



# 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,

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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

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.

## 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.

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(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

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.

- (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.



## PART III

### INNER LONDON AREA

#### *Metropolitan stipendiary magistrates*

#### **31 Appointment, removal and retirement of metropolitan stipendiary magistrates**

- (1) Metropolitan stipendiary magistrates shall be appointed by Her Majesty, and Her Majesty shall from time to time appoint such number of persons as is necessary; but the number of metropolitan stipendiary magistrates shall not at any time exceed sixty or such larger number as Her Majesty may from time to time by Order in Council specify.
- (2) A person shall not be qualified to be appointed a metropolitan stipendiary magistrate unless he is a barrister or solicitor of not less than seven years' standing.
- (3) The Lord Chancellor shall designate one of the metropolitan stipendiary magistrates to be the chief metropolitan stipendiary magistrate.
- (4) The following provisions shall apply to each metropolitan stipendiary magistrate, that is to say—
  - (a) he shall by virtue of his office be a justice of the peace for each of the London commission areas and for the counties of Essex, Hertfordshire, Kent and Surrey ;
  - (b) he shall not during his continuance in office practise as a barrister or solicitor;
  - (c) he may be removed from office by the Lord Chancellor for inability or misbehaviour.
- (5) A metropolitan stipendiary magistrate who is by virtue of his office a justice of the peace for any area mentioned in subsection (4) above shall not, by reason only of his being a justice of the peace for that area by virtue of that office, be qualified to be chosen under section 17(1) of this Act as chairman or deputy chairman of the justices for a petty sessional division of that area or to vote under that subsection at the election of any such chairman or deputy chairman.
- (6) Section 14 of this Act shall apply to metropolitan stipendiary magistrates as well as to other stipendiary magistrates in England or Wales.
- (7) Her Majesty shall not be recommended to make an Order in Council under subsection (1) above unless a draft of the Order has been laid before Parliament and approved by resolution of each House.

#### **32 Allocation and sittings of metropolitan stipendiary magistrates**

- (1) The Lord Chancellor may assign metropolitan stipendiary magistrates to petty sessional divisions constituted under section 36 of this Act and may alter any assignment under this subsection; but the assignment of a magistrate to a particular division shall not preclude him from exercising jurisdiction for any other division of the inner London area.
- (2) Metropolitan stipendiary magistrates shall sit at such courthouses provided for the inner London area under the following provisions of this Act, 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.

- (3) The chief metropolitan stipendiary magistrate shall cause to be held, at least once in every quarter of a year, a meeting of all the metropolitan stipendiary magistrates, or such of them as are able to attend, and, if present, shall preside over the meeting.

### **33 Jurisdiction of metropolitan stipendiary magistrates and lay justices**

- (1) In the inner London area the jurisdiction conferred on justices of the peace by any enactment, by their commission or by the common law shall be exercisable both by metropolitan stipendiary magistrates and by justices of the peace for that area who are not metropolitan stipendiary magistrates (hereafter in this Part of this Act referred to as " lay justices ").
- (2) Metropolitan stipendiary magistrates shall continue to exercise the jurisdiction conferred on them as such by any enactment ; and the inner London area (having taken the place of the metropolitan stipendiary courts area) shall continue to be the area for which magistrates' courts are to be held by metropolitan stipendiary magistrates.
- (3) Lay justices for the inner London area may, in addition to exercising the jurisdiction mentioned in subsection (1) above, exercise the jurisdiction conferred on metropolitan stipendiary magistrates as such by any enactment except the following, that is to say—
- (a) the Extradition Acts 1870 to 1935 ;
  - (b) section 28 of the Pilotage Act 1913 (which relates to appeals by pilots against certain actions of pilotage authorities);
  - (c) section 25 of the Children and Young Persons Act 1933 (restrictions on persons under 18 going abroad for the purpose of performing for profit); and
  - (d) the Fugitive Offenders Act 1967 ;
- but a magistrates' court consisting of lay justices for the inner London area shall not by virtue of this subsection try an information summarily or hear a complaint except when composed of at least two justices.
- (4) Without prejudice to subsection (1) above, subsections (3) to (5) of section 16 of this Act shall have effect in relation to a metropolitan stipendiary magistrate as they have effect in relation to a stipendiary magistrate appointed under section 13 of this Act.

### **34 Acting metropolitan stipendiary magistrate**

- (1) If it appears to the Lord Chancellor that it is expedient to do so in order to avoid delays in the administration of justice in the inner London area, he may authorise any person, who is a barrister or solicitor of not less than seven years' standing, to act as a metropolitan stipendiary magistrate during such period (not exceeding three months at any one time) as the Lord Chancellor thinks fit.
- (2) All things required or authorised by law to be done by, to or before a metropolitan stipendiary magistrate may be done by, to or before any person acting as such in pursuance of this section.
- (3) The Lord Chancellor may, out of moneys provided by Parliament, pay to any person authorised to act under this section such remuneration as he may, with the approval of the Minister for the Civil Service, determine.

