



Justices of the Peace Act 1949

1949 CHAPTER 101

PART I

PROVISIONS AS TO INDIVIDUAL JUSTICES

1 Residence qualification of justices

- (1) Subject to the provisions of this section, a person shall not be appointed justice of the peace by the commission of the peace for any area, nor act as 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 justice of the peace for a particular area though not qualified so to do under the foregoing subsection, he may direct that so long as any conditions specified in the direction are satisfied the foregoing subsection shall not apply in relation to that person's appointment as justice by the commission of the peace for the area so specified.
- (3) Subject to the next following subsection, where a person appointed justice of the peace by the commission of the peace for any area (whether so appointed before or after the coming into force of this section) is not qualified under the foregoing provisions of this section to act by virtue of the appointment, his name shall be removed from the commission 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) Nothing in this section shall apply in relation to the appointment of a person, as holding or having been appointed to any office mentioned in the first column of the First Schedule to this Act, to be a justice of the peace for an area specified in relation to that office in the second column of that Schedule.
- (5) In the application of this section to the county palatine of Lancaster, references to the Chancellor of the Duchy of Lancaster shall be substituted for references to the Lord Chancellor.

2 The mayor as a justice

Subsections (7) and (8) of section eighteen of the Local Government Act, 1933, shall be amended as follows:—

- (a) the mayor of a borough shall not under subsection (7) be a justice of the peace for the borough during the year next after he ceases to be mayor;
- (b) subsection (7) shall not apply to the mayor of a borough not having a separate commission of the peace, and he shall accordingly be a justice for the county under subsection (8) but not for the borough;
- (c) subsection (8) shall not apply to the mayor of a borough having a separate commission of the peace, and he shall accordingly be a justice for the borough under subsection (7) but not for the county.

3 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, 1933, the London Government Act, 1939, or the Local Government (Scotland) Act, 1947, shall not act as a member of a court of quarter sessions 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 the foregoing subsection—
 - (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 a committee thereof 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 a court of quarter sessions or of a magistrates' court in any proceedings brought by or against, or by way of appeal from a decision of, the corporation of that City or the common council or any committee or officer of the corporation or common council; and the last foregoing subsection shall apply for the purposes of this subsection, with the substitution for references to a local authority of references to the corporation or common council.
- (4) Nothing in this section shall prevent a justice acting in any proceedings for an offence by reason only of their being brought by a police officer.
- (5) This section shall in its application to Scotland have effect as if in subsection (1) after the words " magistrates' court " there were inserted the words " or of a small debt court ".

4 Supplemental list

- (1) The Lord Chancellor may by statutory instrument make rules directing that in connection with any commission of the peace issued by His Majesty there shall be kept a list for the purposes of this section (in this Act called " the supplemental list"), and those rules shall make provision for the entry in the supplemental list kept in connection with any commission of the name of any such person appointed a justice by the commission as is hereinafter mentioned, and for the removal of names from the list.

- (2) A person who is appointed justice of the peace by the commission of the peace for any area, but whose name is for the time being entered in the supplemental list kept in connection with the commission, shall not by virtue of that appointment be qualified as a justice to do any act, except as mentioned in the next following subsection, nor by virtue of that appointment be qualified as a justice to be a member of any committee or other body.
- (3) The last foregoing subsection 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.
- (4) Subject to the two next following subsections any rules made under this section shall provide for entering in the supplemental list the names of persons—
 - (a) who are of the age of seventy-five years or over and neither hold nor have held high judicial office within the meaning of the Appellate Jurisdiction Act, 1876 ; or
 - (b) who apply to have their names entered therein;and the Lord Chancellor may direct that the name of any person appointed a justice of the peace by the commission of the peace for any area shall be entered in the supplemental list kept in connection with that commission if the Lord Chancellor is satisfied either—
 - (i) that by reason of that person's age or infirmity or other like cause it is expedient he should cease to exercise judicial functions as a justice for the area; or
 - (ii) that that person declines or neglects to take a proper part in the exercise of those functions.
- (5) The said rules may provide that in such circumstances as may be prescribed by the rules a person's name shall not be entered in a supplemental list on his own application except with the approval of the Lord Chancellor.
- (6) Until the expiration of five years from the coming into force of this section, the said rules may also provide for exceptions from the provisions relating to justices of the age of seventy-five years or over in any area where it appears to the Lord Chancellor necessary in order to have enough experienced justices.
- (7) The said rules may provide that if, with respect to any commission of the peace, it appears to the Lord Chancellor that those of the persons appointed justices thereby who are to be subject to the disqualifications specified in subsection (2) of this section can be more conveniently designated in some manner other than the entry of their names in the supplemental list, they may be designated in such other manner as may be prescribed by the rules, and, where such provision is made, the rules shall provide for the application of this section, with the necessary adaptations, to the designation of such persons, and to persons so designated, in like manner in all respects as it applies to the entry of the names of persons in supplemental lists, and to persons whose names are entered in such lists, and references in any other provision of this Act to the supplemental list shall have effect accordingly.

