiary magistrate.

## **9 Removal of name from supplemental list**

- (1) A person's name shall be removed from the supplemental list if he ceases to be a justice of the peace.
- (2) The name of any person, if not required to be entered in the supplemental list by subsection (2) or subsection (3) of section 8 of this Act, shall be removed from the list if so directed by the Lord Chancellor.

## **10 Effect of entry of name in supplemental list**

- (1) Subject to the following subsections, a justice of the peace for any area, while his name is entered in the supplemental list, shall not by reason of being a justice for that area be qualified as a justice to do any act or to be a member of any committee or other body.
- (2) Subsection (1) above shall not preclude a justice from doing all or any of the following acts as a justice, that is to say—

- (a) signing any document for the purpose of authenticating another person's signature;
  - (b) taking and authenticating by his signature any written declaration not made on oath; and
  - (c) giving a certificate of facts within his knowledge or of his opinion as to any matter.
- (3) The entry of a person's name in the supplemental list shall also not preclude him, if so authorised by the Lord Chancellor, from acting as a judge of the Crown Court so long as he has not attained the age of 72 years.
- (4) No act or appointment shall be invalidated by reason of the disqualification under this section of the person acting or appointed.

## **11 Records of justices of the peace**

- (1) In each commission area, other than the City of London, such one of the justices as may be designated by the Lord Chancellor shall be keeper of the rolls.
- (2) There shall be transmitted to the keeper of the rolls for each commission area, and be enrolled in the records of the justices for that area, a copy of any instrument appointing or removing a justice of the peace in that area in accordance with section 6 of this Act; and the keeper of the rolls shall be notified, in such manner as the Lord Chancellor may direct, of any resignation or death of a justice so appointed, and shall cause to be kept, and from time to time rectified, a record of those for the time being holding office by virtue of any such appointment.
- (3) There shall be kept in the office of the Clerk of the Crown in Chancery a record of all persons for the time being holding office as justices of the peace by virtue of appointments made in accordance with section 6 of this Act, together with the instruments of appointment or removal.

## **12 Travelling, subsistence and financial loss allowances**

- (1) Subject to the provisions of this section, a justice of the peace shall be entitled—
- (a) to receive payments by way of travelling allowance or subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him to perform any of his duties as a justice, and
  - (b) to receive payments by way of financial loss allowance where for that performance there is incurred by him any other expenditure to which he would not otherwise be subject or there is suffered by him any loss of earnings or of benefit under the enactments relating to social security which he would otherwise have made or received.
- (2) For the purposes of this section, a justice following a course of instruction under a scheme made in accordance with arrangements approved by the Lord Chancellor, or a course of instruction provided by the Lord Chancellor, shall be deemed to be acting in the performance of his duties as a justice.
- (3) A justice shall not be entitled to any payment under this section in respect of any duties, if in respect of those duties a payment of the like nature may be paid to him under arrangements made apart from this section or if regulations provide that this section

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

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shall not apply; and a stipendiary magistrate shall not be entitled to any payment under this section in respect of his duties as such.

- (4) Allowances payable under this section shall be paid at rates determined by the Secretary of State with the consent of the Minister for the Civil Service.
- (5) An allowance payable under this section in respect of duties as a justice in the Crown Court shall be paid by the Lord Chancellor; and an allowance otherwise payable under this section to a justice for any commission area in respect of his duties as such shall be paid by the appropriate authority in relation to that area, that is to say—
  - (a) in relation to the City of London, the Common Council;
  - (b) in relation to the inner London area, the Receiver ;
  - (c) in relation to any of the outer London areas, the Greater London Council;
  - (d) in relation to a non-metropolitan county, the county council;
  - (e) in relation to a metropolitan county, the council of the metropolitan district which is or includes the petty sessions area for which the justice acts.
- (6) Regulations may make provision as to the manner in which this section is to be administered, and in particular—
  - (a) for prescribing the forms to be used and the particulars to be provided for the purpose of claiming payment of allowances; and
  - (b) for avoiding duplication between payments under this section and under other arrangements where expenditure is incurred for more than one purpose, and otherwise for preventing abuses.
- (7) Regulations for the purposes of this section shall be made by the Secretary of State by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Stipendiary magistrates other than metropolitan stipendiary magistrates*