*Provisions relating to committee of magistrates*

**35 Committee of magistrates for inner London area**

- (1) No magistrates' courts committee shall be set up under Part II of this Act for the inner London area, but instead there shall continue to be a committee (to be known as the " committee of magistrates ") set up for that area in accordance with the following provisions of this Part of this Act, with such functions in relation to—
  - (a) the division of that area into petty sessional divisions;
  - (b) the employment of clerks and other officers ;
  - (c) the division of work between the metropolitan stipendiary magistrates and lay justices ;
  - (d) the provision of courses of instruction for justices; and
  - (e) other matters of a financial or administrative character,as are or may be provided by or under this Act or as the committee may be authorised by the Secretary of State to undertake.
- (2) The chief metropolitan stipendiary magistrate shall by virtue of his office be a member of the committee of magistrates.
- (3) In addition to the chief metropolitan stipendiary magistrate, the committee of magistrates shall consist of the following members, that is to say—
  - (a) one lay justice chosen from amongst themselves by the lay justices for each petty sessional division;
  - (b) three members of the juvenile court panel for the inner London area and the City of London, chosen jointly by the members of that panel and by any chairmen of juvenile courts for that area and the City who are not members of that panel; and
  - (c) such number of metropolitan stipendiary magistrates nominated by the chief metropolitan stipendiary magistrate as is equal to the total number of members required to be chosen under paragraphs (a) and (b) above.
- (4) The members of the committee of magistrates who are chosen or nominated under subsection (3) above shall hold office as such for the period of one year beginning on such date as the Secretary of State may direct, but may again be chosen or nominated as members of the committee.
- (5) There shall be a chairman, a vice-chairman and deputy chairman of the committee of magistrates ; and—
  - (a) the chief metropolitan stipendiary magistrate shall be the chairman;
  - (b) a metropolitan stipendiary magistrate chosen from amongst the members of the committee by the chief metropolitan stipendiary magistrate shall be vice-chairman ; and
  - (c) a person chosen from amongst themselves by the lay justices who are members of the committee shall be the deputy chairman.
- (6) Section 22 of this Act, with the exception of—
  - (a) so much of subsection (1) as relates to the chairman of a magistrates' courts committee ; and
  - (b) subsection (3),shall apply to the committee of magistrates as it applies to a magistrates' courts committee.

**36 Petty sessional divisions in inner London area**

- (1) The Secretary of State may, on the recommendation of or after consultation with the committee of magistrates, by order made by statutory instrument make provision for the division of the inner London area or any part of that area into petty sessional divisions.
- (2) It shall be the duty of the committee of magistrates from time to time, and also when directed to do so by the Secretary of State, to take into consideration the division of the inner London area into petty sessional divisions and to recommend to the Secretary of State (giving reasons for their recommendation) whether or not to make any changes in those divisions and, if changes are recommended, what changes; and the Secretary of State shall not act otherwise than in accordance with any recommendation under this subsection except after consultation with the committee.
- (3) An order under this section may contain transitional and other consequential provisions.

**37 Justices' clerks and other officers**

- (1) It shall be the duty of the committee of magistrates, subject to the following provisions of this section, to appoint—
  - (a) a principal chief clerk for the inner London area, one or more chief clerks for each petty sessional division of that area and one or more chief clerks for the juvenile courts for that area and the City of London, and
  - (b) such deputy chief clerks and other officers as may be necessary;and the committee shall, where there is more than one chief clerk for such a division or for those courts, designate one of them to be the senior chief clerk for that division or for all those courts, as the case may be.
- (2) The officers mentioned in subsection (1) (a) above shall rank as justices' clerks and be treated as such for the purposes of the enactments relating to justices' clerks, including (except where otherwise expressly provided) any such enactment contained in this Act.
- (3) The justices' clerks and deputy chief clerks mentioned in subsection (1) above shall not be appointed or dismissed by the committee of magistrates without the approval of the Secretary of State, and—
  - (a) the committee shall inform the Secretary of State of the age, qualification and experience of any person proposed to be appointed such a clerk, and, if the Secretary of State so requires, of any other person offering himself for the appointment; and
  - (b) before approving the dismissal of any such clerk the Secretary of State shall consider any representations made to him by the clerk.
- (4) The number of justices' clerks and of other officers employed by the committee of magistrates in each grade below that of principal chief clerk, the grades in which such officers below that of deputy clerk are to be employed and the terms and conditions of employment of all officers employed by the committee shall be such as may from time to time be determined by the committee.
- (5) The following provisions of this subsection shall have effect with respect to determinations under subsection (4) above and related matters, that is to say—
  - (a) no such determination shall have effect unless confirmed, with or without modifications, by the Secretary of State;

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- (b) the committee of magistrates shall not make or refuse to make any such determination with respect to terms and conditions of employment except after consultation with persons appearing to the committee to represent the interests of the officers affected;
  - (c) any refusal of the committee to make any such determination with respect to any terms and conditions of employment may be reviewed by the Secretary of State, and on the review the Secretary of State may confirm the refusal or make such determination with respect to those terms and conditions as he thinks fit;
  - (d) in the case of any matter which falls to be determined under subsection (4) above and affects officers employed by the committee who immediately before the 1st April 1965—
    - (i) were clerks or other officers of metropolitan stipendiary courts, or
    - (ii) were justices' clerks or officers employed by the magistrates' courts committee for the county of London,the functions of the Secretary of State under paragraphs (a) to (c) above shall be exercised in such manner as he thinks necessary for protecting the interests of those officers.
- (6) The Secretary of State may by order made by statutory instrument amend subsection (1) (a) above by substituting for or adding to the offices therein mentioned such other offices as he thinks fit; and any such order may contain transitional and other consequential provisions (including provisions amending the preceding provisions of this section).
- (7) Any statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **38 Other functions for which committee is or may be responsible**

