



# Justices of the Peace Act 1979 (repealed 19.6.1997)

## 1979 CHAPTER 55

### PART II

#### ORGANISATION OF FUNCTIONS OF JUSTICES

##### **Modifications etc. (not altering text)**

**C1** Pt. II (ss. 17-30) extended (1.11.1994 for specified purposes and 1.4.1995 for all remaining purposes) by 1994 c. 29, s. 79(2)(6); S.I. 1994/2594, art. 4; S.I. 1995/685, art. 3.

#### *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 [F<sup>1</sup>family proceedings 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.

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*Changes to legislation: There are currently no known outstanding effects for the Justices of the Peace Act 1979 (repealed 19.6.1997), Part II. (See end of Document for details)*

#### Textual Amendments

**F1** Words in S. 17(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92(11), 108(6), **Sch. 11 Pt. II para. 7(b)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

#### Modifications etc. (not altering text)

**C2** S. 17(2) restricted by S.I. 1990/1554, **rule 12**

### 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;
  - (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 [<sup>F2</sup>section 144 of the Magistrates' Courts Act 1980].
- (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.

#### Subordinate Legislation Made

**P1** S. 18: power exercised by S.I.1991/1966.

#### Textual Amendments

**F2** Words substituted by Magistrates' Courts Act 1980 (c.43, SIF 82), s. 154(1), **Sch. 7 para. 192**

### *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

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non-metropolitan counties, metropolitan districts and the outer London [<sup>F3</sup>boroughs], 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 [<sup>F4</sup>Lord Chancellor] 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) [<sup>F5</sup>every outer London borough]; 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 [<sup>F4</sup>Lord Chancellor] 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 [<sup>F4</sup>Lord Chancellor] 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 [<sup>F4</sup>Lord Chancellor] to be necessary or expedient.

#### Textual Amendments

**F3** Words substituted by [Local Government Act 1985 \(c.51, SIF 81:1\)](#), [s. 12\(4\)\(a\)](#)

**F4** Words in [s. 19\(1\)\(3\)\(a\)\(4\)](#) substituted (1.4.1992) by virtue of [S.I. 1992/709](#), [art. 2\(3\)](#).

**F5** Words substituted by [Local Government Act 1985 \(c.51, SIF 81:1\)](#), [s. 12\(4\)\(b\)](#)

#### Modifications etc. (not altering text)

**C3** Power to amend [s. 19](#) conferred (5.7.1994) by [1994 c. 19](#), [s. 55\(3\)\(b\)](#).

## 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 [<sup>F6</sup>boroughs or for the City of London, be composed of magistrates for the commission area comprising that borough] 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

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metropolitan district, and magistrates for [<sup>F7</sup>the commission area comprising each London borough], 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 [<sup>F8</sup>any borough in]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 [<sup>F9</sup>Lord Chancellor] 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 [<sup>F9</sup>Lord Chancellor] 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.

#### Textual Amendments

- F6** Words substituted by [Local Government Act 1985 \(c.51, SIF 81:1\)](#), [s. 12\(5\)\(a\)\(i\)](#)
- F7** Words substituted by [Local Government Act 1985 \(c.51, SIF 81:1\)](#), [s. 12\(5\)\(a\)\(ii\)](#)
- F8** Words substituted by [Local Government Act 1985 \(c.51, SIF 81:1\)](#), [s. 12\(5\)\(b\)](#)
- F9** Words in [s. 20\(4\)\(6\)\(b\)](#) substituted (1.4.1992) by virtue of [S.I. 1992/709](#), [art. 2\(3\)](#).

## 21 Powers of [<sup>F10</sup>Lord Chancellor] in relation to magistrates' courts committees.

- (1) The [<sup>F10</sup>Lord Chancellor] may by statutory instrument make general regulations about the constitution, procedure and quorum of magistrates' courts committees; but (except

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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 [<sup>F10</sup>Lord Chancellor] may give general or special directions with respect to summoning the first meeting of magistrates' courts committees.

