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STATUTORY INSTRUMENTS

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**1994 No. 2811**

**MAGISTRATES' COURTS**

**The Magistrates' Courts Committees  
(Constitution) Regulations 1994**

*Made - - - - 2nd November 1994*  
*Laid before Parliament 3rd November 1994*  
*Coming into force - - 28th November 1994*

The Lord Chancellor, in exercise of the powers conferred on him by section 21 of the Justices of the Peace Act 1979(1), hereby makes the following Regulations—

**Citation and commencement**

1. These Regulations may be cited as the Magistrates' Courts Committees (Constitution) Regulations 1994 and shall come into force on 28th November 1994.

**Revocations and savings**

2.—(1) The Regulations set out in Schedule 1 are hereby revoked.

(2) Notwithstanding paragraph (1), the following provisions of the Magistrates' Courts Committees (Constitution) Regulations 1973(2) (“the 1973 Regulations”) shall continue to apply to committees constituted under those Regulations until 30th September 1995 as if these Regulations had not been made—

(a) Regulations 2, 3, 4, 7 and 8; and

(b) Regulation 6(2) as if for the words from “as if made at the time fixed by Regulation 4A” to the end of the paragraph, there were substituted “until 30th September 1995”.

(3) A committee constituted under the 1973 Regulations on 1st April 1994 shall continue in office until 30th September 1995.

**Transitional provisions**

3.—(1) This Regulation applies to all committees except that for the inner London area.

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(1) 1979 c. 55, section 21 was amended by S.I. 1992/709 and by the Police and Magistrates' Courts Act 1994 (c. 29), section 71.  
(2) S.I. 1973/1522, amended by S.I. 1980/1258, 1985/1383 and 1992/2047.

(2) The first selection panel appointed after 28th November 1994 shall take office for a period commencing 1st May 1995 and ending 31st December 1996 and thereafter regulation 5(8) shall apply.

(3) The members of the first committee appointed after 28th November 1994 shall take office from 1st October 1995 for a term ascertained in accordance with regulation 14.

(4) In respect of the appointment of representatives to the first selection panel, the selection of the members of the first committee and the appointment of a chairman to the first committee, the timetable set out in Schedule 3 shall apply.

### **Interpretation**

4. In these Regulations—

“the Act” means the Justices of the Peace Act 1979;

“committee” means a magistrates' courts committee established under Part II of the Act and

“committee area” means the area to which the committee relates;

“justice” means a justice of the peace whose name has not been entered in the supplemental list.

### **Selection Panel**

5.—(1) In this regulation “bench” means the justices assigned to a petty sessions area and shall include a stipendiary magistrate attached to a petty sessions area outside the inner London area.

(2) The justices for each committee area shall establish a selection panel in accordance with the provisions of this regulation, which shall be responsible for selecting the members of the committee for the area.

(3) The clerk to the committee shall act as clerk to the selection panel.

(4) The selection panel shall consist of—

(a) in the case of a committee area containing a single petty sessions area either—

(i) all the members of the bench, or

(ii) four representatives from the bench

as the members of the bench think fit;

(b) in the case of a committee area containing two or three petty sessions areas, two representatives from each bench;

(c) in the case of a committee area containing four or more petty sessions areas, one representative from each bench;

(5) In the case of the inner London area, the selection panel shall consist additionally of one representative from the family panel and one representative from the youth court panel for the area and the Chief Metropolitan Stipendiary Magistrate or any metropolitan stipendiary magistrate nominated by him.

(6) No justice shall be eligible for appointment to the selection panel if his name will be entered in the supplemental list before the expiry of the period for which he is appointed.

(7) Where paragraphs (4)(a)(ii), (b) or (c) apply, the representatives shall be appointed in such manner as each bench thinks fit, but—

(a) may only remain on the panel while remaining a member of the bench; and

(b) may not be selected as members of the committee during the period of appointment.

(8) A member of the selection panel shall be appointed for one year commencing on 1st January in each year and shall, subject to paragraphs (6) and (7), be eligible for reappointment.