- (1) It shall be the duty of the committee of magistrates to keep under consideration the division of work in the inner London area between the metropolitan stipendiary magistrates and the lay justices, and to give general directions as to the division of the work.
- (2) The chief metropolitan stipendiary magistrate shall, subject to and in accordance with any directions given by the committee of magistrates, carry on the day to day administration of the magistrates' courts in the inner London area (including domestic courts and including juvenile courts for that area and the City of London).
- (3) The principal chief clerk for the inner London area shall assist the chief metropolitan stipendiary magistrate to perform his duty under subsection (2) above of carrying on the day to day administration of the magistrates' courts in that area.
- (4) In addition to exercising the functions conferred on them by, or by virtue of, the preceding provisions of this Part of this Act, the committee of magistrates shall consider any matters referred to them by the Lord Chancellor or the Secretary of State and, if required to do so, shall make recommendations on any matter so referred.

## PART IV

### CITY OF LONDON

#### **39 Ex officio and appointed justices**

- (1) The Lord Mayor and aldermen of the City shall by virtue of the charter granted by His late Majesty King George II dated the 25th August 1741 continue to be justices of the peace for the City:

Provided that any of them may be excluded by the Lord Chancellor from the exercise of his functions as a justice.

- (2) The persons holding office as justices of the peace for the City shall constitute a single body of justices, without distinction between those holding office by virtue of the charter and those appointed; and the jurisdiction and powers of the Lord Mayor and aldermen as justices by virtue of the charter shall be the same in all respects as those of appointed justices.
- (3) The establishment of the City as a separate commission area shall not be taken to have constituted new courts for the City; and the jurisdiction and powers of the justices of the peace for the City are in continuation of those formerly belonging exclusively to the justices holding office by virtue of the charter.
- (4) In this Part of this Act " the City " means the City of London.

#### **40 Chairman and deputy chairmen of justices**

- (1) The Lord Mayor for the time being, if not disqualified, shall be chairman of the justices, with the style of Chief Magistrate, instead of a chairman being elected under section 17(1) of this Act; and, subject to subsection (3) below, the aldermen who have been Lord Mayor and are not disqualified (or, if there are more than eight such aldermen, the eight who were last Lord Mayor) shall be deputy chairmen in addition to any deputy chairmen elected under section 17(1) above.
- (2) For the purposes of this section a Lord Mayor or alderman is disqualified at any time while his name is entered in the supplemental list.
- (3) In the event of a Lord Mayor being disqualified, then during his mayoralty the senior of the aldermen designated as deputy chairmen in subsection (1) above shall, instead of being a deputy chairman, be chairman of the justices as acting Chief Magistrate.
- (4) Subsections (2) and (3) of section 17 of this Act shall apply to any Lord Mayor or alderman as chairman or deputy chairman of the justices as they apply to a chairman or deputy chairman elected under subsection (1) of that section.

#### **41 Application of enactments to the City**

- (1) Subject to the provisions of this Part of this Act, in any enactment relating to justices of the peace, magistrates' courts, justices' clerks or matters connected therewith (including, except in so far as it otherwise expressly provides, any such enactment passed after the passing of this Act)—
  - (a) any reference to a county or to county justices shall be taken to include the City or justices for the City, and

- (b) any reference to a county council shall be taken to include the Corporation of the City acting through the Common Council, and references to a county fund shall be taken to include the general rate fund of the City:

Provided that in any such enactment which refers in the same context both to a non-metropolitan county and to a metropolitan district, the reference to a non-metropolitan county shall be taken to include the City.

- (2) Where any such enactment (including any enactment contained in this Act) expressly refers in the same context both—
  - (a) to a county or non-metropolitan county or to justices or magistrates for a county or non-metropolitan county, and
  - (b) to the City or to justices or magistrates for the City,
 the operation of that enactment shall not be affected by, and shall be without prejudice to the generality of, subsection (1) above.

#### **42 No petty sessional divisions in the City**

Nothing in section 41 above shall authorise the making of an order under section 23 of this Act for the division of the City into petty sessional divisions.

#### **43 Records of appointed justices for the City**

There shall be transmitted to the Lord Mayor, and be enrolled in the records of the justices for the City, a copy of any instrument appointing or removing a justice of the peace for the City in accordance with section 6 of this Act; and the Lord Mayor shall be notified, in such manner as the Lord Chancellor may direct, of any resignation or death of a justice for the City so appointed, and shall cause to be kept, and from time to time rectified, a record of those for the time being holding office as justices for the City by virtue of any such appointment.

### **PART V**

#### **PROTECTION OF JUSTICES AND INDEMNIFICATION OF JUSTICES AND JUSTICES' CLERKS**

#### **44 Acts done within jurisdiction**

If apart from this section any action lies against a justice of the peace for an act done by him in the execution of his duty as such a justice, with respect to any matter within his jurisdiction as such a justice, the action shall be as for a tort, in the nature of an action on the case; and—

- (a) in the statement or particulars of claim it shall be expressly alleged that the act in question was done maliciously and without reasonable and probable cause, and
- (b) if that allegation is not proved at the trial of the action, judgment shall be given for the defendant, if it is in the High Court, or, if it is in the county court, the plaintiff shall be non-suited or judgment shall be given for the defendant.

