



Justices of the Peace Act 1979

1979 CHAPTER 55

PART II

ORGANISATION OF FUNCTIONS OF JUSTICES

General provisions

17 Chairman and deputy chairmen of justices

- (1) In any petty sessions area there shall be a chairman and one or more deputy chairmen of the justices chosen from amongst themselves by the magistrates for the area by secret ballot.
- (2) Subject to subsection (3) below, if the chairman or a deputy chairman of the justices for a petty sessions area is present at a meeting of those justices, he shall preside unless he requests another justice to preside in accordance with rules made under the next following section.
- (3) Subsection (2) above shall not confer on the chairman and deputy chairmen of the justices as such any right to preside in a juvenile or domestic court or at meetings of a committee or other body of justices having its own chairman, or at meetings when any stipendiary magistrate is engaged as such in administering justice.

18 Rules as to chairmanship and size of bench

- (1) The number of justices (other than metropolitan stipendiary magistrates) sitting to deal with a case as a magistrates' court shall not be greater than the number prescribed by rules made under this section.
- (2) Rules made under this section may make provision as to the manner in which section 17 of this Act and this section are to be administered, and in particular
 - (a) as to the arrangements to be made for securing the presence on the bench of enough, but not more than enough, justices;

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- (b) as to the term of office and the procedure at an election of the chairman or a deputy chairman of the justices in a petty sessions area, and the number of deputy chairmen to be elected in any such area; and
 - (c) as to the justices whom a chairman or deputy chairman of justices may request to preside at a meeting.
- (3) The right of magistrates to vote at an election of the chairman or a deputy chairman of the justices in a petty sessions area may, by rules made under this section, be restricted with a view to securing that the election is made by magistrates experienced as such in the area.
- (4) No rules shall be made under this section except on the advice of, or after consultation with, the rule committee established under section 15 of the Justices of the Peace Act 1949.
- (5) Rules under this section shall be made by the Lord Chancellor by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Magistrates' courts committees

19 General provisions as to magistrates courts committees

- (1) There shall continue to be committees (to be called " magistrates' courts committees ") set up in accordance with the following provisions of this Part of this Act, with such functions in relation to justices' clerks, to the division into petty sessional divisions of non-metropolitan counties, metropolitan districts and the outer London areas, to the provision of courses of instruction for justices and to other matters of an administrative character as are or may be provided by or under this Act or as they may be authorised by the Secretary of State to undertake.
- (2) Subject to subsection (3) below, there shall be a magistrates' courts committee for each area to which this subsection applies, that is to say—
- (a) every non-metropolitan county ;
 - (b) every metropolitan district;
 - (c) each of the outer London areas ; and
 - (d) the City of London.
- (3) There may be a single magistrates' courts committee for a composite area (in this Act referred to as a "joint committee area ") consisting of two or more areas to which subsection (2) above applies, other than the City of London; but—
- (a) there shall be a single magistrates' courts committee for such a composite area if, but only if, the area is for the time being directed by an order of the Secretary of State to be a joint committee area; and
 - (b) no order directing that a composite area shall be a joint committee area shall be made except on the application of the magistrates for each area to which subsection (2) above applies which is included in the composite area.
- (4) Any order of the Secretary of State under subsection (3) above may, if it relates to an area for which a magistrates' courts committee is already acting, contain such consequential and transitional provisions for the preservation of rights and liabilities of that committee or otherwise as appear to the Secretary of State to be necessary or expedient.