(9) The names of the representatives from each bench shall be notified to the clerk to the selection panel by 31st December in each year.

(10) The members of the selection panel shall choose from amongst themselves a chairman who shall serve until the expiry of his period of appointment to the selection panel.

(11) A quorum of the selection panel shall be constituted by three members.

### **Selection of the committee**

6.—(1) The selection panel shall decide by vote the method it wishes to adopt for the selection of members of the committee and in the event of an equality of votes the chairman shall have a casting vote.

(2) The committee shall inform the clerk to the selection panel of the number of members, subject to regulation 11, it wishes to be selected to take office on 1st April in each year, by 31st December of the preceding year.

(3) The selection panel shall—

(a) select the number of members requested by the committee to take office on 1st April 1995 in relation to inner London and 1st October 1995 elsewhere, and

(b) thereafter annually select the number of members requested by the committee to take office on 1st April of each year.

(4) The selection panel shall make the selection referred to in paragraph (3) from those candidates whose written notice of candidature has been received by the clerk to the committee in accordance with regulation 7.

(5) If the selection panel chooses to select the members of the committee by vote, each member of the selection panel shall have one vote per vacancy, and in the event of an equality of votes between any candidates the choice of those members of the selection panel representing the greater number of justices shall prevail.

(6) If, notwithstanding paragraph (5), the matter remains unresolved, the chairman shall have a casting vote.

(7) The selection panel shall have made the selection and shall notify the candidates of the result no later than 28th February each year.

(8) If for any reason there are insufficient candidates to fill the number of vacancies on the committee, the selection panel shall appoint a justice to the vacancy.

### **Notice of candidature**

7. A candidate for appointment to the committee must be nominated by a justice and seconded by three other justices and must give written notice of his candidature, together with written details of his qualifications, experience, interests and any other matter which might support his candidature, to the clerk to the selection panel by 31st December.

### **Eligibility for and duration of membership**

8.—(1) Subject to regulations 3, 9, 12 and 14, a member of the committee shall be appointed to serve for three years from 1st April after his appointment and shall, subject to paragraph (2), be eligible for reappointment.

(2) Subject to section 20(3) of the Act<sup>(3)</sup>, a justice may not serve as a member of the committee for more than a total of nine years.

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(3) Section 20 was substituted by section 70 of the Police and Magistrates' Courts Act 1994 (c. 29).

(3) No justice shall be eligible for appointment to the committee if his name will be entered in the supplemental list before the expiry of the period for which he is appointed.

(4) Any period served on the committee of magistrates<sup>(4)</sup> for the inner London area before 1st April 1995, and on any committee (other than that for the inner London area) before 1st April 1996, shall not count towards the maximum period of service permitted by this regulation.

### Casual Vacancies

9.—(1) If a casual vacancy arises the committee may request the selection panel to select a justice to fill the vacancy but shall not be obliged to do so unless the committee would otherwise be rendered inquorate.

(2) A justice who is appointed to a casual vacancy shall serve only for the remaining part of the period for which the member he replaced was appointed.

### Chairman of the committee

10.—(1) The provisions of this Regulation are subject to section 22(1A) of the Act<sup>(5)</sup> (chairmanship of the committee for the inner London area).

(2) The committee shall appoint a chairman at its first meeting after 1st April in each year.

(3) The chairman shall hold office until the next such first meeting and, if he has then been reappointed a member of the committee, shall be eligible for reappointment as chairman.

(4) A justice may serve no more than a total of six terms of office as chairman.

(5) Any period served as chairman of the committee of magistrates for the inner London area before 1st April 1995, and of any committee (other than that for the inner London area) before 1st April 1996, shall not count towards the maximum period of service permitted by this regulation.

### Membership of the committee

11.—(1) A committee, except the committee for the inner London area, shall consist of not more than 12 members inclusive of any member co-opted or appointed under section 20(2) of the Act unless the Lord Chancellor directs otherwise in accordance with paragraph (3).