#### **45 Acts outside or in excess of jurisdiction**

- (1) This section applies—

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- (a) to any act done by a justice of the peace in a matter in respect of which by law he does not have jurisdiction or in which he has exceeded his jurisdiction, and
- (b) to any act done under any conviction or order made or warrant issued by a justice of the peace in any such matter;

and in the following provisions of this section " the justice ", in relation to any act falling within paragraph (a) above, means the justice of the peace by whom it is done, and, in relation to a conviction, order or warrant falling within paragraph (b) above, means the justice of the peace by whom the conviction or order is made or the warrant issued.

- (2) Any person injured by an act to which this section applies may maintain an action against the justice without making any allegation in his statement or particulars of claim that the act complained of was done maliciously and without reasonable and probable cause.
- (3) In respect of any act done under any such conviction or order as is mentioned in subsection (1)(b) above no action shall be brought against the justice until the conviction or order has been quashed, either on appeal or upon application to the High Court.
- (4) In respect of any act done under any such warrant as is mentioned in subsection (1)(b) above which was issued by the justice to procure the appearance of a person (in this subsection referred to as " the complainant")—
  - (a) where the issue of the warrant has been followed by a conviction or order in the same matter, no action shall be brought by the complainant against the justice until the conviction or order has been quashed, either on appeal or upon application to the High Court, and
  - (b) where the issue of the warrant has not been followed by any such conviction or order, or the warrant was issued upon an information for an alleged indictable offence, no action shall be brought by the complainant against the justice if, before the issue of the warrant, a summons was issued and was served on the complainant (either personally or by leaving it for him with some person at his last or most usual place of abode) and he did not appear in accordance with the summons.

#### **46 Warrant granted on a conviction or order made by another justice**

Where a conviction or order is made by a justice or justices of the peace, and another justice, in good faith and without collusion, grants a warrant of distress or warrant of commitment thereon, no action shall be brought against the justice who granted the warrant by reason of any defect in the conviction or order, or for any want of jurisdiction in the justice or justices who made it, but the action (if any) shall be brought against the justice or justices who made the conviction or order.

#### **47 Exercise of discretionary powers**

Where by an enactment a discretionary power is given to a justice of the peace, no action shall be brought against the justice by reason of the manner in which he exercises his discretion in the execution of the power.



**48 Compliance with, or confirmation on appeal to, superior court**

- (1) In all cases where a justice of the peace refuses to do any act relating to the duties of his office, the party requiring the act to be done may apply to the High Court for an order of mandamus ; and, if the High Court makes the order, no action or proceeding whatsoever shall be commenced or prosecuted against the justice for having obeyed the order.
- (2) Where a warrant of distress or warrant of commitment is granted by a justice of the peace upon any conviction or order which, whether before or after the granting of the warrant, is confirmed on appeal, no action for anything done under the warrant shall be brought against the justice by reason of any defect in the conviction or order.

**49 Distress warrant for rates**

- (1) Where a general rate has been made, approved and published, and a warrant of distress is issued against a person on whom the rate has been levied, no action shall be brought against the justice or justices who granted the warrant by reason of any irregularity or defect in the rate, or by reason that the person in question was not liable to the rate.
- (2) Any reference in this section to a general rate shall—
  - (a) in relation to the City of London, be construed as including a reference to a poor rate, and
  - (b) in relation to the Inner Temple and the Middle Temple, be construed as a reference to any rate in the nature of a general rate.
- (3) Subsection (2) above shall have effect without prejudice to the generality of section 26 of the Administration of Justice Act 1964 (whereby, for the purposes of the law relating to justices of the peace and other matters therein mentioned, the Temples are included in the City) in its application to this Act.

**50 Where action prohibited, proceedings may be set aside**

If any action is brought in circumstances in which this Part of this Act provides that no action is to be brought, a judge of the court in which the action is brought may, on the application of the defendant and upon an affidavit as to the facts, set aside the proceedings in the action, with or without costs, as the judge thinks fit.

**51 No action in county court if defendant justice objects**

No action shall be brought in the county court against a justice of the peace for anything done by him in the execution of his office as such a justice if he objects to it; and if within six days after being served with a summons in any such action the justice, or his solicitor or agent, gives written notice to the plaintiff that the justice objects to being sued in the county court in respect of the cause of action in question, all subsequent proceedings in the county court in the action shall be null and void.

**52 Limitation of damages**

- (1) The provisions of this section shall have effect where, in any action brought against a justice of the peace for anything done by him in the execution of his office as such a justice, the plaintiff is (apart from this section) entitled to recover damages in respect of a conviction or order, and proves the levying or payment of a penalty or sum of

money under the conviction or order as part of the damages which he seeks to recover, or proves that he was imprisoned under the conviction or order and seeks to recover damages for the imprisonment, but it is also proved—

- (a) that the plaintiff was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and
  - (b) where he was imprisoned, that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted or for non-payment of the sum he was so ordered to pay.
- (2) In the circumstances specified in subsection (1) above, the plaintiff shall not be entitled to recover the amount of the penalty or sum levied or paid as mentioned in that subsection or (as the case may be) to recover any sum beyond the sum of one penny as damages for the imprisonment, and shall not be entitled to any costs.