### **13 Appointment and removal of stipendiary magistrates**

- (1) It shall be lawful for Her Majesty to appoint a barrister or solicitor of not less than seven years' standing to be, during Her Majesty's pleasure, a whole-time stipendiary magistrate in any commission area or areas outside the inner London area and the City of London, and to appoint more than one such magistrate in the same area or areas.
- (2) A person so appointed to be a magistrate in any commission area shall by virtue of his office be a justice of the peace for that area.
- (3) Any appointment of a stipendiary magistrate under this section shall be of a person recommended to Her Majesty by the Lord Chancellor, and a stipendiary magistrate appointed under this section shall not be removed from office except on the Lord Chancellor's recommendation.
- (4) The number of stipendiary magistrates appointed under this section shall not at any time exceed forty or such larger number as Her Majesty may from time to time by Order in Council specify.
- (5) Her Majesty shall not be recommended to make an Order in Council under subsection (4) above unless a draft of the Order has been laid before Parliament and approved by resolution of each House.

#### **14 Retirement of stipendiary magistrates**

- (1) A stipendiary magistrate appointed on or after the 25th October 1968 shall vacate his office at the end of the completed year of service in the course of which he attains the age of 70:

Provided that where the Lord Chancellor considers it desirable in the public interest to retain him in office after that time, the Lord Chancellor may from time to time authorise him to continue in office up to such age not exceeding 72 as the Lord Chancellor thinks fit.

- (2) A stipendiary magistrate appointed before the 25th October 1968 shall vacate his office at the end of the completed year of service in the course of which he attains the age of 72:

Provided that where the Lord Chancellor considers it desirable in the public interest to retain him in office after that time, the Lord Chancellor may from time to time authorise him to continue in office up to such age not exceeding 75 as the Lord Chancellor thinks fit.

#### **15 Acting stipendiary magistrate**

- (1) Where it appears to the Lord Chancellor that it is expedient to do so in order to avoid delays in the administration of justice in any commission area in which a stipendiary magistrate can be appointed under section 13 of this Act, the Lord Chancellor—

- (a) may authorise any person qualified to be so appointed to act as a stipendiary magistrate in that area during such period (not exceeding three months at one time) as the Lord Chancellor thinks fit, or
- (b) may require so to act any stipendiary magistrate appointed under that section in another commission area.

- (2) While acting as a stipendiary magistrate in any commission area under subsection (1) above, a person shall have the same jurisdiction, powers and duties as if he had been appointed stipendiary magistrate in that area and were a justice of the peace for that area.

- (3) The Lord Chancellor may, out of moneys provided by Parliament, pay to any person authorised to act under this section, not being a stipendiary magistrate, such remuneration as he may, with the approval of the Minister for the Civil Service, determine.

#### **16 Place of sitting and powers of stipendiary magistrates**

- (1) Subject to subsection (5) below, nothing in the Magistrates' Courts Act 1952 requiring a magistrates' court to be composed of two or more justices, or to sit in a petty sessional court-house or an occasional court-house, or limiting the powers of a magistrates' court composed of a single justice, or when sitting elsewhere than in a petty sessional court-house, shall apply to any stipendiary magistrate sitting in a place appointed for the purpose.

- (2) A stipendiary magistrate appointed under section 13 of this Act in any commission area shall sit at such court houses in the area, on such days and at such times as may be determined by, or in accordance with, directions given by the Lord Chancellor from time to time.

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- (3) Subject to subsection (5) below, a stipendiary magistrate so appointed, sitting at a place appointed for the purpose, shall have power to do any act, and to exercise alone any jurisdiction, which can be done or exercised by two justices under any law, other than any law made after the 2nd August 1858 which contains an express provision to the contrary; and all the provisions of any Act which are auxiliary to the jurisdiction exercisable by two justices of the peace shall apply also to the jurisdiction of such a stipendiary magistrate.
- (4) Subsection (3) above shall apply to cases where the act or jurisdiction in question is expressly required to be done or exercised by justices sitting or acting in petty sessions as it applies to other cases ; and any enactment authorising or requiring persons to be summoned or to appear at petty sessions shall in the like cases authorise or require persons to be summoned or to appear before such a stipendiary magistrate at the place appointed for his sitting.
- (5) Nothing in this section shall apply to the hearing or determination of domestic proceedings within the meaning of section 56 of the Magistrates' Courts Act 1952; and nothing in subsection (3) above shall apply to any act or jurisdiction relating to the grant or transfer of any licence.