20 Constitution of magistrates' courts committees

- (1) A magistrates' courts committee shall, subject to subsection (2) below.—
 - (a) in the case of a committee for a county, be composed of magistrates for the county ;
 - (b) in the case of a committee for a metropolitan district. be composed of magistrates for the county comprising that district;
 - (c) in the case of a committee for any of the outer London areas or for the City of London, be composed of magistrates for that area or for the City, as the case may be; and
 - (d) in the case of a committee for a joint committee area, be composed of magistrates for such of the following as are applicable to it, that is to say, magistrates for each county, magistrates for the county comprising each metropolitan district, and magistrates for each London commission area, for which the committee acts.
- (2) The magistrates' courts committee for any area may, with his consent, co-opt a judge of the High Court, Circuit judge or Recorder to serve as a member of the committee.
- (3) The keeper of the rolls of a county shall by virtue of his office be a member of any magistrates' courts committee acting for the county or any district thereof; and the keeper of the rolls of a London commission area shall by virtue of his office be a member of any magistrates' courts committee acting for that area.
- (4) The magistrates' courts committee for an area to which section 19(2) of this Act applies which is divided into petty sessional divisions shall (in addition to any person who is a member of the committee by virtue of subsection (2) or subsection (3) above) consist of such number of magistrates chosen from amongst themselves by the magistrates for each of the petty sessional divisions of that area as may be determined in accordance with regulations made by the Secretary of State under the next following section.
- (5) The magistrates' courts committee for an area to which section 19(2) of this Act applies which is not divided into petty sessional divisions shall (in addition to any person who is a member of the committee by virtue of subsection (2) or subsection (3) above) consist of such number of magistrates chosen from amongst themselves by the magistrates for that area as those magistrates may determine.
- (6) The magistrates' courts committee for a joint committee area shall consist of the following persons, that is to say—
 - (a) any person who is a member of the committee by virtue of subsection (2) or subsection (3) above;
 - (b) in respect of any area to which section 19(2) of this Act applies which is divided into petty sessional divisions and is included in the joint committee area, such number of magistrates, chosen from amongst themselves by the magistrates for each such petty sessional division, as may be determined in accordance with regulations made by the Secretary of State under the next following section ; and
 - (c) in respect of any area to which section 19(2) of this Act applies which is not divided into petty sessional divisions but is included in the joint committee area, such number of magistrates chosen from amongst themselves by the magistrates for the area so included as may for the time being be determined by, or in accordance with, the order directing that the composite area shall be a joint committee area.

21 Powers of Secretary of State in relation to magistrates' courts committees

- (1) The Secretary of State may by statutory instrument make general regulations about the constitution, procedure and quorum of magistrates' courts committees; but (except as provided by subsection (2) below) any such regulations shall have effect subject to the provisions of section 20 of this Act.
- (2) Any such regulations may—
 - (a) lay down upper and lower limits for the number of members of which the magistrates' courts committee for an area to which section 19(2) of this Act applies which is not divided into petty sessional divisions may be composed, and
 - (b) direct that where, in an area to which section 19(2) of this Act applies which is divided into petty sessional divisions, the total number of the divisions is less than that specified in the regulations, there shall from each division be such number of members on any magistrates' courts committee acting for the area as may be so specified.
- (3) Any such regulations may also make provision with respect to the persons (other than the members, clerks and officers of the committee) who may be entitled to attend the meetings of a magistrates' courts committee and the rights of such persons to make representations to the committee.
- (4) The Secretary of State may give general or special directions with respect to summoning the first meeting of magistrates' courts committees.

22 Supplementary provisions as to magistrates' courts committees

- (1) A magistrates' courts committee shall appoint one of its members to be chairman of the committee and, subject to subsection (2) below, shall also appoint a clerk to the committee and may appoint such other officers (if any) as the Secretary of State may approve.
- (2) Where there is a separate magistrates' courts committee for an area to which section 19(2) of this Act applies which is not divided into petty sessional divisions, the clerk to the justices (that is to say—
 - (a) in the case of a non-metropolitan county, the county justices;
 - (b) in the case of a metropolitan district, the justices acting for that district;
 - (c) in the case of any of the outer London areas, the justices for that area; or
 - (d) in the case of the City of London, the justices for the City),shall by virtue of his office be the clerk to the committee.
- (3) Where the magistrates for a petty sessions area are required to meet for the purpose of carrying out any functions under section 20 of this Act, a meeting shall be convened by the magistrates' courts committee or, if there is no such committee in being or the Secretary of State considers it appropriate, by the Secretary of State.
- (4) A magistrates' courts committee may act through subcommittees appointed by them.
- (5) Subject to the provisions of this Act, a magistrates' courts committee shall have power to regulate its own procedure, including quorum.
- (6) The proceedings of a magistrates' courts committee shall not be invalidated by reason of any vacancy therein or of any defect in the appointment of a member.