### **53 Indemnification of justices and justices' clerks**

(1) Subject to the provisions of this section and of section 54 below, a justice of the peace or justices' clerk may be indemnified out of local funds in respect of—

- (a) any costs reasonably incurred by him in or in connection with proceedings against him in respect of anything done or omitted in the exercise or purported exercise of the duty of his office, or in taking steps to dispute any claim which might be made in such proceedings;
- (b) any damages awarded against him or costs ordered to be paid by him in any such proceedings ; or
- (c) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim ;

and shall be entitled to be so indemnified if, in respect of the matters giving rise to the proceedings or claim, he acted reasonably and in good faith.

(2) Any question whether, or to what extent, a person is to be indemnified under this section shall be determined by the magistrates' courts committee for the area for which he acted at the material time; and a determination under this subsection with respect to any such costs or sums as are mentioned in paragraph (a) or paragraph (c) of subsection (1) above may, if the person claiming to be indemnified so requests, be made in advance before those costs are incurred or the settlement made, as the case may be:

Provided that any such determination in advance for indemnity in respect of costs to be incurred shall be subject to such limitations, if any, as the committee think proper and to the subsequent determination of the amount of the costs reasonably incurred and shall not affect any other determination which may fall to be made in connection with the proceedings or claim in question.

(3) An appeal shall lie to a person appointed for the purpose by the Lord Chancellor—

- (a) on the part of the person claiming to be indemnified, from any decision of the magistrates' courts committee under subsection (2) above, other than a decision to postpone until after the conclusion of the proceedings any determination with respect to his own costs or to impose limitations on making a determination in advance for indemnity in respect of such costs;
- (b) on the part of the local authority, from any determination of the magistrates' courts committee under that subsection, other than a determination in advance

for indemnity in respect of costs to be incurred by the person claiming to be indemnified.

- (4) The Lord Chancellor may by statutory instrument make rules prescribing the procedure to be followed in any appeal under this section; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section " justices' clerk" includes a person appointed by a magistrates' courts committee to assist a justices' clerk and any member of the staff of a part-time justices' clerk assisting the clerk in his duties as such; " local funds ", in relation to a justice or a justices' clerk, means funds out of which any salary or allowance to which he is entitled (or, if he is entitled to more than one, is entitled in the relevant capacity) is payable; and " local authority " means the authority responsible for the payment of any such salary or allowance.
- (6) Subsection (5) above shall not apply to the inner London area, but in the application of the other provisions of this section to that area—
  - (a) for any reference to local funds there shall be substituted a reference to the metropolitan police fund ;
  - (b) for any reference to a magistrates' courts committee there shall be substituted a reference to the committee of magistrates set up under section 35 of this Act; and
  - (c) for any reference to a local authority there shall be substituted a reference to the Receiver,and " justices' clerk" includes any officer employed by the committee of magistrates.

#### **54 Provisions as to prerogative proceedings and membership of Crown Court**

- (1) Section 53 of this Act shall not apply to proceedings for an order of prohibition, mandamus or certiorari, or to proceedings arising out of anything done or omitted by any person in his capacity as a member of the Crown Court.
- (2) The Lord Chancellor may, if he thinks fit, defray out of moneys provided by Parliament any costs awarded against a justice or justices' clerk in proceedings for an order of prohibition, mandamus or certiorari (other than proceedings relating to the jurisdiction of the Crown Court) or any part of such costs.
- (3) In this section " justices' clerk " has the same meaning as in section 53 of this Act.

### **PART VI**

#### **ADMINISTRATIVE AND FINANCIAL ARRANGEMENTS**

#### **55 Duties of local authorities outside Greater London**

- (1) Subject to the provisions of this Act, the council of each non-metropolitan county and of each metropolitan district shall provide the petty sessional court-houses and other accommodation, and the furniture, books, and other things, proper for the due transaction of the business, and convenient keeping of the records and documents, of the county justices or any committee of such justices, or for enabling the justices' clerk

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for the non-metropolitan county or metropolitan district or any part thereof to carry out his duties.

- (2) The council of each non-metropolitan county or metropolitan district shall pay—
- (a) any expenses of the magistrates' courts committee, or, in the case of a committee acting for the area of more than one such council, the proper proportion of those expenses; and
  - (b) the sums payable under Part II of this Act on account of a person's salary or expenses as justices' clerk for the non-metropolitan county or metropolitan district or any part thereof and the remuneration of any staff employed by the magistrates' courts committee to assist him, together with—
    - (i) secondary Class I contributions payable in respect of any such person or staff under Part I of the Social Security Act 1975, and
    - (ii) state scheme premiums so payable under Part III of the Social Security Pensions Act 1975 ; and
  - (c) so far as they are not otherwise provided for, all other costs incurred with the general or special authority of the magistrates' courts committee by the county justices.
- (3) Subject to section 16(2) of this Act, any accommodation provided under this section for any justices or justices' clerk may be outside the area for which the justices act and, in the case of a petty sessional court-house, shall be deemed to be in that area for the purposes of the jurisdiction of the justices when acting in the court-house.
- (4) Two or more councils may arrange for accommodation, furniture, books or other things provided for the purposes of this section by one of them to be used also as if provided for those purposes by the other or each of the others.