(2) The committee for the inner London area shall consist of not more than 12 members inclusive of—

- (a) any member co-opted or appointed under section 20(2) of the Act unless the Lord Chancellor directs otherwise in accordance with paragraph (3);
- (b) the Chief Metropolitan Stipendiary Magistrate; and
- (c) subject to any order made by the Lord Chancellor under subsection (4) of section 20 of the Act, two other metropolitan stipendiary magistrates appointed by the Chief Metropolitan Stipendiary Magistrate under that subsection.

(3) The Lord Chancellor may direct that, in relation to any committee to which the direction is given, any members co-opted or appointed under section 20(2) of the Act are to be left out of account in applying the upper limit of twelve members.

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(4) Section 79 of the Police and Magistrates' Courts Act 1994 (c. 29) came into force on 1st November 1994 for the purpose only of enabling a magistrates' courts committee for the inner London area to be constituted in accordance with these Regulations. Section 79 will supersede section 35 of the Justices of the Peace Act 1979 (c. 55) under which a committee of magistrates is constituted for the inner London area.

(5) Section 22(1A) was inserted by section 72 of the Police and Magistrates' Courts Act 1994 (c. 29).

### **Co-opted and appointed members**

12.—(1) A member co-opted by the committee under section 20(2)(a) of the Act shall serve for a period of one year from the date of the first meeting following the approval of by the Lord Chancellor of the co-option.

(2) The committee may, with the approval of the Lord Chancellor, renew the period of co-option of a co-opted member.

(3) Where the Lord Chancellor appoints a member to a committee under section 20(2)(b) of the Act, he shall send written notice to the committee of

- (a) the name, qualifications, experience and interests of the appointee and the reason for the appointment; and
- (b) the date on which the appointment is to take effect.

(4) If the Lord Chancellor terminates an appointment made under section 20(2)(b) of the Act, he shall give written notice of the termination to the committee and to the person so appointed and of the date from which the termination is to take effect.

### **Quorum**

13. A quorum of the committee shall be constituted by three members.

### **Retirement from office**

14.—(1) In this Regulation, “the table” means the table set out in Schedule 2 and reference to a “column” is a reference to a column of that table.

(2) Membership of the committee shall rotate annually in accordance with the provisions of this regulation.

(3) In respect of the members of the committee for the inner London area appointed to take office on 1st April 1995 the selection panel shall, in relation to a committee with the number of members set out on the left hand side of the table—

- (a) appoint the number of members set out in the corresponding entry in column (i) to serve for a term of one year;
- (b) appoint the number of members set out in the corresponding entry in column (ii) to serve for a term of two years; and
- (c) appoint the number of members set out in the corresponding entry in column (iii) to serve for a term of three years.

(4) In respect of the members of the committee (except that for the inner London area), appointed to take office on 1st October 1995, the provisions of paragraph (3) and Schedule 2 shall apply as if

- (a) in paragraph (3)(a) and column (i) for “one year” there were substituted “eighteen months”;
- (b) in paragraph (3)(b) and column (ii) for “two years” there were substituted “two years and six months”; and
- (c) in paragraph (3)(c) and column (iii) for “three years” there were substituted “three years and six months”.

(5) All subsequent appointments shall be for a period of three years in accordance with regulation 8.

### **Rights of attendance**

15. The following persons shall be entitled to attend all meetings of the committee, to receive papers and to make representations to the committee—

- (a) the keeper of the rolls for any area all or part of which falls within the committee area, and
- (b) Liaison Judges designated as such by the Presiding Judges.

### **Exercise of default powers**

16.—(1) In this Regulation “the 1994 Act” means the Police and Magistrates' Courts Act 1994.

(2) Where the Lord Chancellor has ordered the chairman to vacate his office in accordance with section 88(3)(b)(i) of the 1994 Act, the committee shall, at its next meeting, appoint a different chairman.