#### Textual Amendments

**F10** Words in s. 21 substituted (1.4.1992) by virtue of S.I. 1992/709, art. 2(3).

## 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 [<sup>F11</sup>Lord Chancellor] 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 [<sup>F12</sup>boroughs], the justices [<sup>F12</sup>acting for that borough]; 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 [<sup>F11</sup>Lord Chancellor] considers it appropriate, by the [<sup>F11</sup>Lord Chancellor].
- (4) A magistrates' courts committee may act through sub-committees 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.

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- (6) The proceedings of a magistrates' courts committee shall not be invalidated by reason of any vacancy therein or of any defect in the appointment of a member.
- (7) A magistrates' courts committee shall be a body corporate.

#### Textual Amendments

**F11** Words in s. 22(1)(3) substituted (1.4.1992) by virtue of S.I. 1992/709, art. 2(3).

**F12** Words substituted by Local Government Act 1985 (c.51, SIF 81:1), s. 12(6)

#### Modifications etc. (not altering text)

**C4** S. 22 extended (1.11.1994) by 1994 c. 29, s. 69(8)(c); S.I. 1994/2594, art. 3.

VALID FROM 01/04/1995

### [<sup>F13</sup>22A General powers and duties of magistrates' courts committees.

- (1) A magistrates' courts committee shall be responsible for the efficient and effective administration of the magistrates' courts for their area.
- (2) A magistrates' courts committee may, in particular—
- (a) allocate administrative responsibilities among the justices' chief executive, the justices' clerks and the staff of the committee, and
  - (b) determine the administrative procedures to be followed by any of the persons mentioned in paragraph (a) above.
- (3) It shall be the duty of every magistrates' courts committee to provide courses of instruction for justices' clerks and for staff of the committee.
- (4) The Lord Chancellor may give directions to magistrates' courts committees requiring each of them, in discharging their responsibilities under subsection (1) above, to meet specified standards of performance.
- (5) The Lord Chancellor may also give directions to magistrates' courts committees requiring each of them to take specified steps, at such intervals as may be specified—
- (a) for the purpose of keeping the magistrates for their area informed as to the activities of the committee, or
  - (b) for the purpose of ascertaining the views of those magistrates on particular matters related to the functions of the committee.
- (6) In discharging their responsibilities under subsection (1) above, a magistrates' courts committee shall have regard to the needs of court users who are disabled; and so long as any direction under subsection (4) above is in force the standards of performance required under that subsection must include standards relating to the provision made for such court users.
- (7) A direction under this section may be given to all magistrates' courts committees or to one or more particular committees.
- (8) The Lord Chancellor shall arrange for any direction given under this section to be published in such manner as he thinks fit.]

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### Textual Amendments

**F13** S. 22A inserted (1.4.1995) by 1994 c. 29, s.73; S.I. 1995/685, art. 4(b).

## 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 [<sup>F14</sup>boroughs] may at any time submit to the [<sup>F15</sup>Lord Chancellor] a draft order making such provision about the division of the county, district or [<sup>F14</sup>borough] 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 [<sup>F15</sup>Lord Chancellor], to review the division of the county, district or [<sup>F14</sup>borough], as the case may be, or any part thereof into petty sessional divisions and, on completion of the review, to submit to the [<sup>F15</sup>Lord Chancellor] 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 [<sup>F15</sup>Lord Chancellor] 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 [<sup>F15</sup>Lord Chancellor] under subsection (2) above, or the [<sup>F15</sup>Lord Chancellor] 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 [<sup>F14</sup>boroughs] 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 [<sup>F14</sup>boroughs] which is not for the time being so divided.
- (5) Any order under this section may contain transitional and other consequential provisions.