## **56 Provisions supplementary to s. 55**

- (1) Subject to the provisions of this section—
- (a) the petty sessional court houses and other accommodation, furniture, books and other things to be provided by a council under section 55 of this Act;
  - (b) the salary to be paid to a justices' clerk and the staff to be provided for him ; and
  - (c) the nature and amount of the expenses which a magistrates' courts committee may incur in the discharge of any functions or may authorise to be incurred, including the sums payable to a justices' clerk in respect of accommodation, staff or equipment provided by him,
- shall be such as may from time to time be determined by the magistrates' courts committee after consultation with the council or councils concerned.
- (2) Where the expenses of the magistrates' courts committee, or the sums payable to or in respect of a justices' clerk holding more than one clerkship or to or in respect of staff provided for any such clerk, fall to be borne by more than one council, any question as to the manner in which they are to be borne by the councils concerned shall be determined by agreement between those councils or, in default of such agreement, shall be determined by the Secretary of State.
- (3) Any council concerned which is aggrieved by a determination of a magistrates' courts committee under subsection (1) above may, within one month from the receipt by the council of written notice of the determination, appeal to the Secretary of State, whose decision shall be binding upon the magistrates' courts committee and any council concerned.

- (4) The approval of the Secretary of State shall be required for any determination under subsection (1) above reducing the salary of a justices' clerk, unless the clerk consents to the reduction.

#### **57 Application of ss. 55 and 56 to outer London areas and City of London**

- (1) The provisions of sections 55 and 56 of this Act shall have effect in relation to each of the outer London areas as if each such area were a non-metropolitan county and as if the Greater London Council were the council of that county.
- (2) The sums payable by the Greater London Council under section 55(2) as applied by subsection (1) above shall be chargeable only on the outer London boroughs.
- (3) Sections 55 and 56 of this Act shall have effect in relation to the City of London as if in section 55 above—
- (a) references to a non-metropolitan county and to county justices were references to the City and to justices for the City respectively, and
  - (b) any reference to the council of a non-metropolitan county were a reference to the Corporation of the City acting through the Common Council,
- and references to a council in section 56 of this Act shall be construed accordingly.

#### **58 Corresponding arrangements in inner London area**

- (1) The Receiver shall provide such court houses and other accommodation, and such furniture, books and other things, as the committee of magistrates may determine to be proper for the due transaction of the business, and convenient keeping of the records and documents, of magistrates' courts in the inner London area (including domestic courts and including juvenile courts for that area and the City of London) or for enabling the justices' clerks for that area (or for juvenile courts for that area and the City) to carry out their duties; but any determination under this subsection shall not have effect unless confirmed, with or without modifications, by the Secretary of State.
- (2) The Receiver shall pay out of the metropolitan police fund—
- (a) any expenses of the committee of magistrates, of such amount and of such a nature as may be approved by the Secretary of State;
  - (b) the sums payable by way of salary or expenses to justices' clerks and other officers employed by the committee of magistrates, together with—
    - (i) secondary Class I contributions payable in respect of those officers under Part I of the Social Security Act 1975, and
    - (ii) state scheme premiums so payable under Part III of the Social Security Pensions Act 1975 ; and
  - (c) any superannuation benefits payable in respect of such clerks and other officers under any enactment or instrument applied to them by regulations having effect in accordance with section 15(9) of the Superannuation (Miscellaneous Provisions) Act 1967, other than benefits payable by the Greater London Council, and any superannuation contributions and other payments for which the committee of magistrates may be liable as their employer under any such enactment or instrument.
- (3) Without prejudice to subsection (2) above, the expenses of and incidental to the magistrates' courts for the inner London area, except the salaries and superannuation allowances of metropolitan stipendiary magistrates, shall be paid out of the

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metropolitan police fund; and, if any question arises as to what expenses are expenses of or incidental to any such court, the question shall be determined by the Secretary of State, with the concurrence of the Treasury so far as the question affects the amount of any charge on the Exchequer.

- (4) Any accommodation provided under this section for any magistrates' court or justices' clerk may be outside the area for which the court or clerk acts, and, if outside that area, shall be deemed to be in that area for the purposes of the jurisdiction of the court.
- (5) The Secretary of State, after consultation with the committee of magistrates, may assign court houses and other accommodation either to petty sessional divisions of the inner London area or to particular magistrates' courts for that area (including domestic courts and including juvenile courts for that area and the City of London) and may alter any assignment under this subsection.

## **59 Grants by Secretary of State to responsible authorities**

- (1) The Secretary of State may out of moneys provided by Parliament pay to the responsible authorities grants towards the net cost to them in any year—
  - (a) of their functions under Part II or this Part of this Act, or under any such regulations as are mentioned in subsection (2) below, or, in the case of the Receiver, his corresponding functions ; and
  - (b) of making payments under section 12 or section 53 of this Act.
- (2) The regulations referred to in subsection (1) (a) above are any regulations made, or having effect as if made, under section 7 of the Superannuation Act 1972 with respect to persons appointed or deemed to have been appointed as justices' clerks, or employed by a magistrates' courts committee to assist a justices' clerk, under Part III of the Justices of the Peace Act 1949 or under Part II of this Act.
- (3) The amount of any grant under this section shall not exceed 80 per cent, of the expenditure in respect of which it is made.
- (4) The Secretary of State, with the concurrence of the Treasury, may by statutory instrument make regulations as to the manner in which income and expenditure of responsible authorities are to be taken into account in determining the net cost to them in any year of the matters mentioned in subsection (1) above; and for the purposes of this section any question as to that cost shall (subject to any such regulations) be determined by the Secretary of State.
- (5) Grants under this section shall be paid at such times, in such manner and subject to such conditions as the Secretary of State may with the approval of the Treasury determine.
- (6) In this section "responsible authority" means any of the following, namely, the council of a non-metropolitan county or metropolitan district, the Greater London Council, the Corporation of the City of London and the Receiver.

