

## SCHEDULES

### SCHEDULE 1

Sections 5 and 20.

#### JUSTICES OF THE PEACE (CONSEQUENTIAL RE-ENACTMENTS AND AMENDMENTS)

##### PART I

###### RETIREMENT AND SUPERANNUATION OF STIPENDIARY MAGISTRATES

- 1 (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.

- 2 (1) Subject to the provisions of this paragraph, where a stipendiary magistrate retires (under paragraph 1 above or otherwise) after not less than five years service as stipendiary magistrate, the Minister for the Civil Service on the recommendation of the Lord Chancellor may grant to him a superannuation allowance at an annual rate not exceeding  $\frac{15}{80}$ ths of his annual salary, together with an addition for each complete year of his service as stipendiary magistrate after the first 5 years equal to  $\frac{1}{80}$ th of the salary or, in the case of a year of service after the first 10 years, to  $\frac{2}{80}$ ths of the salary ; but the allowance shall in no case exceed one half of the salary.

- (2) An allowance under this paragraph shall be calculated on the salary the magistrate is receiving immediately before his retirement.

- (3) An allowance shall not be granted under this paragraph to a magistrate who has not attained the age of 65 at the time of his retirement, unless the Lord Chancellor is satisfied by means of a medical certificate that by reason of infirmity of mind or body he is incapable of discharging the duties of his office, and that the incapacity is likely to be permanent.

- (4) A person to whom an allowance is granted under this paragraph on his retirement on a medical certificate shall, until he attains the age of 65, be liable to be called upon to fill any public office or situation under the Crown in the United Kingdom for which his previous public services may render him eligible ; and if he declines, when called

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upon to do so, to take upon him such office or situation, or declines or neglects to execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to the allowance which has been granted to him.

- (5) The decision of the Minister for the Civil Service on any question which arises as to the application of any provision of this paragraph to any person, or as to the rate of any superannuation allowance under this paragraph, or as to the reckoning of any service for such an allowance, shall be final.
- (6) Any sums payable on account of allowances under this paragraph shall be charged on and paid out of the Consolidated Fund, and shall be paid at such times in every year as the Minister for the Civil Service may determine.
- 3        In this Part of this Schedule " stipendiary magistrate " means a metropolitan or other stipendiary magistrate in England or Wales, and references to service as a stipendiary magistrate are to be construed accordingly.

## PART II

### SUPPLEMENTAL LIST FOR ENGLAND AND WALES

- 4        (1) Subject to sub-paragraph (6) below there shall be entered in the supplemental list 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 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:
- Provided that a person who on the date when his name falls to be entered in the supplemental list in accordance with this sub-paragraph holds office as chairman of the justices in a petty sessions area (whether by election under section 13 of the Justices of the Peace Act 1949 or, in the City of London, as Chief Magistrate or acting Chief Magistrate) shall have his name so entered on the expiration or sooner determination of the term for which he holds office on that date.
- (2) 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 he should cease to exercise judicial functions as a justice for the area ; or
- (b) that the justice declines or neglects to take a proper part in the exercise of those functions.
- (3) 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.
- (4) 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.
- (5) In relation to the entry in the supplemental list of the name of a person who is a justice of the peace only for any of the counties of Greater Manchester, Merseyside and Lancashire, sub-paragraphs (2) to (4) above shall have effect with the substitution for references to the Lord Chancellor of references to the Chancellor of the Duchy of Lancaster.

- (6) Nothing in this paragraph shall apply to a person holding office as stipendiary magistrate.
- 5 (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 paragraph 4(1) above, shall be removed from the list, if so directed by the Lord Chancellor or, where the person in question is a justice only for any of the counties of Greater Manchester, Merseyside and Lancashire, by the Chancellor of the Duchy of Lancaster.
- 6 (1) Subject to the following sub-paragraphs, 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) Sub-paragraph (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 paragraph of the person acting or appointed.
- 7 Any such act as is mentioned in paragraph 6(2)(a) to (c) above, where it may be done by a justice of the peace, may, subject to any express provision made to the contrary by any enactment or instrument relating to that act, be done also by any person who is chairman of the Greater London Council, mayor of a London borough or chairman of a county or district council in England or Wales.