### Textual Amendments

**F14** Words substituted by Local Government Act 1985 (c.51, SIF 81:1), s. 12(7)

**F15** Words in s. 23(1)(2)(3)(a)(b) substituted (1.4.1992) by virtue of S.I. 1992/709, art. 2(3).

## 24 Procedure relating to s. 23.

- (1) Before submitting to the [<sup>F16</sup>Lord Chancellor] 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 [<sup>F17</sup>, metropolitan district or outer London borough] concerned and the magistrates for any existing petty sessional division in the area; and

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- (b) in the case of a draft order [<sup>F18</sup>concerning a non-metropolitan county], 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 [<sup>F16</sup>Lord Chancellor] 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 [<sup>F16</sup>Lord Chancellor], 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 [<sup>F19</sup>, metropolitan district or outer London borough concerned, to the magistrates for any existing petty sessional division in the area and, if a non-metropolitan county is concerned, to every interested authority].
- (3) Before making any order under section 23 of this Act the [<sup>F16</sup>Lord Chancellor] 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) ..... <sup>F20</sup>
- (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 [<sup>F21</sup>non-metropolitan county, metropolitan district or outer London borough], 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 [<sup>F22</sup>concerning a non-metropolitan county, means the council of any district in the county which is wholly or partly included in the area to which the order or draft 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 [<sup>F16</sup>Lord Chancellor], effect important alterations in the draft order.

#### Textual Amendments

- F16** Words in s. 24(1)(2)(3)(6)(b) substituted (1.4.1992) by virtue of S.I. 1992/709, art. 2(3).
- F17** Words substituted by Local Government Act 1985 (c.51, SIF 81:1), s. 12(8)(a)(i)
- F18** Words inserted by Local Government Act 1985 (c.51, SIF 81:1), s. 12(8)(a)(ii)
- F19** Words substituted by Local Government Act 1985 (c.51, SIF 81:1), s. 12(8)(b)
- F20** S. 24(4) repealed by Local Government Act 1985 (c.51, SIF 81:1), s. 102, Sch. 17
- F21** Words substituted by Local Government Act 1985 (c.51, SIF 81:1), s. 12(8)(c)
- F22** Words substituted by Local Government Act 1985 (c.51, SIF 81:1), s. 12(8)(d)

#### <sup>F23</sup>24A Alteration of names of petty sessions areas outside inner London Area.

- (1) Subject to the provisions of this and the next section, a magistrates' courts committee for an area mentioned in section 19(2) above other than the City of London may at any time submit to the [<sup>F24</sup>Lord Chancellor] a draft order altering the name of the petty sessions area for which they are the committee or, if they are the committee for more than one petty sessions area, the name of any of those areas.



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- (2) Subject to the provisions of this and the next following section, where such a committee submit a draft order to the [<sup>F24</sup>Lord Chancellor] 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.
- (3) Any order under this section may contain transitional and other consequential provisions.]

#### Textual Amendments

**F23** Ss. 24A, 24B inserted by Criminal Justice Act 1988 (c.33, SIF 39:1), ss. 123(6), 164(1)(2), Sch. 8 para. 16

**F24** Words in s. 24A(1)(2) substituted (1.4.1992) by virtue of S.I. 1992/709, art. 2(3).

#### 24B Procedure relating to s. 24A.

- (1) Before submitting to the [<sup>F25</sup>Lord Chancellor] a draft order under section 24A of this Act, a magistrates' courts committee—
- (a) shall consult the council of the non-metropolitan county, metropolitan district or outer London borough concerned and the magistrates of the petty sessions area to which their proposals relate; and
  - (b) 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 [<sup>F25</sup>Lord Chancellor] a draft order under section 24A of this Act shall comply with such requirements (if any) as to notice as may be prescribed; and the [<sup>F25</sup>Lord Chancellor], before making an order under that section otherwise than in accordance with a draft submitted to him by the magistrates' court committee, shall send a copy of his proposals to the committee, to the council of the non-metropolitan county, metropolitan district or outer London borough concerned and, if a non-metropolitan county is concerned, every interested authority.
- (3) Before making any order under section 24A of this Act the [<sup>F25</sup>Lord Chancellor] 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) For the purposes of this section—
- (a) “interested authority”, in relation to any order or draft order concerning a non-metropolitan county, means the council of any district in the county which is wholly or partly included in the area to which the order or draft 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 [<sup>F25</sup>Lord Chancellor], effect important alterations in the draft order.