## **60 Special provision as to grants to Greater London Council**

- (1) Any grant paid to the Greater London Council under section 59 of this Act shall be placed to the credit of the special London account out of which the relevant expenses of the Council are payable.
- (2) In this section "the relevant expenses" means expenses under section 55(2) as applied by section 57(1) of this Act.

## **61 Application of fines and fees**

- (1) Subject to paragraphs (a) and (b) of section 114 (1) of the Magistrates Courts Act 1952 (which relates to the disposal of sums adjudged to be paid by a summary conviction) and to the following provisions of this section, there shall be paid to the Secretary of State—
  - (a) all fines imposed by a magistrates' court and all sums which become payable by virtue of an order of such a court and are by any enactment made applicable as fines so imposed or any class or description of such fines; and
  - (b) all other sums received by a justices' clerk by reason of his office except sums to which a person other than the Secretary of State is by law entitled and which are paid to that person.
- (2) The sums payable to the Secretary of State by virtue of paragraph (a) of subsection (1) above shall not include—
  - (a) any sums which by or in pursuance of any provision in the enactments relating to those sums are directed to be paid to the Commissioners of Customs and Excise or to any officer of theirs or person appointed by them; or
  - (b) any sums which by or in pursuance of any such provision are directed to be paid to or for the benefit of the party aggrieved, party injured or a person described in similar terms, or to or for the benefit of the family or relatives of a person described in any such terms or of a person dying in consequence of an act or event which constituted or was the occasion of an offence; or
  - (c) any sums which by or in pursuance of any such provision are directed to be applied in making good any default or repairing any damage or paying or reimbursing any expenses (other than those of the prosecution) ; or
  - (d) any sums which are directed to be paid to any person by or in pursuance of any such provision referring in terms to awarding or reimbursing a loss, or to damages, compensation or satisfaction for loss, damage, injury or wrong.
- (3) Paragraph (b) of subsection (1) above shall not apply to sums received by a justices' clerk on account of his salary or expenses as such; and any sum paid to the Secretary of State by virtue of that paragraph shall be paid to him subject to its being repaid to any person establishing his title to it.
- (4) The Secretary of State, with the concurrence of the Treasury, may by statutory instrument make regulations as to the times at which, and the manner in which, justices' clerks shall account for and pay the sums payable to him under this section, and as to the keeping, inspection and audit of accounts of justices' clerks, whether for the purposes of this section or otherwise.
- (5) For the purposes of this section anything done by the Crown Court on appeal from a magistrates' court shall be treated as done by the magistrates' court.
- (6) Any sums received by the Secretary of State under this section shall be paid by him into the Consolidated Fund.
- (7) In this section " fine " includes—
  - (a) any pecuniary penalty, pecuniary forfeiture or pecuniary compensation payable under a conviction, and
  - (b) any non-pecuniary forfeiture on conviction by, or under an order of, a magistrates' court so far as the forfeiture is converted into or consists of money,and " justices' clerk " includes a clerk of special sessions.

## **62 Defaults of justices' clerks and their staffs**

- (1) The Secretary of State may, if he thinks fit, pay to any person any money due to that person which he has not received because of the default of a justices' clerk or of a person employed to assist a justices' clerk.
- (2) In this section "justices' clerk" has the same meaning as in section 61 of this Act.

## **PART VII**

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

## **63 Courses of instruction**

- (1) It shall be the duty of every magistrates' courts committee, in accordance with arrangements approved by the Lord Chancellor, to make and administer schemes providing for courses of instruction for justices of the peace of their area.
- (2) It shall be the duty of the committee of magistrates, in accordance with arrangements approved by the Lord Chancellor, to make and administer schemes providing for courses of instruction for justices of the peace of the inner London area.
- (3) There may be paid out of moneys provided by Parliament any expenses incurred by the Lord Chancellor in providing courses of instruction for justices of the peace.
- (4) If courses of instruction are not provided for justices of the peace of any area as required by subsection (1) or subsection (2) above, then any expenses incurred by the Lord Chancellor in providing courses of instruction to make good the default shall be recoverable by him from the magistrates' courts committee or committee of magistrates in default; and any sums recovered by the Lord Chancellor under this subsection shall be paid into the Consolidated Fund.
- (5) The Secretary of State may provide courses of instruction for justices' clerks and their staffs.
- (6) In this section " justices' clerk " includes a clerk of special sessions.

## **64 Disqualification in certain cases of justices who are members of local authorities**

- (1) A justice of the peace who is a member of a local authority within the meaning of the Local Government Act 1972 or the Local Government (Scotland) Act 1973 shall not act as a member of the Crown Court or of a magistrates' court in any proceedings brought by or against, or by way of appeal from a decision of, the authority or any committee or officer of the authority.
- (2) For the purposes of subsection (1) above—
  - (a) any reference to a committee of a local authority includes a joint committee, joint board, joint authority or other combined body of which that authority is a member or on which it is represented ; and
  - (b) any reference to an officer of a local authority refers to a person employed or appointed by the authority, or by a committee of the authority, in the capacity in which he is employed or appointed to act.