### PART III

#### TRAVELLING, SUBSISTENCE AND FINANCIAL LOSS ALLOWANCES

- 8 (1) Subject to the provisions of this paragraph, a justice of the peace shall be entitled to receive payments at the prescribed rates 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 to receive payments at the prescribed rate 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 National Insurance Acts 1965 to 1967 which he would otherwise have made or received.

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- (2) For purposes of this paragraph, 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 paragraph 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 paragraph or if regulations provide that this paragraph shall not apply; and a stipendiary magistrate shall not be entitled to any payment under this paragraph in respect of his duties as such.
- (4) An allowance payable under this paragraph 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 paragraph 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 for the metropolitan police district;
  - (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.
- (5) Regulations may make provision as to the manner in which this paragraph is to be administered, and in particular—
- (a) for prescribing the rates of allowances, and the forms to be used and the particulars to be provided for the purpose of claiming payment thereof;
  - (b) for avoiding duplication between payments under this paragraph and under other arrangements where expenditure is incurred for more than one purpose, and otherwise for preventing abuses.
- (6) Regulations for the purposes of this paragraph 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.

## PART IV

### AMENDMENTS

- 9 (1) Subject to any express amendment or repeal made by this Act, any enactment passed or instrument made before the passing of this Act shall have effect from the beginning of April 1974 as if—
- (a) any reference to a person appointed justice by a commission of the peace or to a person being removed from a commission of the peace were a reference to his being appointed or removed from office as a justice of the peace in accordance with section 1 of this Act; and
  - (b) any reference to a supplemental list kept by virtue of section 4 of the Justices of the Peace Act 1949 in connection with the commission of the peace for any area were a reference to the supplemental list for England and Wales kept under section 1 of this Act.

- (2) For section 33(2) of the Solicitors Act 1957 (which restricts the right to practise of a solicitor who is a justice of the peace for any area and whose name is not on the supplemental list) there shall be substituted—
- “(2) Where a solicitor is a justice of the peace for any area, that shall not subject him or any partner of his to any disqualification under this section if his name is entered in the supplemental list kept under section 1 of the Administration of Justice Act 1973 ; and where a solicitor is, as being Lord Mayor or alderman, a justice of the peace for the City of London, that shall not subject him or any partner of his to any disqualification under this section, if he is in accordance with section 1(6) of that Act excluded from the exercise of his functions as a justice for the City.”
- 10 (1) In section 1 of the Metropolitan Police Act 1829 for the words from " and by warrant" to " those several counties" there shall be substituted the words " and from time to time by warrant under his sign manual to appoint during His Majesty's pleasure a Commissioner of Police of the Metropolis to execute the duties of chief officer of the police force hereby established " ; and any person holding office as Commissioner of Police of the Metropolis at the coming into force of this paragraph shall be deemed to have been appointed under that section as so amended.
- (2) Subject to any express amendment or repeal made by this Act, any reference in the Metropolitan Police Act 1829 or in any other enactment passed before the Metropolitan Police Act 1856 to the justices appointed under the Metropolitan Police Act 1829 or to the Commissioners of Police of the Metropolis shall continue to have effect as a reference to the Commissioner of Police of the Metropolis.
- 11 (1) In Schedule 1 to the Administration of Justice (Pensions) Act 1950 for the entries relating to metropolitan police magistrates and stipendiary magistrates pensionable under section 33 of the Justices of the Peace Act 1949 there shall, in relation to persons serving as stipendiary magistrates after the coming into force of section 2 of this Act, be substituted—
- “Stipendiary magistrate in England or Wales. | Service as stipendiary magistrate in England or Wales”.
- (2) In the Pensions (Increase) Act 1971, in Schedule 2, there shall be added at the end of paragraph 13 the words " or under Part I of Schedule 1 to the Administration of Justice Act 1973 ".
- 12 In the Justices of the Peace Act 1949 in section 27 (as amended by section 61 of the Criminal Justice Act 1972) the reference in subsection (2)(b) to section 8 of the Justices of the Peace Act 1949 shall have effect, in relation to payments made after the beginning of April 1974, as a reference to Part III of this Schedule.