

1990 No. 1554 (L.15)

**JUSTICES OF THE PEACE, ENGLAND AND  
WALES**

**The Justices of the Peace (Size and Chairmanship of  
Bench) Rules 1990**

*Made* - - - - - 26th July 1990

*Laid before Parliament* 30th July 1990

*Coming into force* - 10th September 1990

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The Lord Chancellor, in exercise of the powers conferred on him by section 18 of the Justices of the Peace Act 1979(a), after consultation with the Rule Committee appointed under section 144 of the Magistrates' Courts Act 1980(b), hereby makes the following Rules:-

**Citation, commencement and revocations**

1.—(1) These Rules may be cited as the Justices of the Peace (Size and Chairmanship of Bench) Rules 1990 and shall come into force on 10th September 1990.

(2) The Rules mentioned in the Schedule to these Rules are hereby revoked.

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(a) 1979 c.55.

(b) 1980 c.43.

## **Interpretation**

### **2. In these Rules—**

“a justice” means a justice of the peace whose name has not been entered in the supplemental list and, in relation to a petty sessions area, a justice who ordinarily acts in and for that area;

“a justices’ clerk” includes any person acting as such.

## **Size of bench**

**3.** The number of justices sitting to deal with a case as a magistrates’ court, other than such a court sitting as a juvenile court or hearing domestic proceedings within the meaning of section 65 of the Magistrates’ Courts Act 1980(a), shall not be greater than seven.

## **Election of chairman and deputy chairman**

**4.—(1)** Subject to paragraph (3) below, the justices for each petty sessions area shall, in accordance with the following provisions of these Rules, elect from among their number a chairman and one or more deputy chairmen, and the justices for the City of London shall so elect from among their number one or more deputy chairmen, at a meeting (hereinafter referred to as an “election meeting”) to be held in the month of October every year of which at least seven days’ notice shall be given to each justice for the petty sessions area.

(2) Notice of a meeting under paragraph (1) above shall include notice, subject to rule 6(5) of these Rules, of the result of any ballot held under rule 6 and notice of the result of any ballot held under rule 9(3) of these Rules.

(3) Subject to paragraph (4) below, a justice shall not vote at any election for the chairman or a deputy chairman at any election meeting held within 12 months of his assignment to the petty sessions area in respect of which the election meeting is held.

(4) Where a new petty sessions area is constituted by an order under section 23 of the Justices of the Peace Act 1979 or otherwise, a justice for that petty sessions area may vote at any election at the first election meeting for that area if he could, in accordance with the provisions of paragraph (3) of this rule, at that time have voted at any election held at an election meeting in respect of any petty sessions area which, or part of which, is included in the new petty sessions area.

(5) Subject to a decision by the justices under rule 5 of these Rules to adopt the procedure under rule 6 of these Rules, no justice shall be nominated for election before the election takes place.

(6) The justices present shall not proceed to elect a deputy chairman before—

(a) the result of the ballot for the election of the chairman has been announced, and

(b) they have decided how many deputy chairmen are to be elected.

## **Adoption of procedure for shortlisting candidates for chairman**

**5.—(1)** At each election meeting the justices for the petty sessions area shall decide whether, in relation to the three subsequent election meetings to be held, to adopt the procedure in rule 6 of these Rules unless, by virtue of their decision taken at an earlier election meeting, that procedure is to apply in relation to the next election meeting.

(2) Where the justices decide to adopt the procedure in rule 6 of these Rules in relation to the three subsequent election meetings to be held, that procedure shall also apply in relation to any election for a chairman held between those election meetings by virtue of rule 10 of these Rules save that the justices’ clerk shall be under no obligation to post ballot papers to each justice eligible to vote within the time limit specified in rule 6(1) of these Rules.

(3) The decision whether to adopt the procedure in rule 6 of these Rules shall be taken by secret ballot of the justices present and eligible to vote at the election meeting and the

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(a) Section 65 was amended by section 44 of the Matrimonial and Family Proceedings Act 1984 (c.42).

decision shall be taken to be to adopt the procedure as aforesaid only if at least two-thirds of those justices vote in favour of adopting the procedure.

#### **Procedure for drawing up short list of candidates for chairman**

6.—(1) Where, pursuant to rule 5(1) of these Rules, the justices decide to adopt, in relation to the three subsequent election meetings to be held, the procedure in this rule, the justices' clerk shall, subject to rule 5(2) and rule 9(4) of these Rules, not more than 3 months nor less than 21 days before each of those election meetings, send by post to each justice eligible to vote at the election for the chairman and deputy chairman a ballot paper containing the names, in alphabetical order, of all the justices acting for the petty sessions area who are eligible for election as chairman and shall indicate the date by which the completed ballot paper should be returned to him.

(2) Each justice to whom a ballot paper is sent under paragraph (1) above who votes shall place a mark against the name of one of the justices being the justice he wishes to be included on a short list of candidates for the office of chairman and shall return the ballot paper to the justices' clerk by the date indicated by the justices' clerk under paragraph (1) above.

