

SCHEDULE

Article 5

TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

Interpretation

1. In this Schedule—

“the 1979 Act” means the Justices of the Peace Act 1979⁽¹⁾;

“the Constitution Regulations” means the Magistrates' Courts Committees (Constitution) Regulations 1994⁽²⁾;

“the first appointed day” means 1st November 1995 or such earlier day as the transferor committees shall appoint for the establishment of the selection panels;

“the second appointed day” means 1st January 1996 or such earlier day as the transferor committees shall appoint for the establishment of the transferee committees;

“the amalgamation date” means 1st April 1996;

“the transferor committees” means the magistrates' courts committees abolished by article 2;

“transferee committee” means one of the magistrates' courts committees constituted by article 3;

“the respective transferee committee”

(a) in relation to a selection panel, means the transferee committee for the committee area to which the selection panel relates;

(b) in relation to the transferor committee for Mid Glamorgan or South Glamorgan, means the South Wales magistrates' courts committee;

(c) in relation to the transferor committee for Gwent, means the Gwent magistrates' courts committee;

“bench” means the justices assigned to a petty sessions area;

“the respective clerk designate”, in relation to a bench, means the person appointed under paragraph 3(1) as clerk designate in respect of the committee area including the petty sessions area to which the justices of that bench are assigned;

all other words and phrases have the same meanings as in the Constitution Regulations.

Suspension of selection of members of transferor committees

2.—(1) The selection of members of the transferor committees to take office on 1st October 1995 shall be cancelled.

(2) A member of a transferor committee holding office on 30th September 1995 shall, unless he resigns his office or it otherwise becomes vacant, continue to hold office until the amalgamation date.

(3) Where a vacancy for a member of a transferor committee occurs within the six months before the amalgamation date, he shall not be replaced unless the committee would otherwise become inquorate.

(4) Regulations 2(2) and 2(3) of the Constitution Regulations shall apply to the transferor committees as if for “30th September 1995” wherever it occurs there were substituted “31st March 1996”.

(1) 1979 c. 55, as amended by the Police and Magistrates' Courts Act 1994 (c. 29) sections 70, 72 and 75.

(2) S.I.1994/2811.

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The clerks designate

3.—(1) As soon as reasonably practicable after the coming into force of this Order, and in any event not later than the day before the first appointed day, the transferor committees shall appoint a clerk designate in respect of the committee area of each of the transferee committees.

(2) Each clerk designate shall hold office until such time as the transferee committee in respect of whose committee area he is appointed shall appoint a justices' chief executive and upon such appointment the office of clerk designate for that committee area shall cease to exist.

The selection panels

4.—(1) The justices for the committee areas of the transferor committees shall establish a selection panel for the committee area of each of the transferee committees and appoint the first members of those panels in accordance with the following sub-paragraphs.

(2) The selection panels shall come into existence on the first appointed day, and the first members of the selection panels shall be appointed for a period beginning on the first appointed day and ending on 31st December 1996.

(3) Each clerk designate shall act as clerk to the selection panel for the committee area in respect of which he is appointed from the first appointed day until such time as the respective transferee committee shall appoint a justices' chief executive, and thereafter the justices' chief executive shall act as clerk to the selection panel.

(4) For the purposes of the appointment of the first members of the selection panels, the names of the representatives from each bench shall be notified to the respective clerk designate by the day before the first appointed day, and regulation 5(9) of the Constitution Regulations shall not apply.

(5) Except as provided in the preceding sub-paragraphs, regulation 5 of the Constitution Regulations shall apply in relation to the appointment of the first members of the selection panels.

(6) The members of the selection panels for all periods after 31st December 1996 shall be appointed in accordance with regulation 5 of the Constitution Regulations.

Selection of transferee committees

5.—(1) As soon as reasonably practicable after the first appointed day, and in any event not later than the second appointed day, each selection panel shall select the first members of the respective transferee committee, who shall take office on the second appointed day.

(2) The transferor committees shall, by the day before the first appointed day, inform each clerk designate of the number of persons, subject to regulation 11 of the Constitution Regulations, they wish to be selected as the first members of each transferee committee.

