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STATUTORY INSTRUMENTS

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**1995 No. 971**

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

**The Justices of the Peace (Size and  
Chairmanship of Bench) Rules 1995**

<i>Made</i>	- - - -	<i>31st March 1995</i>
<i>Laid before Parliament</i>		<i>3rd April 1995</i>
<i>Coming into force</i>	- -	<i>1st May 1995</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 18 of the Justices of the Peace Act 1979(1) and after consultation with the Rule Committee appointed under section 144 of the Magistrates' Courts Act 1980(2), hereby makes the following Rules—

**Citation and commencement**

1. These Rules may be cited as the Justices of the Peace (Size and Chairmanship of Bench) Rules 1995 and shall come into force on 1st May 1995.

**Interpretation**

2. In these Rules—

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

“election meeting” means the meeting held in accordance with rule 4(1);

“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; and

“justices' clerk” in relation to a petty sessions area means a justices' clerk for that area and includes any person acting as such;

“the nomination procedure” means the procedure for election to the offices of chairman and deputy chairman of the justices on the basis that the candidates are justices for the petty sessions area nominated prior to the election meeting;

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(1) 1979 c. 55; section 18 was amended by the Police and Magistrates' Courts Act 1994 (c. 29), Schedule 8.

(2) 1980 c. 43; section 144 is extended by section 145 of that Act and section 144(3) was amended by paragraph 25(7) of Schedule 18 to the Courts and Legal Services Act 1990 (c. 41).

“the traditional procedure” means the procedure for election to the offices of chairman and deputy chairman of the justices on the basis that the candidates are justices for the petty sessions area; except that the candidates shall not include—

- (a) in relation to an election to the office of deputy chairman by the justices of the City of London, the Lord Mayor for the time being or the alderman who are to be deputy chairmen by virtue of section 40(1) of the Act;
- (b) in relation to an election to the office of deputy chairman elsewhere, the justice who has been elected chairman at the election meeting.

### **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 youth court, family proceedings court or a licensing or betting licensing committee, shall not be greater than three.

### **Election meeting**

4.—(1) The justices for each petty sessions area shall hold an election meeting in October every year at which they shall—

- (a) except in the case of the justices for the City of London, elect from among themselves a chairman;
- (b) elect from among themselves one or more deputy chairmen; and
- (c) decide the number of deputy chairmen to be elected at the election meeting to be held in the following year.

(2) The justices' clerk shall give not less than seven days' notice of the election meeting to each justice for the petty sessions area.

(3) Except as provided in paragraph (4), a justice shall not be entitled to 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, a justice for that petty sessions area may vote at any election at the first election meeting for that area if at that time he could, in accordance with the provisions of paragraph (3), have voted at an election held at an election meeting in respect of a petty sessions area which, or part of which, was in the same commission area as the new petty sessions area.

(5) The election to the office of deputy chairman shall take place after the result of the election of the chairman has been announced.

### **Procedure for election**

5.—(1) Elections to the office of chairman and deputy chairman may take place in accordance with either the nomination procedure or the traditional procedure.

(2) The justices for each petty sessions area shall decide, by a simple majority, between 1st May 1995 and 30th June 1995, either by postal ballot or by resolution ascertained by a show of hands at a meeting of which seven days' notice has been given to each justice for the petty sessions area, whether the nomination procedure is to be adopted for the elections to be held at the election meeting in October 1995.

(3) The justices for each petty sessions area shall decide at the election meeting held in October 1995 and in every subsequent year, by a simple majority ascertained by a show of hands, whether they wish the nomination procedure to be adopted for elections to the office of chairman and deputy chairman to be held at the election meeting in the following year.

(4) Where a majority is not obtained in favour of the nomination procedure, the traditional procedure shall apply.

