

SCHEDULES

SCHEDULE 8

MAGISTRATES' COURTS: MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENTS OF JUSTICES OF THE PEACE ACT 1979

- 1 (1) Section 12 of the 1979 Act (travelling, subsistence and financial loss allowances) shall be amended as follows.
 - (2) In subsection (5) for paragraph (b) there shall be substituted—
 - “(b) in relation to the inner London area—
 - (i) the council of the inner London borough which is or includes the petty sessions area for which the justice acts, or
 - (ii) where the justice acts for a petty sessions area which is partly included in two or more inner London boroughs, the councils of those boroughs;”.
 - (3) After that subsection there shall be inserted—

“(5A) Where by virtue of subsection (5)(b)(ii) above an allowance under this section is payable jointly by two or more inner London boroughs, the manner in which it is to be borne by each of them shall be determined by agreement between them or, in default of agreement, by the Lord Chancellor.”
- 2 (1) Section 17 (chairman and deputy chairmen of justices) shall be amended as follows.
 - (2) In subsection (1), after the words “for the area” there shall be inserted the words “; and any contested election for the purposes of this section shall be held”.
 - (3) In subsection (2), for the words “subsection (3)” there shall be substituted the words “subsections (2A) and (3)”.
 - (4) After subsection (2) there shall be inserted—

“(2A) Subsection (2) above shall not confer on any chairman or deputy chairman of the justices the right to preside in court if, under rules made under the next following section, he is ineligible to preside in court.”
- 3 In section 18 (rules as to chairmanship and size of bench) in subsection (2)—
 - (a) in paragraph (b), after the words “petty sessions area” there shall be inserted the words “(including any procedure for nominating candidates at any such election)”, and
 - (b) for paragraph (c) there shall be substituted—
 - “(c) as to courses of instruction to be completed by justices before they may preside in court;

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- (d) as to the approval of justices, by committees of justices constituted in accordance with the rules, before they may preside in court, as to the justices who may be so approved and as to the courts to which the approval relates; and
 - (e) as to circumstances in which a justice may preside in court even though requirements imposed by virtue of paragraph (c) or (d) above are not satisfied in relation to him.”
- 4 (1) Section 19 (general provisions as to magistrates' courts committees) shall be amended as follows.
- (2) In subsection (1), for the words from “in relation to” to “this Act or” there shall be substituted the words “as are or may be conferred on them by or under this or any other Act and such other functions relating to matters of an administrative character”.
 - (3) In subsection (2), for the words “subsection (3) below” there shall be substituted the words “section 69 of the Police and Magistrates' Courts Act 1994 and to any order made under subsection (3) of this section before the commencement of that section”.
 - (4) Subsections (3) and (4) shall be omitted.
- 5 In section 22 (supplementary provisions as to magistrates' courts committees), in subsection (3) for the words “section 20” there shall be substituted the words “section 21”.
- 6 (1) Section 23 (powers and duties of committee as to petty sessional divisions) shall be amended as follows.
- (2) In subsection (1)—
 - (a) the words from “acting” to “boroughs” shall cease to have effect, and
 - (b) for the words “the county, district or borough” there shall be substituted the words “their area”.
 - (3) In subsection (2) for the words “the county, district or borough, as the case may be” there shall be substituted the words “their area”.
 - (4) In subsection (4) for the words “a non-metropolitan county or metropolitan district or any of the outer London boroughs”, in both places where they occur, there shall be substituted the words “an area”.
- 7 (1) Section 24 (procedure relating to section 23) shall be amended as follows).
- (2) In subsection (1)(a)—
 - (a) for the words “council of the” there shall be substituted the words “council of every”,
 - (b) the word “outer” shall be omitted, and
 - (c) for the word “concerned” there shall be substituted the words “which includes all or part of the area”.
 - (3) In subsection (2)—
 - (a) for the words “council of the” there shall be substituted the words “council of every”,
 - (b) the word “outer” shall be omitted, and
 - (c) for the word “concerned” there shall be substituted the words “which includes all or part of the area”.

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- (4) In subsection (5)—
- (a) the words “in a non-metropolitan county, metropolitan district or outer London borough” shall be omitted, and
 - (b) at the end there shall be inserted the words “or by section 69 of the Police and Magistrates' Courts Act 1994”.
- 8 (1) Section 24A (alteration of names of petty sessions areas outside inner London area) shall be amended as follows.
- (2) In subsection (1) the words “for an area mentioned in section 19(2) above other than the City of London” shall be omitted.
- (3) After subsection (2) there shall be inserted—
- “(2A) Nothing in this section shall enable the name of the petty sessions area consisting of the City of London to be changed.”
- 9 In section 24B (procedure relating to section 24A), for the words “outer London borough” in subsections (1)(a) and (2) there shall be substituted the words “London borough”.
- 10 (1) Section 26 (qualifications for appointment as justices' clerk) shall be amended as follows.
- (2) In subsection (1) the words “of any class or description” and, in paragraph (a), the words from “and is within” to “that class or description” shall be omitted.
- (3) For subsection (3) there shall be substituted—
- “(3) A person not having the qualification which is required by subsection (1)(a) above may be appointed as justices' clerk if at the time of the appointment he is a barrister or solicitor and has served for not less than five years as assistant to a justices' clerk.”
- (4) Subsections (2), (4) and (5) shall be omitted.
- 11 (1) Section 27 (conditions of service and staff of justices' clerks) shall be amended as follows.
- (2) Subsections (1) to (5) and (7) and (9) shall be omitted.
- (3) For subsection (6) there shall be substituted—
- “(6) A magistrates' courts committee may employ staff on such terms as they think fit.”
- (4) At the end of subsection (8) there shall be added the words “or approved by the Lord Chancellor in accordance with the rules”.
- 12 In section 28 (general powers and duties of justices' clerks), in subsection (1A), paragraphs (b) and (c) shall be omitted.
- 13 In section 30 (person acting as substitute clerk to justices), in subsection (1) the words “outside the inner London area” shall be omitted.
- 14 In section 32 (allocation and sittings of metropolitan stipendiary magistrates), in subsection (1), for the words “constituted under section 36 of this Act” there shall be substituted the words “of the inner London area”.