(3) Subject to paragraph 4 above and to the preceding sub-paragraphs of this paragraph, the Constitution Regulations shall apply to the transferee committees except that—

- (a) regulations 2(2), 2(3), 6(3)(a) and 14(4) and Schedule 3 shall not apply;
- (b) paragraphs (2), (3) and (7) of regulation 6 shall not apply in relation to the selection of the first members of the transferee committees;
- (c) regulation 7 shall apply to the selection of the first members of the transferee committees as if for the reference to 31st December there were substituted a reference to the day before the first appointed day;
- (d) any period served on a transferee committee or as chairman of such committee prior to the amalgamation date shall not count towards the maximum period of service permitted by regulation 10;
- (e) regulation 14(3) and Schedule 2 shall apply as if—

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- (i) for every reference to “1st April 1995” there were substituted a reference to the second appointed day; and
- (ii) the words “for the inner London area” in regulation 14(3) were omitted;
- (iii) every reference to a term of a specified number of years were read as a reference to a period beginning on the second appointed day and ending upon the expiry of the specified number of years after the amalgamation date;
- (f) regulations 15 and 16 shall not apply before the amalgamation date;
- (g) references in any regulation to any other regulation shall be read as references to that other regulation as modified by paragraphs (a) to (f) above.

Functions of transferee committees

6.—(1) The transferee committees shall come into existence as a bodies corporate on the second appointed day.

(2) The first chairman of each transferee committee shall be appointed at the first meeting after the second appointed day, and shall hold office until the first meeting of that committee after 1st April 1997.

(3) Each clerk designate shall act as clerk to the transferee committee for the committee area in respect of which he is appointed from the second appointed day until such time as that committee shall appoint a justices' chief executive, and thereafter the justices' chief executive shall act as clerk to the transferee committee.

(4) From the second appointed day until the amalgamation date each transferee committee shall be a shadow committee and shall only have the following functions and powers—

- (a) to commence and sustain the running of the committee as a shadow committee;
- (b) to make all necessary preparations for the assumption of its functions as a magistrates' courts committee on the amalgamation date;
- (c) to prepare any budgets or plans required by it when those functions are assumed and to consult with the paying authority in relation to them;
- (d) to appoint a justices' chief executive and staff of the transferee committee;
- (e) to co-opt members in accordance with section 20(2)(a) of the 1979 Act;
- (f) to act through sub-committees appointed by it as described in section 22(4) of the 1979 Act;
- (g) to arrange for the discharge of any of its functions as described in section 22(4A) of the 1979 Act.

(5) The transferor committees shall give the transferee committees such information and assistance as is reasonably required to enable them to carry out their functions under this paragraph.

(6) On the amalgamation date, each transferee committee shall assume all the functions and powers of a magistrates' courts committee.

Transfer of staff

7.—(1) Any person employed by a transferor committee on the day before the amalgamation date shall be transferred on the amalgamation date to the employment of the respective transferee committee on the same terms as those on which he was employed by the transferor committee, unless before the amalgamation date it is agreed by the employee and by both transferee committees that he is to be transferred to the employment of the other transferee committee, in which case he shall

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be transferred to the employment of that other committee on the same terms as those on which he was employed by the transferor committee.

(2) A justices' clerk holding office at the pleasure of a transferor committee on the day before the amalgamation date shall on and after the amalgamation date hold office at the pleasure of the respective transferee committee, unless before the amalgamation date it is agreed by the justices' clerk and by both transferee committees that he is to hold office at the pleasure of the other transferee committee, in which case he shall hold office accordingly.

Transfer of property

8. Any real or personal property in the ownership of a transferor committee immediately before the amalgamation date shall, on the amalgamation date, vest in the respective transferee committee, unless before the amalgamation date it is agreed by both transferee committees that any property shall vest in the other transferee committee, in which case that property shall vest in accordance with that agreement.

Continuity of matters

9.—(1) Anything which, before the amalgamation date, is in the process of being done by, to or in relation to a transferor committee in the exercise of, or in connection with, its functions and powers as a magistrates' courts committee may be continued by the respective transferee committee, including any legal action or proceedings being taken by or against the transferor committee.

(2) Subject to paragraphs 7 and 8 and sub-paragraph (1) above, all contractual and other rights and liabilities of a transferor committee and the benefit of any insurance policy in the name of a transferor committee shall pass on the amalgamation date to the respective transferee committee.

(3) From and after the second appointed day—

- (a) any application under section 24D(2)(a) of the 1979 Act made before the second appointed day by a transferor committee shall be treated as an application by the respective transferee committee;
- (b) any approval under section 24D(2)(b) of the 1979 Act granted before the second appointed day to a transferor committee shall be treated as an approval granted to the respective transferee committee;
- (c) any reference in such an application or approval to the appointment of any person as justices' chief executive for a transferor committee shall be construed as a reference to the appointment of that person as justices' chief executive for the respective transferee committee.

References in enactments

10. Any reference in any enactment to a transferor committee shall, as from the amalgamation date, be construed as a reference to the respective transferee committee.