- (3) A justice of the peace who is a member of the Common Council of the City of London shall not act as a member of the Crown Court or of a magistrates' court in any proceedings brought by or against, or by way of appeal from a decision of, the Corporation of the City or the Common Council or any committee or officer of the Corporation or Common Council; and subsection (2) above shall apply for the purposes of this subsection, with the substitution, for references to a local authority, of references to the Corporation or the Common Council.
- (4) Nothing in this section shall prevent a justice from acting in any proceedings by reason only of their being brought by a police officer.
- (5) No act shall be invalidated by reason only of the disqualification under this section of the person acting.

#### **65 Justices not disqualified by reason of being ratepayers**

A justice of the peace may perform any act in the execution of his office as such a justice in relation to the laws concerning rates leviable by a rating authority, notwithstanding that the justice is rated to or chargeable with such rates in the area affected by the act in question.

#### **66 Acts done by justices outside their commission area**

- (1) A justice of the peace for any commission area may act as a justice for that area in any commission area which adjoins the commission area for which he is a justice.
- (2) Justices for the county of Surrey or the county of Kent may hold special or petty sessions for any division of their county at any place in Greater London; and for all purposes relating to sessions so held the place at which they are held shall be deemed to be within the county and the division for which the justices holding them are justices.

#### **67 Promissory oaths of certain justices**

- (1) Subject to the provisions of this section, any person who under this Act or under any other enactment is a justice of the peace for any area by virtue of any other office held by him shall, before acting as such a justice, take the oath of allegiance and judicial oath in accordance with the Promissory Oaths Acts.
- (2) A person shall not be required by virtue of subsection (1) above to take those oaths as a justice of the peace by reason only of his being appointed under this Act or any other enactment to act temporarily as deputy for, or as if he were, the holder of another office to which that subsection applies; but those oaths may be taken by and administered to any such person notwithstanding anything in the Promissory Oaths Acts or any other enactment.
- (3) A person shall not be required, on becoming a justice of the peace for any area, to take the oath of allegiance and judicial oath in accordance with the Promissory Oaths Acts if he has at any time done so as justice of the peace for whatever area.
- (4) The oaths required by law to be taken by a metropolitan stipendiary magistrate may, in the case of a person authorised to act as such under section 34 of this Act, be taken before any of the metropolitan stipendiary magistrates.

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- (5) In this section " the Promissory Oaths Acts " means the Promissory Oaths Act 1868 and the Promissory Oaths Act 1871.

## **68 Greater Manchester, Merseyside and Lancashire**

- (1) Sections 6(1), 7 and 11 of this Act shall have effect in relation to the counties of Greater Manchester, Merseyside and Lancashire with the substitution, for any reference to the Lord Chancellor, of a reference to the Chancellor of the Duchy of Lancaster.
- (2) In relation to the entry in or removal from 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, subsections (4) to (6) of section 8 and section 9 of this Act shall have effect respectively with the substitution, for any reference to the Lord Chancellor, of a reference to the Chancellor of the Duchy of Lancaster.

## **69 Isles of Scilly**

For the purposes of this Act the Isles of Scilly shall be deemed to form part of the county of Cornwall.

## **70 Interpretation**

In this Act, except in so far as the context otherwise requires.—

" commission area " has the meaning assigned to it by section 1 of this Act;

" joint committee area " has the meaning assigned to it by section 19(3) of this Act;

" justices' clerk " means a clerk to the justices for a petty sessions area;

" London commission areas ", " inner London area " and " outer London areas " have the meanings assigned to them by section 2 of this Act;

" magistrate ", in relation to a county, a London commission area or the City of London, means a justice of the peace for the county, London commission area or the City, as the case may be, other than a justice whose name is for the time being entered in the supplemental list, and, in relation to a part of a county or of a London commission area, means a person who (in accordance with the preceding provisions of this definition) is a magistrate for that county or area and ordinarily acts in and for that part of it;

" officer " includes the holder of any place, situation or employment, and " office " shall be construed accordingly ;

" petty sessional court-house " means any of the following, that is to say—

- (a) a court-house or place at which justices are accustomed to assemble for holding special or petty sessions or for the time being appointed as a substitute for such a court-house or place (including, where justices are accustomed to assemble for either special or petty sessions at more than one court-house or place in a petty sessional division, any such courthouse or place);

- (b) a court-house or place at which a stipendiary magistrate is authorised by law to do alone any act authorised to be done by more than one justice of the peace;

" petty sessions area " has the meaning assigned to it by section 4 of this Act;

" prescribed " in Part II of this Act means prescribed by regulations made by the Secretary of State by statutory instrument;

" the Receiver " means the Receiver for the metropolitan police district;

" stipendiary magistrate " includes a metropolitan stipendiary magistrate;

" the supplemental list " has the meaning assigned to it by section 8 of this Act.

## **71 Transitional provisions and savings, amendments and repeals**

- (1) The transitional provisions and savings in Schedule 1 to this Act shall have effect.
- (2) Subject to subsection (1) above—
  - (a) the enactments specified in Schedule 2 to this Act shall have effect subject to the amendments specified in that Schedule ; and
  - (b) the enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Subject to any express amendment or repeal made by this Act, any enactment passed or instrument made before the 18th April 1973 and in force at the commencement of this Act shall have effect in relation to any time thereafter 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 6 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 8 of this Act.
- (4) The inclusion in this Act of any express transitional provision, saving or amendment shall not be taken as prejudicing the operation of sections 16 and 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

## **72 Short title, commencement and extent**

- (1) This Act may be cited as the Justices of the Peace Act 1979.
- (2) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.
- (3) This Act shall not extend to Scotland or to Northern Ireland.