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15 After section 34A of the 1979 Act there shall be inserted—

“Justices' clerks for youth courts and family proceedings courts

34B Appointment of justices' clerks for youth courts and family proceedings courts.

(1) The inner London magistrates' courts committee shall appoint one or more justices' clerks for the youth courts and family proceedings courts for the metropolitan area.

(2) Subsections (2) to (4), (5)(b), (6) and (7) of section 25 of this Act have effect in relation to any justices' clerk appointed under subsection (1) above as they have effect in relation to a justices' clerk for a petty sessions area, but with the substitution for any reference to the magistrates for a petty sessions area of a reference to the justices of the peace who are members of the youth court panel for the metropolitan area or (as the case may be) of a family panel for that area, other than any such justice whose name is for the time being entered on the supplemental list.

(3) In this section—

“the inner London magistrates' courts committee” means the magistrates' courts committee for an area consisting of or including the whole of the inner London area or, if there is no such committee, all the magistrates courts' committees for areas which consist of or include any part of the inner London area acting jointly; and

“the metropolitan area” means the inner London area and the City of London.”

16 Section 36 (petty sessional divisions in inner London area) and section 36A (alteration of names of petty sessions area in inner London area) shall be omitted.

17 In section 42 (no petty sessional divisions in the City) for the words “section 41 above” there shall be substituted the words “this Act”.

18 (1) Section 53 (indemnification of justices and justices' clerks) shall be amended as follows.

(2) In subsection (3), in paragraph (b), for the words “the local authority” there shall be substituted the words “any paying authority”.

(3) After subsection (3) there shall be inserted—

“(3A) Where there are two or more paying authorities in relation to any justice or justices' clerk, any question as to the extent to which the funds required to indemnify him are to be provided by each authority shall be determined by agreement between those authorities and the magistrates' courts committee concerned or, in default of such agreement, shall be determined by the Lord Chancellor.”

(4) In subsection (4) for the words “this section” there shall be substituted the words “subsection (3) above”.

(5) For subsection (5) there shall be substituted—

“(5) In this section—

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“justices' clerk” includes any person appointed by a magistrates' courts committee to assist a justices' clerk,

“local funds”, in relation to a justice or justices' clerk, means funds out of which the expenses of the magistrates' courts committee for the area for which he acted at the material time are payable, and

“paying authority”, in relation to a justice or justices' clerk, means any authority which is a paying authority for the purposes of section 55 of this Act in relation to the magistrates' courts committee for the area for which he acted at the material time.”

19 (1) Section 59 (grants by Lord Chancellor to responsible authorities) shall be amended as follows.

(2) In subsection (1)—

(a) in paragraph (b) after the word “7” there shall be inserted the words “or 24”, and

(b) for the word “and” immediately following that paragraph there shall be substituted—

“(bb) of their functions under any regulations having effect by virtue of paragraph 13(1) of Schedule 1 to this Act; and”.

(3) For subsection (8) there shall be substituted—

“(8) In this section—

“court staff” means justices' chief executives, justices' clerks and staff of magistrates' courts committees, and

“responsible authority” has the same meaning as in section 55 of this Act.”

20 In section 62 (defaults of justices' clerks and their staffs), in subsection (1), for the words “a person employed to assist a justices' clerk” there shall be substituted the words “any staff of a magistrates' courts committee”.

21 In section 63 (courses of instruction), in subsection (5), for the words “and their staffs” there shall be substituted the words “and for staff of magistrates' courts committees”.

22 In section 70 (interpretation), for the definition of “magistrate” there shall be substituted—

““magistrate”—

(a) in relation to a commission area, means a justice of the peace for the commission area, other than a justice whose name is for the time being entered in the supplemental list,

(b) in relation to a part of a commission area, means a person who (in accordance with paragraph (a) of this definition) is a magistrate for that area and ordinarily acts in and for that part of it, and

(c) in relation to a magistrates' courts committee area, means a person who (in accordance with paragraphs (a) and (b) of this definition) is a magistrate for that area or any part of that area;

“magistrates' courts committee area” means the area to which a magistrates' courts committee relates;”.

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- 23 In Schedule 1, in paragraph 17 (saving for superannuation provisions), for the words “55 to 58” there shall be substituted the words “55 and 56”.