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- (8) This section shall apply to a person who under the Local Government Act, 1933, the London Government Act, 1939, or the Local Government (Scotland) Act, 1947, is a justice of the peace for any area by virtue of his office as mayor, lord provost or provost or chairman of a local authority as if his appointment as justice by that Act were an appointment by the commission of the peace for the area.
- (9) In the application of this section to the county palatine of Lancaster, references to the Chancellor of the Duchy of Lancaster shall be substituted for references to the Lord Chancellor.
- (10) Any rules made or other thing done under or for the purposes of the Justices (Supplemental List) Act, 1941, shall have effect as if made or done under or for the purposes of this section.

5 Saving for acts and appointments

No act or appointment shall be invalidated by reason only of the disqualification or want of qualification under any of the foregoing sections of the person acting or appointed.

6 Amendment of Fisheries Acts

In section seventy-six of the Salmon and Freshwater Fisheries Act, 1923 (which relates to the disqualification of justices who are members of a fishery board or subscribers to a society for the protection of fish), the words " a member of a fishery board or " shall cease to have effect, and section thirty-four of the Salmon Fisheries (Scotland) Act, 1868, in so far as it directs that a justice shall not be disqualified from hearing any case arising under the said Act by reason of his being a member of a district board shall cease to have effect.

7 Restriction on right to practise as solicitor

- (1) The provisions of this section shall have effect in place of section fifty-four of the Solicitors Act, 1932 (which limits the right of county justices and their partners to practise as solicitors).
- (2) Subject to the following subsections, it shall not be lawful for any solicitor who is one of the justices of the peace for any area, nor for any partner of his, to act in connection with proceedings before any of those justices as solicitor or agent for the solicitor of any person concerned in those proceedings.
- (3) Where a solicitor is a justice of the peace for any area, but either—
- (a) his name is entered in the supplemental list for that area; or
 - (b) he is for the time being excluded from the exercise of his functions as a justice for that area under section four of the Justices of the Peace Act, 1906 (which relates to ex officio justices);
- his being a justice for the area shall not subject him or any partner of his to any disqualification under this section.
- (4) Where a solicitor is a justice of the peace for the county of London, but is so by virtue only of his office as mayor of a metropolitan borough, his being a justice for the county shall not subject any partner of his to any disqualification under this section.

8 Travelling and lodging allowances

- (1) Subject to the provisions of this section, a justice of the peace shall be entitled to receive payments at the prescribed rates by way of travelling allowance or lodging allowance where expenditure on travelling or, as the case may be, on accommodation for the night is necessarily incurred by him for the purpose of enabling him to perform any of his duties as a justice.
- (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 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—
 - (a) if the duties are performed not more than three miles from his usual place of residence; or
 - (b) if in respect of those duties a travelling or lodging allowance may be paid to him under arrangements made apart from this section or regulations provide that this section shall not apply.
- (4) A stipendiary magistrate or recorder shall not be entitled to any payment under this section in respect of his duties as such, and a paid chairman or paid deputy chairman of quarter sessions shall also not be entitled as aforesaid except in so far as may be agreed between the court of quarter sessions and the authority paying his salary at the time his salary is determined.
- (5) Allowances under this section shall be paid as follows:—
 - (a) any allowance to a justice for the City of London in respect of his duties as such shall be paid by the corporation of the City ;
 - (b) any allowance to a county justice or a borough justice in respect of his duties as such shall be paid by the county council or borough council, as the case may be.
- (6) Regulations may make provision as to the manner in which this section is to be administered, and in particular—
 - (a) for prescribing the rates of allowances, and the forms to be used and the particulars to be provided for the purpose of claiming payment thereof; 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 by resolution of either House of Parliament.
- (8) This section shall in its application to Scotland have effect subject to the following modifications:—
 - (a) references to recorders and paid chairmen or paid deputy chairmen of quarter sessions shall be omitted;
 - (b) for subsection (5) there shall be substituted the following subsection:—

“(5) Section one hundred and eighty-seven of the Local Government (Scotland) Act, 1947 (which relates to expenses of justices of the peace), shall apply to the allowances payable to justices under this

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section in like manner as it applies to the sums mentioned in the said section one hundred and eighty-seven”;

- (c) the provisions of this section shall not apply in relation to the duties of a justice as a member of a licensing court or court of appeal under the Licensing (Scotland) Acts, 1903 to 1934.

9 Application of Part I to Scotland

In the application of this Part of this Act to Scotland—

- (i) the words " not made on oath " in paragraph (b) of subsection (3) of section four shall be omitted; and
(ii) for section seven there shall be substituted the following section:—

Section four of the Justices (Scotland) Act, 1856, and section three of the Justices of the Peace Act, 1906, in so far as they prohibit solicitors being justices or their partners from practising shall not apply in relation to a solicitor as justice for any county or county of a city if his name is entered in the supplemental list for that county or county of a city.”