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STATUTORY INSTRUMENTS

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**1988 No. 868 (L. 8)**

**MAGISTRATES' COURTS**

**The Domestic Courts (Constitution) (Amendment) Rules 1988**

<i>Made</i>	- - - -	<i>9th May 1988</i>
<i>Laid before Parliament</i>		<i>16th May 1988</i>
<i>Coming into force</i>	- -	<i>8th June 1988</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 144 of the Magistrates' Courts Act 1980<sup>(1)</sup>, as extended by section 67 of that Act, after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

**Citation and commencement**

1. These Rules may be cited as the Domestic Courts (Constitution) (Amendment) Rules 1988 and shall come into force on 8th June 1988.

**Combined panels**

2. For rule 13 of the Domestic Courts (Constitution) Rules 1979<sup>(2)</sup> there shall be substituted the following—

“13.—(1) Subject to the provisions of this rule, 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.

(2) A direction under paragraph (1) above 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.

(3) A direction under paragraph (1) above shall be notified forthwith to the justices for each petty sessions area specified in the direction.

(4) If a magistrates' courts committee makes a direction which specifies a petty sessions area or areas for which it does not act, the direction shall have no effect unless, before the date on which it is to come into effect, a corresponding direction has been made by the other magistrates' courts committee or committees concerned.

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(1) 1980 c. 43.

(2) S.I.1979/757, amended by S.I. 1983/676.

- (5) A direction for the formation of a combined panel 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.
- (6) A direction for the formation or dissolution of a combined panel under paragraph (1) above shall take effect—
- (a) on 1st January in the year following the next October meeting of the justices for each of the areas concerned held in accordance with rules made under Section 18 of the Justices of the Peace Act 1979 for the purpose of electing a chairman of the justices; or
  - (b) where the direction is consequential upon the making of an order under Section 23 of the Justices of the Peace Act 1979, on the date on which that order comes into force.
- (7) For the purposes of paragraph (6) above a direction is consequential upon the making of an order under the said section 23 if it is made after that order is made (but before it comes into force) and specifies a petty sessions area which is the subject of such an order.
- (8) A magistrates' courts committee which has made a direction under paragraph (1) above for the formation of a combined panel may at any time make a further direction to increase the number of justices specified under paragraph (5) (a) above and any such further direction shall state the petty sessions area or petty sessions areas by which the additional member or members is or are to be provided.
- (9) A further direction in relation to a combined panel under paragraph (8) 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.
- (a) (10) A combined panel formed by a direction made under paragraph (1) above shall be the panel for the petty sessions areas specified in the direction and, in relation to any such combined panel, subject to rule 13A of these Rules, these Rules shall have effect accordingly; and
  - (b) on the coming into effect of a direction made under this rule (other than a further direction under paragraph (8) above) any existing panel in respect of any of the petty sessions areas specified in the direction and any appointments thereto shall cease.

**13A.—**(1) Where a magistrates' courts committee has made a direction for the formation of a combined panel under rule 13 of these Rules, the justices for each petty sessions area specified in the direction shall, at the meeting of the justices referred to in rule 13 (6) (a) of these Rules, appoint, subject to paragraph (2) below, such number of suitable justices from the petty sessions area as is specified in the direction to serve as members of the combined panel for a term commencing on 1st January in the following year and ending at the same time as will end the term of any justices for the time being appointed under rule 4 (2A) of these Rules to form a panel for any petty sessions area to which these Rules apply which is not specified in a direction under the said rule 13.

(2) In relation to the appointment of justices under paragraph (1) above, rules 4 (3) and (4), 5 (2), 6 and 7 of these Rules shall apply as they apply in relation to appointments under rule 4 (2A).

(3) Subject to paragraph (4) below, after the first appointments to a combined panel have been made in accordance with paragraph (1) above, these Rules shall have effect in relation to the combined panel as if—

(a) in rule 4—

(i) references to appointments to a panel in paragraph (2A) of that rule 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 or if a further direction is made under rule 13 (8) of these Rules, the justices for the appropriate petty sessions area shall, as soon as may be practicable, appoint such a justice or justices as might have been appointed to the panel under rule 5 above.”

(4) Where a magistrates' courts committee makes a direction under paragraph (1) of rule 13 of these Rules for the dissolution of a combined panel, the justices for each petty sessions area specified in the direction shall (unless the petty sessions area is also specified in a direction for the formation of a combined panel), at the meeting of the justices referred to in rule 13 (6) (a) of these Rules, appoint, in accordance with paragraph (5) below, suitable justices to form a panel for that area for a term commencing on 1st January in the following year and ending at the same time as will end the term of any justices for the time being appointed under rule 4 (2A) of these Rules to form a panel for any petty sessions area to which these Rules apply which is not specified in a direction under the said rule 13.

(5) In relation to the appointment of justices under paragraph (4) above, rules 4 (3), (4) and (5), and rules 5, 6 and 7 of these Rules shall apply as they apply in relation to appointments under rule 4 (2A).”

Dated 9th May 1988

*Mackay of Clashfern, C.*

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules amend the Domestic Courts (Constitution) Rules 1979. Under the 1979 Rules domestic court panels are appointed for petty sessions area every three years, but 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 to take effect at the beginning of each three year period. These Rules enable such a direction to take effect during a current three year period of appointment, and provide that the members of a panel formed under such a direction will be appointed in the first instance until the end of the current three year period and thereafter every three years.