(7) A magistrates' courts committee shall be a body corporate.

23 Powers and duties of committee as to petty sessional divisions

- (1) Subject to the provisions of this and the next following section, a magistrates' courts committee acting for a non-metropolitan county or metropolitan district or any of the outer London areas may at any time submit to the Secretary of State a draft order making such provision about the division of the county, district or area or any part thereof into petty sessional divisions as the committee think fit.
- (2) It shall be the duty of such a committee, if directed to do so by the Secretary of State, to review the division of the county, district or area, as the case may be, or any part thereof into petty sessional divisions and, on completion of the review, to submit to the Secretary of State either a draft order under subsection (1) above or a report giving reasons for making no change.
- (3) Subject to the provisions of this and the next following section—
 - (a) where such a committee submit a draft order to the Secretary of State under this section, he may by statutory instrument make the order either in the terms of the draft or with such modifications as he thinks fit; and
 - (b) where such a committee fail to comply within six months with a direction of the Secretary of State under subsection (2) above, or the Secretary of State is dissatisfied with the draft order or report submitted in pursuance of such a direction, he may by statutory instrument make such order as he thinks fit about the division into petty sessional divisions of the area to which the direction related.
- (4) An order under this section may provide for a non-metropolitan county or metropolitan district or any of the outer London areas ceasing to be divided into petty sessional divisions, and a direction under subsection (2) above may be given with respect to the division of a non-metropolitan county or metropolitan district or any of the outer London areas which is not for the time being so divided.
- (5) Any order under this section may contain transitional and other consequential provisions.

24 Procedure relating to s. 23

- (1) Before submitting to the Secretary of State a draft order or a report under section 23 of this Act about any area, a magistrates' courts committee—
 - (a) shall consult the council of the non-metropolitan county or metropolitan district concerned and the magistrates for any existing petty sessional division in the area; and
 - (b) in the case of a draft order, after complying with paragraph (a) above, shall send a copy of their proposals to every interested authority and take into consideration any objections made in the prescribed manner and within the prescribed time.
- (2) A magistrates' courts committee submitting to the Secretary of State a draft order or a report under section 23 of this Act shall comply with such requirements (if any) as to notice as may be prescribed; and the Secretary of State, before making an order under that section about any area otherwise than in accordance with a draft submitted to him by the magistrates' courts committee, shall send a copy of his proposals to

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the committee, to the council of the non-metropolitan county or metropolitan district concerned, to the magistrates for any existing petty sessional division in the area and to every interested authority.

- (3) Before making any order under section 23 of this Act the Secretary of State shall take into consideration any objections made in the prescribed manner and within the prescribed time, and may cause a local inquiry to be held.
- (4) In its application to the outer London areas this section shall have effect as if any reference to the council of a non-metropolitan county were a reference to the Greater London Council.
- (5) Subject to the provisions of Schedule 1 to this Act, the powers conferred by section 23 of this Act shall be in substitution for any other power to create or alter petty sessional divisions in a county or London commission area, except powers conferred by any other provision of this Act.
- (6) For the purposes of this section—
 - (a) " interested authority ", in relation to any order or draft order, means the council of any outer London borough, metropolitan county or metropolitan district which includes the whole or any part of the area to which the order relates; and
 - (b) an order shall be deemed to be made in accordance with a draft order if either it is made in terms of the draft order or the departures from the draft order do not, in the opinion of the Secretary of State, effect important alterations in the draft order.