(5) The traditional procedure shall also apply to an election to the office of chairman or deputy chairman where—

- (a) no nomination for the office of chairman is received pursuant to rule 6(2) or where the justice or justices nominated for that office withdraw before the election meeting; or
- (b) fewer nominations are received pursuant to rule 6(2) than the number of deputy chairmen to be elected or where, if any of the justices nominated withdraw before the election meeting, the number of justices nominated remaining falls below the number of deputy chairmen to be elected.

### **Nomination procedure**

**6.—**(1) Where elections to the office of chairman and deputy chairman are to take place on the basis of the nomination procedure, the provisions of this rule shall apply.

(2) The justices' clerk shall, not more than three months nor less than six weeks, before the date of the election meeting, give written notice to each justice who will be eligible to vote at the election meeting that he may submit to the justices' clerk nominations in writing for the offices of chairman and the number of deputy chairmen determined under rule 4(1), such nominations to be received by the justices' clerk within 21 days of the date of the notice.

(3) A justice may not be so nominated without his consent.

(4) Each nomination must be proposed and seconded by justices who will be eligible to vote at the election meeting and shall contain the full names and signatures of the proposer, seconder and justice nominated.

(5) The justices' clerk shall satisfy himself that each nomination received fulfils the requirements of paragraph (4) but shall not disclose the names of proposers and seconders.

(6) Each nomination for chairman shall contain a statement signed by the proposer, seconder and justice nominated stating whether the nominee wishes, if unsuccessful, to be included in the list of justices nominated for the office of deputy chairman.

(7) Where a justice nominated for election as chairman is not elected, he shall, if so indicated in his nomination, be included in the list of justices nominated for election as deputy chairman.

(8) Where—

- (a) only one justice is nominated to the office of chairman, that justice shall be declared elected as chairman;
- (b) the number of justices nominated to the office of deputy chairman equals the number of offices available, those justices shall be declared elected to the office of deputy chairman.

### **Conduct of ballot**

**7.—**(1) Except where rule 6(8) applies, a secret ballot shall be held for elections to the office of chairman and deputy chairman in accordance with the provisions of this rule.

(2) Where the nomination procedure is being used, the justices' clerk shall prepare ballot papers which contain a list in alphabetical order of the justices nominated as chairman and the justices nominated as deputy chairman and shall hand to each justice present at the election meeting and eligible to vote one ballot paper for the election of chairman and one ballot paper for the election of deputy chairman.

(3) Where the traditional procedure is being used, the chairman, or if for any reason he is prevented from doing so, the justices' clerk, shall decide which of the two variants of that procedure

set out in this paragraph and paragraph (4) is to be employed and accordingly the justices' clerk shall either—

- (a) prepare ballot papers which shall contain a list, in alphabetical order, of all the justices in the petty sessions area and shall hand to each justice present at the election meeting and eligible to vote one ballot paper for the election of chairman and one ballot paper for the election of deputy chairman; or
  - (b)
    - (i) prepare the list referred to in (a) above and send a copy to each justice together with the notice of the election meeting and shall display copies at the election meeting;
    - (ii) prepare two sets of ballot papers containing respectively the words “chairman” or “deputy chairman” or “deputy chairmen” (as the circumstances require); and
    - (iii) hand to each justice present at the election meeting and eligible to vote one of each set of ballot papers.
- (4) Each justice who votes shall—
- (a) where paragraphs (2) or (3)(a) apply, place a mark on the appropriate ballot paper against 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); or
  - (b) where paragraph (3)(b) applies, write on the appropriate ballot paper 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 description.

(5) Immediately after each ballot has been closed the justices' clerk, assisted if need be by staff of the magistrates' courts committee whose area consists of or includes the petty sessions area, shall collect the ballot papers and count the votes.

### **Election of chairman**

**8.—(1)** Except as mentioned below, no justice may be elected chairman unless he obtains more than half the votes cast.

(2) Where no justice obtains such a majority after the first ballot, up to two further ballots shall be held following which, if no justice has obtained such a majority, the justice who has obtained the most votes in aggregate in the three ballots shall be elected.