(3) Where the Lord Chancellor has ordered specified members of the committee to vacate their office in accordance with section 88(3)(b)(ii) of the 1994 Act the selection panel may select different members to fill the vacancies, but need not do so except to the extent that the committee would otherwise be inquorate.

(4) Where the Lord Chancellor replaces all the members of the committee with persons nominated by him in accordance with section 88(4)(b) of the 1994 Act, the selection panel shall select a new committee, with different members from those being replaced, to take office after the expiry of the period of office of the nominees.

(5) Regulation 9(2) shall apply—

- (a) to a justice appointed to replace a member under paragraph (3); and
- (b) to a justice appointed by the selection panel under paragraph (4) as if each justice were appointed in the place of an individual member of the committee replaced by the Lord Chancellor.

(6) Any period of office served by a justice as a nominee of the Lord Chancellor under section 88(4)(b) of the 1994 Act shall not count towards the maximum periods of service set out in regulations 8 and 10.

(7) A person ordered to vacate office as chairman or as a member of a committee under section 88(3) or (4) of the 1994 Act shall be deemed to have served for a full term as chairman or member of the committee as the case may be, for the purpose of calculating the maximum periods of service set out in regulations 8 and 10.

Dated 2nd November 1994

*Mackay of Clashfern, C.*

SCHEDULE 1

Regulation 2

REVOCATIONS

(1) Regulations revoked	(2) References
The Magistrates' Courts Committees (Constitution) Regulations 1973.	<a href="#">S.I. 1973/1522.</a>
The Magistrates' Courts Committees (Constitution) (Amendment) Regulations 1980.	<a href="#">S.I. 1980/1258.</a>
The Magistrates' Courts Committees (Constitution) (Amendment) Regulations 1992.	<a href="#">S.I. 1992/2047.</a>

SCHEDULE 2

Regulation 14

TRANSITIONAL PROVISIONS FOR APPOINTMENT OF COMMITTEE MEMBERS ON 1ST APRIL 1995

Number of members of the committee excluding those who are members by virtue of section 20(3) and (4) of the Act	column (i)	column (ii)	column (iii)
	Number of members to be appointed for a term of		
one year	two years	three years	
3	1	1	1
4	1	1	2
5	2	2	1
6	2	2	2
7	2	2	3
8	3	3	2
9	3	3	3
10	3	3	4
11	4	4	3
12	4	4	4

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

### SCHEDULE 3

Regulation 3

#### TRANSITIONAL PROVISIONS APPLYING TO COMMITTEES EXCEPT THAT FOR THE INNER LONDON AREA

(1) The timetable set out in this schedule shall apply to all committees, except that for the inner London area, in relation to the appointment of representatives to the first selection panel appointed under these Regulations, the selection by it of the members of the first committee and the appointment by that committee of a chairman.

(2) The names of the representatives from each bench appointed to sit on the selection panel shall be notified to the clerk to the committee by 30th April 1995.

(3) The committee shall inform the selection panel by 31st May 1995 of the number of members, subject to regulation 11, it wishes to be selected to take office on 1st October 1995.

(4) The selection panel shall have made the selection and shall notify the candidates of the result no later than 31st August 1995.

(5) Notice of candidature for appointment to the committee to take office on 1st October 1995 shall be given to the clerk to the committee in accordance with regulation 7 by 31st May 1995.

(6) The committee shall appoint a chairman at its first meeting after 1st October 1995 and 1st April 1997 and thereafter regulation 10(2) shall apply.

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#### EXPLANATORY NOTE

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

These Regulations revoke the Magistrates' Courts Committees (Constitution) Regulations 1973 and make new provision for the constitution and quorum of magistrates' courts committees following the changes made by the Police and Magistrates' Act 1994. In particular, they provide for members to be chosen by a selection panel, an upper limit on membership and for the membership to rotate annually.

A transitional timetable applies to all committees except that for the inner London area whereby the members of the first committee to be selected under these Regulations will take office on 1st October 1995 with a term of office extended by six months. Thereafter members will be appointed for a term commencing on 1st April in each year.