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 STATUTORY INSTRUMENTS
 

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## 1979 No. 757 (L.6)

## MAGISTRATES' COURTS

## The Domestic Courts (Constitution) Rules 1979

<i>Made</i>	- - -	28th June 1979
<i>Laid before Parliament</i>		6th July 1979
<i>Coming into Operation</i>		27th July 1979

The Lord Chancellor, in exercise of the powers conferred on him by section 15 of the Justices of the Peace Act 1949(a), as extended by section 56A of the Magistrates' Courts Act 1952(b), after consultation with the Rule Committee appointed under the said section 15, hereby makes the following Rules:—

*General*

1. These Rules may be cited as the Domestic Courts (Constitution) Rules 1979 and shall come into operation on 27th July 1979.

2.—(1) In these Rules—

“commission area” has the meaning assigned to it by section 1 of the Administration of Justice Act 1973(c);

“panel” means domestic court panel.

(2) Any reference in these Rules to a justice for a petty sessions area shall be construed as a reference to a justice who ordinarily acts in and for that area.

3. These Rules do not apply in the inner London area or in the City of London.

*Appointments and formation of panel*

4.—(1) The justices for each petty sessions area shall, at a meeting of which at least seven days notice shall be given to each justice for that area and which shall be held as soon as practicable after the meeting of the magistrates' courts committee referred to in rule 13(6) below, appoint, in accordance with the provisions of this rule, suitable justices to form a panel for that area for a term commencing on 1st November 1979 and expiring on 31st December 1982.

(2) The justices for each petty sessions area shall, at their meeting held in October 1982 in accordance with rules made under section 13(6) of the Justices of the Peace Act 1949 for the purpose of electing a chairman of the justices, and thereafter at the said meeting in every third year, appoint, in accordance with the provisions of this rule, suitable justices to form a panel for that area for a term of three years commencing on 1st January in the following year.

(3) Nominations shall be permitted but where voting is necessary it shall be by secret ballot.

(4) Where a ballot under paragraph (3) above results in an equality of votes between any candidates and the addition of a vote would entitle one of them to be elected, the clerk to the justices shall forthwith decide between those candidates by lot.

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(a) 1949 c. 101.  
(c) 1973 c. 15.

(b) 1952 c. 55; section 56A was inserted by 1978 c. 22, section 80.

(5) The number of justices appointed to the panel for a petty sessions area shall be such as the justices for that area at the time of appointment think sufficient for domestic courts in the area and the justices for that area may at any time appoint an additional member of the panel who shall serve thereon until the end of the period for which the other members of the panel were appointed.

(6) The clerk to the justices for each petty sessions area shall, forthwith after any justices' meeting referred to in paragraphs (1) and (2) above, give notice to the Secretary of State confirming that a panel has been formed for the area.

*Eligibility and removal*

5.—(1) The panel for a petty sessions area shall be appointed from amongst the justices for that area.

(2) A justice shall not be appointed to a panel unless he has indicated that he is willing to serve as a member of the panel.

6. Where a stipendiary magistrate exercises jurisdiction in a petty sessions area he shall be a member of the panel for that area by virtue of his office.

7. A justice shall be eligible for appointment to a panel whether or not he—  
(a) has been a member of that panel before, or  
(b) is, or has been, a member of any other panel.

8. The Lord Chancellor may remove from a panel any justice who, in his opinion, is unsuitable to serve on a domestic court.

*Vacancies in membership of panel*

9.—(1) If a vacancy occurs in the membership of a panel for a petty sessions area, the justices for that area shall as soon as practicable, unless they consider that it is not necessary, appoint such a justice as might have been appointed to the panel under rule 5 above.

(2) A justice appointed to a panel to fill a vacancy under paragraph (1) above shall serve thereon until the end of the period for which the other members of the panel were appointed.

*Chairman and deputy chairmen of panel*

10.—(1) The members of each panel shall on the occasion of their appointment or as soon as practicable thereafter meet and elect from amongst their number by secret ballot a chairman and as many deputy chairmen as will ensure that each domestic court sits under the chairmanship of a person so elected in accordance with rule 12 below, and may at any subsequent time elect an additional deputy chairman.

(2) If a vacancy occurs in the chairmanship or deputy chairmanship, the members of the panel shall elect, by secret ballot, a chairman or, as the case may be, deputy chairman to hold office for the remainder of the period for which the members serve.

(3) Where a ballot under paragraph (1) or (2) above results in an equality of votes between any candidates and the addition of a vote would entitle one of them to be elected, the clerk to the justices shall forthwith decide between those candidates by lot.