#### Textual Amendments

**F25** Words in s. 24B(1)(2)(3)(4)(b) substituted (1.4.1992) by virtue of S.I. 1992/709, art. 2(3).

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VALID FROM 01/11/1994

**[<sup>F26</sup>24C Reports and plans.**

- (1) The Lord Chancellor may by regulations made by statutory instrument require magistrates' courts committees to submit to him such reports and plans, in relation to matters for which they are responsible, as may be prescribed.
- (2) Any report or plan required by regulations under this section—
  - (a) shall be prepared in the prescribed manner, after such consultation as may be prescribed, and within such time as may be prescribed,
  - (b) shall be in the prescribed form,
  - (c) shall be sent to such persons as may be prescribed, and
  - (d) shall be made available to the public on payment of such reasonable fee as the magistrates' courts committee may in any case determine.
- (3) The Lord Chancellor may direct any one or more magistrates' courts committees to produce such additional reports or plans in relation to matters for which they are responsible as may be specified in the direction.]

**Textual Amendments**

**F26** S. 24C inserted (1.11.1994) by 1994 c. 29, s.74; S.I. 1994/2594, art.3

VALID FROM 01/04/1995

*[<sup>F27</sup> Justices' chief executives, justices' clerks and staff]*

**Textual Amendments**

**F27** Cross heading and ss. 24D, 24E inserted (1.4.1995 except in relation to specified purposes) by 1994 c. 29, s.75; S.I. 1995/685, arts. 4(C), 5(4).

**<sup>F28</sup>24D Appointment of justices' chief executive.**

- (1) Every magistrates' courts committee shall appoint a justices' chief executive.
- (2) A person may not be appointed as justices' chief executive unless—
  - (a) the magistrates' courts committee have submitted to the Lord Chancellor, in accordance with regulations, an application for approval of one or more persons offering themselves for the appointment,
  - (b) the Lord Chancellor has approved one or more of those persons, and
  - (c) the person appointed is a person so approved.
- (3) For the purposes of subsection (2) above, appointment as justices' chief executive does not include, in relation to a person employed as such under a contract for a fixed term, re-appointment on the expiry of that term.

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- (4) Where the Lord Chancellor declines to approve any person who is named in an application under subsection (2)(a) above, he shall inform the magistrates' courts committee of the reasons for his decision.
- (5) A person may not be appointed as justices' chief executive unless he is eligible under section 26 of this Act for appointment as justices' clerk.
- (6) A person may not be appointed both as justices' chief executive and as justices' clerk for a petty sessions area unless the Lord Chancellor has agreed that he may hold both appointments.
- (7) Where, in accordance with subsection (6) above, a person holds an appointment as justices' chief executive with an appointment as justices' clerk for a petty sessions area, he shall not exercise any functions as justices' clerk for the petty sessions area unless authorised to do so (either generally or in any particular case) by the magistrates' courts committee for the area which includes that petty sessions area.
- (8) In this section "regulations" means regulations made by the Lord Chancellor by statutory instrument.

#### Textual Amendments

**F28** Ss. 24D, 24E inserted (1.4.1995 except in relation to specified purposes) by 1994 c. 29, s.75; S.I. 1995/685, arts.4(c), 5(4).