(3) The second and third ballots shall be conducted on the basis of the procedure used for the conduct of the first ballot except that, where the traditional procedure is being applied in accordance with rule 7(3)(b), the requirement in subparagraph (b)(i) shall not be followed.

(4) If after three ballots two or more justices have obtained the same number of votes in the aggregate so that the addition of a vote to those cast would entitle one of them to be elected, the justices' clerk shall immediately decide between them by lot and proceed as if the justice on whom the lot falls had received an additional vote.

(5) Where a ballot (other than the third ballot) has been inconclusive the justices' clerk shall announce the fact and state the names of the justices for whom votes have been cast and the number of votes which each justice has received.

(6) Where a ballot has been conclusive the justices' clerk shall announce the result.

### **Election of deputy chairman**

**9.—(1)** The result of the ballot for the election to the office of deputy chairman shall be ascertained by counting the votes given to each justice and the justice or justices (if there is to be more than one deputy chairman) who have obtained the most votes shall be declared to be elected.

(2) If two or more 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 be necessary in order to enable him or them to be elected, the justices' clerk shall announce the fact and state the names of the justices concerned and the number of votes which they received and a second ballot shall then be held.

(3) If a second ballot is to be held, the justices' clerk shall—

- (a) where the nomination procedure is being used, prepare ballot papers which contain a list in alphabetical order of all the justices nominated as deputy chairman; or
- (b) where the traditional procedure is being applied in accordance with rule 7(3)(a), prepare ballot papers which contain a list in alphabetical order of all the justices in the petty sessions area; or
- (c) where the traditional procedure is being applied in accordance with rule 7(3)(b), prepare ballot papers containing the words “deputy chairman – second ballot”;

deleting in the case of (a) and (b) above the name of any justice who has already been elected as chairman or deputy chairman, and shall hand a ballot paper to each justice present at the meeting and eligible to vote who shall proceed to vote in accordance with rule 7(4)(a) or (b) as appropriate.

(4) If after the second ballot two or more justices obtain an equal number of votes so that the addition of a vote to those cast for any one or more of them would entitle him or them to be elected the justices' clerk shall decide between those justices by lot and proceed as if any justice on whom the lot falls had received an additional vote.

#### **Miscellaneous provisions relating to ballots**

**10.**—(1) Where, under a ballot conducted under 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 as to how any justice voted in any ballot under these Rules.

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

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

(2) A justice who has held office as chairman shall not be eligible for re-election as chairman at an election meeting if on 1st January after the election meeting he will have held such office for a total of five years (whether or not consecutively).

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

#### **Vacancy in office**

**12.** 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, elect, in accordance with the procedure they have agreed to adopt for the next election meeting, 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.

#### **Constitution of chairmanship committee**

**13.**—(1) The justices for each petty sessions area shall establish a chairmanship committee, the membership of which shall, subject to paragraph (8), rotate by one third in each calendar year.

(2) The membership of the chairmanship committee shall consist of three, six, nine or twelve justices for the petty sessions area appointed, whether by election or selection, in accordance with this rule.

(3) Except as mentioned in paragraphs (8) and (9), a member of the chairmanship committee shall be appointed to hold office for a term of three years from the 1st January following his appointment and shall, subject to paragraph (10), be eligible for reappointment.

(4) A quorum of the chairmanship committee shall be constituted by three members.

(5) The justices' clerk or a member of staff of the magistrates' courts committee whose area consists of or includes the petty sessions area nominated by him shall be entitled to attend the meetings of the chairmanship committee and act in an advisory capacity only.

(6) The justices shall decide at the election meeting held in October 1995 the number of members of the chairmanship committee.

(7) At that and each subsequent election meeting the justices shall either—

- (a) proceed at the meeting to elect the members of the chairmanship committee; or
- (b) choose a panel of justices who shall within a period of 14 days of the meeting select the members of the chairmanship committee.