*Composition of domestic courts*

11. The justices to sit in each domestic court shall be chosen from the panel in such manner as the panel determine so as to ensure that section 56(2) of the Magistrates' Courts Act 1952 (which requires a domestic court to be composed of not more than three justices including so far as practicable a man and a woman) and rule 12 below can be complied with.

12.—(1) Except as is provided by paragraph (2) below, each domestic court shall sit under the chairmanship of the chairman or a deputy chairman elected under rule 10 above.

(2) If at any sitting of a domestic court the chairman or deputy chairman is not available owing to circumstances unforeseen when the justices to sit were chosen under rule 11 above or cannot properly sit as a member of the court, the members of that court shall choose one of their number to preside.

*Combined panels*

13.—(1) Subject to paragraph (3) below, a magistrates' courts committee may make a direction for the formation or dissolution of a combined panel in respect of two or more petty sessions areas in the same commission area, of which at least one is a petty sessions area for which the committee acts, and any such direction shall—

- (a) be notified forthwith to the justices for each petty sessions area specified in the direction; and
  - (b) take effect on 1st January in the year following the next meeting of the justices to be held under rule 4(2) above.
- (2) A direction made under paragraph (1) above shall state—
- (a) the number of justices who are to serve as members of the combined panel, which shall be such as the magistrates' courts committee thinks sufficient for domestic courts in the petty sessions areas specified in the direction; and
  - (b) the number of members thereof to be provided by each area, which shall, as nearly as may be, be the proportion which the number of justices for that area bears to the total number of justices for the petty sessions areas specified in the direction.
- (3) A direction under paragraph (1) above—
- (a) shall not be made unless the magistrates' courts committee has consulted the justices for each petty sessions area specified in the direction for which it acts; and
  - (b) in the case of a direction which specifies a petty sessions area or areas for which it does not act, shall have no effect if corresponding directions have not been made under paragraph (1) above before the date referred to in sub-paragraph (b) of that paragraph by the other magistrates' courts committee or committees concerned.
- (4) A combined panel formed by a direction made under this rule shall be the panel for the petty sessions areas specified in the direction and, in relation to any such combined panel, these Rules shall have effect as if—
- (a) in rule 4—
    - (i) references to appointments to a panel were references to appointments to the combined panel of such number of justices from the petty sessions area as is specified in the direction; and
    - (ii) paragraph (5) thereof were omitted;

(b) for paragraph (1) of rule 5 there were substituted the following paragraph—

“(1) The members of a combined panel provided by each petty sessions area for which the panel is formed shall be appointed from amongst the justices for that area.”;

(c) for paragraph (1) of rule 9 there were substituted the following paragraph—

“(1) If a vacancy occurs in the number of justices forming a combined panel, the justices for the appropriate petty sessions area shall as soon as practicable appoint such a justice as might have been appointed to the panel under rule 5 above.”.

(5) (a) A magistrates' courts committee which has made a direction under paragraph (1) above may at any time by a further direction increase the number of justices specified under paragraph (2)(a) above and any such further direction shall state the petty sessions area or areas by which the additional member or members is or are to be provided.

(b) A further direction under sub-paragraph (a) above shall take effect forthwith or, in the case of a direction which specifies a petty sessions area or areas for which the magistrates' courts committee does not act, as soon as corresponding further directions have been made under that sub-paragraph by the other magistrates' courts committee or committees concerned.

(6) Every magistrates' courts committee shall, at a meeting of the committee which shall be held as soon as practicable after the coming into operation of these Rules, consider whether or not it is desirable to form a combined panel or panels forthwith and, if so, shall at that meeting make a direction or directions under paragraph (1) above for that purpose; and any direction made in pursuance of this paragraph shall, notwithstanding sub-paragraph (b) of that paragraph, take effect on 1st November 1979.

Dated 28th June 1979.

*Hailsham of St. Marylebone, C.*

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#### EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

Section 80 of the Domestic Proceedings and Magistrates' Courts Act 1978 (which comes into force on 1st November 1979(a)) inserts in the Magistrates' Courts Act 1952 a new section 56A containing provisions relating to domestic courts and, in particular, requiring members of a domestic court to be drawn from a panel of justices specially appointed to deal with domestic proceedings. These Rules contain provisions for setting up domestic court panels for this purpose in areas outside the inner London boroughs and the City of London and for the composition and appointment of chairmen of domestic courts in those areas.

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(a) S.I. 1979/731.



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