#### Modifications etc. (not altering text)

**C5** S. 24D modified (1.4.1995) by 1994 c. 29, s. 80(2); S.I. 1995/685, art.4(f)

#### <sup>F29</sup>24E Functions of justices' chief executive.

- (1) The justices' chief executive in relation to any magistrates' courts committee shall—
  - (a) act as clerk to the committee, and
  - (b) subject to and in accordance with any directions given by the committee, carry on the day to day administration of the magistrates' courts for the area to which the committee relates.
- (2) A justices' chief executive may arrange for his functions under subsection (1) (a) above to be exercised by any member of the staff of the magistrates' courts committee.
- (3) It shall be the duty of the justices' chief executive to make arrangements for discussions relating to law, practice and procedure among the justices' clerks for petty sessions areas within the area of the committee.

#### Textual Amendments

**F29** Ss. 24D, 24E inserted (1.4.1995 except in relation to specified purposes) by 1994 c. 29, s.75; S.I. 1995/685, arts. 4(c), 5(4).

*Status:* Point in time view as at 01/04/1992. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Justices of the Peace Act 1979 (repealed 19.6.1997), Part II. (See end of Document for details)

### *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 [<sup>F30</sup>Lord Chancellor] 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 [<sup>F30</sup>Lord Chancellor], 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 [<sup>F30</sup>Lord Chancellor] of the age, qualification and experience of any person proposed to be appointed a justices' clerk and, if the [<sup>F30</sup>Lord Chancellor] 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.

#### Textual Amendments

**F30** Words in s. 25(2)(3)(4) substituted (1.4.1992) by virtue of S.I. 1992/709, art. 2(3).

## 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 [<sup>F31</sup>has a 5 year magistrates' court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990,]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

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magistrates' courts committee and of the [<sup>F32</sup>Lord Chancellor], 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.

#### Textual Amendments

**F31** Words substituted by [Courts and Legal Services Act 1990 \(c.41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 45](#)

**F32** Words in [s. 26\(3\)\(b\)](#) substituted (1.4.1992) by virtue of [S.I. 1992/709](#), [art. 2\(3\)](#).

VALID FROM 01/04/1995

#### [<sup>F33</sup>26A Justices' chief executives and justices' clerks to be employed under contracts of service.

- (1) Except as provided by this Act, a justices' chief executive or justices' clerk—
- (a) shall be employed by the magistrates' courts committee, on such terms as they may determine, and
  - (b) shall hold and vacate office in accordance with the terms of his contract of service.
- (2) Subsection (1) above shall not have effect in relation to any person appointed by a magistrates' courts committee before the commencement of this section as justices' clerk for a petty sessions area so long as he—
- (a) continues to hold office as a justices' clerk for that area or for any one or more petty sessions areas including any part of that area, and
  - (b) has not entered into a contract of service after the commencement of this section.
- (3) Any justices' clerk in relation to whom, by virtue of subsection (2) above, subsection (1) above does not have effect shall hold office during the pleasure of the magistrates' courts committee concerned.]

#### Textual Amendments

**F33** [S. 26A](#) inserted (1.4.1995) by [1994 c. 29, s.77](#); [S.I. 1995/685](#), [art.4\(e\)](#)

*Status: Point in time view as at 01/04/1992. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Justices of the Peace Act 1979 (repealed 19.6.1997), Part II. (See end of Document for details)*

## 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 <sup>M1</sup>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 [<sup>F34</sup>section 144 of the Magistrates' Courts Act 1980] 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.

### Textual Amendments

**F34** Words substituted by [Magistrates' Courts Act 1980 \(c.43, SIF 82\)](#), s. 154(1), [Sch. 7 para. 193](#)

### Marginal Citations

**M1** [1964 c. 26.](#)

**Status:** Point in time view as at 01/04/1992. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Justices of the Peace Act 1979 (repealed 19.6.1997), Part II. (See end of Document for details)

## 28 General powers and duties of justices' clerks.

(1) Rules made in accordance with [<sup>F35</sup>section 144 of the Magistrates' Courts Act 1980] 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.