(3) Subject to paragraph (4) below, the short list of candidates for the office of chairman shall comprise the names of the four justices who receive the most number of votes and, if he is not among such number, the name of any justice who received at least 10% of all the votes cast, or, where there is an equality of number of votes cast, the names of such larger number of justices who received the most number of votes cast and, if he is not among such number, the name of any justice who received at least 10% of all the votes cast.

(4) Where the votes received are for fewer than four justices, the names of such lesser number of justices shall comprise the short list of candidates for the office of chairman unless the votes received are for one justice only in which case his name shall not be disclosed and no short list of candidates shall be drawn up.

(5) Notice of the result of a ballot held under this rule and given in accordance with rule 4(2) of these Rules shall contain the names of the justices comprised in the short list and no other or the fact that votes were cast for only one justice, as appropriate, but shall not disclose the number of votes cast for any justice.

(6) Where the votes received under a ballot held under this rule were for one justice only, the notice of the result of the ballot shall also state that the ballot for the election of the chairman will be conducted under rule 7(3) of these Rules.

#### **Conduct of ballot for election of chairman and one or more deputy chairmen**

7.—(1) Where there is no short list of candidates for the office of chairman, paragraph (3) below shall apply in relation to the election of the chairman and of one or more deputy chairmen.

(2) Where there is a short list of candidates for the office of chairman, paragraph (4) below shall apply in relation to the election of the chairman and the provisions in paragraph (3) below which relate to the election of one or more deputy chairmen shall apply to the election of one or more deputy chairmen.

(3) Subject to rule 4(6) of these Rules and to any directions given by the chairman for the time being as to which is to be followed, one or other of the following procedures for the conduct of the ballot for the election of the chairman and one or more deputy chairmen shall be adopted—

- (a) the justices' clerk shall prepare ballot papers containing the names in alphabetical order of all the justices in the petty sessions area and shall hand to each justice present at the election meeting one list for the election of the chairman and one list for the election of the deputy chairman or deputy chairmen, and each justice shall place a mark on one list against the name of the justice he wishes to be chairman and on the other list against the name of the justice or justices he wishes to be deputy chairman or deputy chairmen (as the case may be): or
- (b) the justices' clerk shall—

- (i) prepare a list containing the names in alphabetical order of all the justices in the petty sessions area, a copy of which shall be sent by him to each such justice along with the notice of the election meeting and a copy of which shall be displayed at the election meeting,
- (ii) prepare two sets of ballot papers containing respectively the words "Chairman", and "Deputy Chairman" or "Deputy Chairmen" (as the circumstances require),
- (iii) hand to each justice present at the election meeting one of each set of ballot papers on which each justice who votes shall write the name of the justice he wishes to be chairman and the name or names of the justice or justices he wishes to be deputy chairman or deputy chairmen (as the case may be), opposite the appropriate words.

(4) Where there is a short list of candidates for chairman under rule 6 of these Rules, the justices' clerk shall prepare ballot papers containing the names in alphabetical order of the justices who comprise the short list of candidates and hand a ballot paper to each justice present who votes at the election meeting, and each justice shall place a mark against the name of the justice he wishes to be chairman.

(5) Immediately after each ballot has been closed the justices' clerk, assisted if need be by members of his staff, shall collect the ballot papers and count the votes; if, in accordance with paragraph (6) or (7) below the ballot has been conclusive, the justices' clerk shall announce the result thereof but if, in accordance with the said paragraph (6), either of the first two ballots has been inconclusive, the justices' clerk shall announce that fact and state the names of the justices for whom votes have been cast and the number of votes which each such justice has received.

(6) Subject to the provisions of this rule, no justice shall be declared to be elected chairman unless he obtains more than half of the votes cast and, if no justice obtains such a majority at a ballot, subsequent ballots shall be held until such a majority is obtained:

Provided that if, after three ballots have been held, no justice has obtained such a majority, the justice who has obtained most votes in the aggregate in the three ballots shall be declared to be elected.

(7) Subject to the provisions of this Rule, the result of a ballot for the election of the deputy chairman or deputy chairmen shall be ascertained by counting the votes given to each justice and the justice or justices, as the case may be, who have obtained the most votes shall be declared to be elected:

Provided that if any justices obtain an equal number of votes and the addition of a vote to those cast for any one or more of those justices would entitle him or them to be elected, the clerk shall announce the fact and state the names of the justices concerned and the number of votes which they received; and thereupon a second ballot shall be held.

(8) Where a second ballot is necessary by reason of the proviso to paragraph (7) above, the justices' clerk shall either—

(a) prepare ballot papers containing the names in alphabetical order of all the justices in the petty sessions area, deleting the name of any justice who has been elected chairman or deputy chairman, or

(b) prepare ballot papers containing the words "deputy chairman—second ballot," and the provisions of paragraph (3) above, so far as relevant, and of paragraph (7) above, except for the proviso, shall apply.