Justices' clerks and their staffs

25 Appointment and removal of justices' clerks

- (1) Justices' clerks shall be appointed by the magistrates' courts committee and shall hold office during the pleasure of the committee; and a magistrates' courts committee may appoint more than one justices' clerk for any area.
- (2) The approval of the Secretary of State shall be required—
 - (a) for any decision to increase the number of justices' clerks in a petty sessions area or to have more than one justices' clerk in a new petty sessions area ;
 - (b) for any appointment of a justices' clerk ;
 - (c) for the removal of the justices' clerk for a petty sessional division where the magistrates for the division do not consent to the removal.
- (3) A magistrates' courts committee shall consult the magistrates for any petty sessional division on the appointment or removal of a justices' clerk for the division ; and the Secretary of State, before approving the appointment or removal of a justices' clerk for such a division, shall consider any representations made to him by the magistrates for the division, and before approving the removal of any such clerk shall consider any representations made to him by the clerk.
- (4) The magistrates' courts committee shall inform the Secretary of State of the age, qualification and experience of any person proposed to be appointed a justices' clerk and, if the Secretary of State so requires, of any other person offering himself for the appointment.

(5) Subsections (1) to (4) above shall not apply to the inner London area.

26 Qualifications for appointment as justices' clerk

- (1) Except as provided by this section, no person shall be appointed as justices' clerk of any class or description unless either—
 - (a) at the time of appointment he is a barrister or solicitor of not less than five years' standing and is within any limit of age prescribed for appointments to a clerkship of that class or description, or
 - (b) he then is or has previously been a justices' clerk.
- (2) A lower as well as an upper limit of age may be prescribed under subsection (1) above for appointments to any class or description of clerkship.
- (3) A person not having the qualification as barrister or solicitor which is required by subsection (1)(a) above may be appointed a justices' clerk—
 - (a) if at the time of appointment he is a barrister or solicitor and has served for not less than five years in service to which this subsection applies, or
 - (b) if before the 1st January 1960 he had served for not less than ten years in service to which this subsection applies and, in the opinion of the magistrates' courts committee and of the Secretary of State, there are special circumstances making the appointment a proper one.
- (4) Subsection (3) above applies to service in any one or more of the following capacities, that is to say, service as assistant to a justices' clerk and service before the 1st February 1969—
 - (a) as clerk to a stipendiary magistrate;
 - (b) as clerk to a magistrates' court for the inner London area or as clerk to a metropolitan stipendiary court;
 - (c) as clerk at one of the justice rooms of the City of London; or
 - (d) as assistant to any such clerk as is mentioned in paragraphs (a) to (c) above.
- (5) A person may be appointed a justices' clerk notwithstanding that he is over the upper limit of age mentioned in subsection (1) of this section if he has served continuously in service to which subsection (3) above applies from a time when he was below that limit to the time of appointment.

27 Conditions of service and staff of justices' clerks

- (1) A justices' clerk shall be paid a salary for his personal remuneration, and the salary shall be deemed to be remuneration for all business which he may by reason of his office as justices' clerk be called upon to perform, other than any duties as secretary to a licensing planning committee under Part VII of the Licensing Act 1964.
- (2) A justices' clerk may be paid a single salary in respect of two or more clerkships.
- (3) Subject to subsection (5) below, a justices' clerk shall be provided with the accommodation and staff, and the furniture, books and other things, proper to enable him to carry out his duties.
- (4) A justices' clerk shall, in addition to his salary, be paid the amount of any expenses of a description specified when his salary is determined, being expenses incurred by him with the general or special authority of the magistrates' courts committee.