[<sup>F36</sup>(1A) Such rules may also make provision enabling things authorised to be done by, to or before a justices' clerk (whether by virtue of subsection (1) above or otherwise) to be done instead by, to or before—

- (a) a person appointed by a magistrates' courts committee to assist him;
- (b) where he is a part-time justices' clerk, any member of his staff who has been appointed by the magistrates' courts committee to assist him in his duties as such;
- (c) any officer appointed by the committee of magistrates to be his deputy or to assist him]

(2) Any enactment (including any enactment contained in this Act) or any rule of law regulating the exercise of any jurisdiction or powers of justices of the peace, or relating to things done in the exercise or purported exercise of any such jurisdiction or powers, shall apply in relation to the exercise or purported exercise thereof by virtue of subsection (1) above by the clerk to any justices as if he were one of those justices.

(3) It is hereby declared that the functions of a justices' clerk include the giving to the justices to whom he is clerk or any of them, at the request of the justices or justice, of advice about law, practice or procedure on questions arising in connection with the discharge of their or his functions, including questions arising when the clerk is not personally attending on the justices or justice, and that the clerk may, at any time when he thinks he should do so, bring to the attention of the justices or justice any point of law, practice or procedure that is or may be involved in any question so arising.

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

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

### Textual Amendments

**F35** Words in s. 28(1) substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154(1), [Sch. 7 para. 194](#)

**F36** [S. 28\(1A\)](#) inserted (1.7.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 117; S.I. 1991/1364, [art. 2](#), Sch.

## 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—

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- (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 <sup>M2</sup>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 <sup>M3</sup>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 [<sup>F37</sup>[<sup>F38</sup>sections 59 and 59A] of the Magistrates' Courts Act 1980](periodical payments through justices' clerk [<sup>F39</sup>and proceedings by the clerk, etc.]) or [<sup>F37</sup>section 62 of that Act](relating to payments required to be made to a child).

#### Textual Amendments

- F37** Words in s. 29(3) substituted by [Magistrates' Courts Act 1980 \(c.43, SIF 82\)](#), s. 154(1), **Sch. 7 para. 195**
- F38** Words in s. 29(3) substituted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#), s. 11(1), **Sch. 2 para. 4(a)**; S.I. 1992/455, **art.2**
- F39** Words in s. 29(3) inserted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#), s. 11(1), **Sch. 2 para. 4(b)**; S.I. 1992/455, **art.2**

#### Marginal Citations

- M2** 1914 c. 6.
- M3** 1914 c. 58.

### 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 [<sup>F40</sup>section 144 of the Magistrates' Courts Act 1980]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.

#### Textual Amendments

- F40** Words substituted by [Magistrates' Courts Act 1980 \(c.43, SIF 82\)](#), s. 154(1), **Sch. 7 para. 196**



**Status:** Point in time view as at 01/04/1992. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Justices of the Peace Act 1979 (repealed 19.6.1997), Part II. (See end of Document for details)

VALID FROM 01/11/1994

**[<sup>F41</sup>30A Independence of justices' clerk and staff in relation to legal functions.**

- (1) When exercising the functions specified in subsection (2) below or giving advice to justices of the peace in an individual case—
  - (a) a justices' clerk shall not be subject to the direction of the magistrates' courts committee, the justices' chief executive or any other person, and
  - (b) any member of the staff of a magistrates' courts committee shall not be subject to the direction of that committee or of the justices' chief executive (when acting as such).
- (2) The functions referred to in subsection (1) above are functions conferred by rules made in accordance with section 144 of the <sup>M4</sup>Magistrates' Courts Act 1980 by virtue of section 28(1) or (1A) of this Act.]

**Textual Amendments**

**F41** S. 30A inserted (1.11.1994) by 1994 c. 29, s.78; S.I. 1994/2594, art.3

**Marginal Citations**

**M4** 1980 c. 43.

**Status:**

Point in time view as at 01/04/1992. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Justices of the Peace Act 1979 (repealed 19.6.1997), Part II.