(9) If, after three ballots for the election of the chairman, two or more justices have obtained the same number of votes in the aggregate, or if, at the second ballot for the election of a deputy chairman two or more justices obtain an equal number of votes, so that in either case the addition of a vote to those cast for any one or more of them (as the case may be) would entitle him or them to be elected, the justices' clerk shall forthwith decide between those justices by lot, and proceed as if any justice on whom the lot falls had received an additional vote.

#### **Conduct of ballots in general**

8.—(1) Where, under a ballot conducted under any provision of these Rules, a ballot paper is returned unmarked or it is marked in such a manner that there is doubt as to the

identity of the justice or justices for whom the vote is cast, the ballot paper or the vote, as the case may be, shall be rejected when the votes are counted.

(2) There shall be no disclosure how any justice voted in any ballot under these Rules.

(3) The fact that a justice entitled to vote at the election meeting has not received a ballot paper sent to him by the justices' clerk or the justices' clerk has not received a completed ballot paper sent to him by a justice shall not invalidate any ballot conducted under rule 6 or 9 of these Rules.

#### **Period of office and eligibility for re-election**

9.—(1) A chairman elected under these Rules shall hold office for one year from 1st January next after the date of his election and shall, subject to paragraph (2) below, be eligible for re-election.

(2) A person who has held office as chairman shall not be eligible for re-election as chairman at an election meeting if on 1st January next after the election meeting he will have held such office for five consecutive years and less than three years will have elapsed from when he last held office unless—

- (a) at the time when the election meeting is held he holds office as chairman, and
- (b) the justices entitled to vote at the election meeting decide, in accordance with paragraph (3) below, that the restriction on eligibility imposed by this paragraph shall not apply in relation to the election to be held at that meeting.

(3) The justices shall be taken to have decided that the restriction on eligibility for re-election provided for in paragraph (2) above shall not apply in relation to the election to be held at the election meeting if, on a postal ballot of the justices entitled to vote at the meeting conducted by the justices' clerk and carried out, subject to paragraph (4) below, not more than three months and not less than 21 days before the date of the meeting, a majority of at least three-quarters of such justices vote in favour of the restriction not being applied as aforesaid.

(4) Where the procedure described in rule 6 above is to be followed prior to an election meeting, the justices' clerk shall ensure that any such postal ballot as is referred to in paragraph (3) above is conducted first.

(5) Such a postal ballot as is referred to in paragraph (3) above shall be held in the fifth consecutive and any succeeding year of office of the chairman unless the chairman directs the justices' clerk that it shall not be held.

(6) A deputy chairman elected under these Rules shall hold office for one year from 1st January next after the date of his election and shall be eligible for re-election.

#### **Vacancy in office**

10. If the office of chairman or deputy chairman becomes or is about to become vacant for any reason, the justices shall, as soon as practicable, proceed to elect in the manner provided for under these Rules, another chairman or deputy chairman, as the case may be, who shall hold office for the remainder of the term of the appointment of the justice whom he replaces.

#### **Absence of chairman or deputy chairman**

11. In the absence of a chairman or deputy chairman elected under these Rules, nothing in rules 4, 5, 6, 7, 9 or 10 shall prevent the appointment by justices present of one of their number to preside at a court sitting to deal with any case.

#### **Requests to a justice to preside**

12. Before a chairman or deputy chairman of the justices for a petty sessions area who is present at a meeting of those justices requests another justice to preside under the provisions of section 17(2) of the Justices of the Peace Act 1979, he shall satisfy himself as to the suitability of that justice for this purpose.

*Mackay of Clashfern, C.*

Dated 26th July 1990

**SCHEDULE  
REVOCATIONS**

Rule 1(2)

<i>Rules revoked</i>	<i>References</i>
The Justices of the Peace (Size and Chairmanship of Bench) Rules 1986	S.I. 1986/923
The Justices of the Peace (Size and Chairmanship of Bench) (Amendment) Rules 1987	S.I. 1987/1137

**EXPLANATORY NOTE**

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

These Rules consolidate, with amendments, the Justices of the Peace (Size and Chairmanship of Bench) Rules 1986 and the Justices of the Peace (Size and Chairmanship of Bench) (Amendment) Rules 1987.

The principal change is made by rule 6 which sets out an optional procedure for drawing up a short list of candidates for chairman in advance of an election meeting.

Under rule 5, the new procedure may be adopted at an election meeting by a decision of at least two-thirds of the justices present and entitled to vote and, if adopted, will apply in respect of the three subsequent election meetings to be held as well as in respect of any election resulting from a vacancy in the office of chairman which arises between those meetings.

Rule 7(4) describes the procedure to be followed by a justices' clerk for the conduct of the ballot for the election of the chairman where a short list of candidates exists.

Rule 9(4) provides that a justices' clerk shall ensure that any postal ballot held to determine whether a restriction on eligibility for election as chairman should be lifted, is held before any postal ballot for the purpose of drawing up a short list of candidates for chairman.

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