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- (5) Where a justices' clerk devotes part of his time to work other than the duties appertaining to his clerkship or clerkships, he may by arrangement with the magistrates' courts committee make use for the purpose of those duties of any accommodation, staff or equipment which he has for other purposes; and the sums payable to him under subsection (4) above may include payments for accommodation, staff or equipment so provided by him, whether or not he thereby incurs additional expense.
- (6) Any staff provided for a justices' clerk shall be employed by the magistrates' courts committee but shall work under the direction of the clerk, and subject to this Act the committee may make any arrangements they think fit for staff to be engaged and dismissed, and the terms of their employment fixed, on behalf of the committee.
- (7) Before any such staff are engaged or dismissed (otherwise than by the clerk himself on behalf of the committee) the clerk shall be consulted.
- (8) The power conferred by section 15 of the Justices of the Peace Act 1949 to make rules for regulating and prescribing the procedure and practice to be followed by justices' clerks shall, without prejudice to the generality of subsection (1) of that section, include power to provide that, subject to any exceptions prescribed by the rules, persons shall not be employed to assist a justices' clerk in any capacity so prescribed, or shall not be permitted to do on behalf of a justices' clerk any such acts as may be so prescribed, unless those persons are qualified (any age limits apart) to be appointed justices' clerk or have such other qualifications as may for any purpose be allowed by the rules.
- (9) Subsections (1) to (7) above shall not apply to the inner London area.

28 General powers and duties of justices' clerks

- (1) Rules made in accordance with section 15 of the Justices of the Peace Act 1949 may (except in so far as any enactment passed after the 25th October 1968 otherwise directs) make provision enabling things authorised to be done by, to or before a single justice of the peace to be done instead by, to or before a justices' clerk.
- (2) Any enactment (including any enactment contained in this Act) or any rule of law regulating the exercise of any jurisdiction or powers of justices of the peace, or relating to things done in the exercise or purported exercise of any such jurisdiction or powers, shall apply in relation to the exercise or purported exercise thereof by virtue of subsection (1) above by the clerk to any justices as if he were one of those justices.
- (3) It is hereby declared that the functions of a justices' clerk include the giving to the justices to whom he is clerk or any of them, at the request of the justices or justice, of advice about law, practice or procedure on questions arising in connection with the discharge of their or his functions, including questions arising when the clerk is not personally attending on the justices or justice, and that the clerk may, at any time when he thinks he should do so, bring to the attention of the justices or justice any point of law, practice or procedure that is or may be involved in any question so arising.

In this subsection the reference to the functions of justices or a justice is a reference to any of their or his functions as justices or a justice of the peace, other than functions as a judge of the Crown Court.

- (4) The enactment of subsection (3) above shall not be taken as defining or in any respect limiting the powers and duties belonging to a justices' clerk or the matters on which justices may obtain assistance from their clerk.

29 Functions of justices' clerk as collecting officer

- (1) A justices' clerk shall by virtue of his office be collecting officer of any magistrates' court of which he is the clerk.
- (2) In his capacity as such a collecting officer, a justices' clerk—
- (a) shall discharge all such functions as are conferred by any enactment on a collecting officer appointed by the justices for a petty sessional division under the Affiliation Orders Act 1914 ; and
 - (b) shall act under any order directing the payment of money to him which was made by any court under section 30 of the Criminal Justice Administration Act 1914 (which provided for periodical payments under court orders to be made through an officer of the court or other third party) and which continues to have effect in accordance with the provisions of paragraph 14 of Schedule I to this Act.
- (3) Subsections (1) and (2) above shall have effect without prejudice to the provisions of section 52 of the Magistrates' Courts Act 1952 (periodical payments through justices' clerk) or section 53A of that Act (relating to payments required to be made to a child).

30 Person acting as substitute clerk to justices

- (1) The provisions of this section shall have effect where, in any petty sessions area outside the inner London area, a person who is not the justices' clerk or one of the justices' clerks appointed in that petty sessions area by the magistrates' courts committee acts as clerk to the justices for that petty sessions area.
- (2) Subject to any rules made under section 15 of the Justices of the Peace Act 1949 and to subsection (3) below, the person so acting shall be treated as having acted as deputy to the justices' clerk appointed by the magistrates' courts committee in that petty sessions area, and shall make a return to the justices' clerk so appointed of all matters done before the justices and of all matters that the clerk to the justices is required to register or record.
- (3) In relation to a petty sessions area in which there are two or more justices' clerks appointed by the magistrates' courts committee, any reference in subsection (2) above to the justices' clerk so appointed shall be construed as a reference to such one of them as may be designated for the purpose by the committee.