(8) Members of the chairmanship committee appointed in 1995 shall hold office from the date of their appointment, one third until 31st December 1996, one third until 31st December 1997 and the remaining third until 31st December 1998.

(9) Any casual vacancy shall be filled as soon as practicable in accordance with the method of appointing members adopted at the preceding election meeting and a member appointed to fill a casual vacancy shall serve only for the remaining part of the period for which the member he replaced was appointed.

(10) A justice may not serve as a member of the chairmanship committee for more than a total of six years (whether or not consecutively) disregarding any period served prior to 1st January 1996.

(11) The members of the chairmanship committee shall choose from amongst themselves a chairman who shall take office no later than 30th November 1995 and remain in office until 31st December 1996; and thereafter at the first meeting of the committee after 1st January in each year, the committee shall appoint a chairman to hold office until 31st December of that year.

(12) The justices for two or more petty sessions areas which share a justices' clerk may establish a combined chairmanship committee and—

- (a) the provisions of this rule shall apply to such a committee as they apply to a chairmanship committee for a single petty sessions area, subject to such modifications to paragraphs (7) and (9) as are agreed by the justices for the petty sessions areas concerned; and
- (b) the justices of the petty sessions areas concerned shall decide the number of members of the combined chairmanship committee.

### **Functions of chairmanship committee**

**14.—**(1) The chairmanship committee shall compile annually a list of justices approved to preside in court (in this rule and rule 15 called “approved court chairmen”) to sit in magistrates' courts other than family proceedings courts, youth courts or licensing or betting licensing committees.

(2) In establishing the list the chairmanship committee shall consider the number of approved court chairmen necessary to—

- (a) enable each court to sit under the chairmanship of an approved court chairman; and
- (b) ensure that each court chairman has the opportunity to sit as chairman sufficiently often to maintain an appropriate level of competence.

(3) The chairmanship committee may at any time remove a justice's name from the list of approved court chairmen.

### **Presiding justices**

- 15.** No justice may preside in court on or after 1st January 1996 unless—
- (a) within the period of six years preceding 1st January of the year in question, the justice has completed a course of instruction for chairmanship provided by a magistrates' court committee in accordance with arrangements approved by the Lord Chancellor under section 63 of the Act and either
  - (b) he has been included by the chairmanship committee in the list of approved court chairmen, or
  - (c) he is presiding under the supervision of an approved court chairman as part of his chairmanship training.

### **Absence of justice entitled to preside**

- 16.** The justices present may appoint one of their number to preside in court to deal with any case in the absence of a justice entitled to preside under rule 15, if—
- (a) before making such an appointment, the justices present are satisfied as to the suitability for this purpose of the justice proposed; and
  - (b) the justice proposed has completed or is undergoing a course of instruction for chairmanship in accordance with arrangements approved by the Lord Chancellor under section 63 of the Act, unless by reason of illness, circumstances unforeseen when the justices to sit were chosen, or other emergency no such justice is present.

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

**17.** 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 Act he shall satisfy himself as to the suitability of that justice for this purpose; but nothing in this rule shall permit a justice to preside in court unless he has completed or is undergoing a course of instruction for chairmanship approved by the Lord Chancellor under section 63 of the Act.

### **Revocation**

**18.** The Justices of the Peace (Size and Chairmanship of Bench) Rules 1990(3) and the Justices of the Peace (Size and Chairmanship of Bench) (Amendment) Rules 1991(4) are hereby revoked.

Dated 31st March 1995

*Mackay of Clashfern, C.*

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(3) S.I.1990/1554.  
(4) S.I. 1991/1966.

**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 revoke the Justices of the Peace (Size and Chairmanship of Bench) Rules 1990. The maximum number of justices who may sit to deal with a case in a magistrates' court is now three. The Rules also make new provision for election to the offices of chairman and deputy chairman of the justices. The main changes are the introduction of a nomination procedure in place of the shortlist procedure and a maximum period of office as chairman. In addition, the Rules provide for the establishment of a chairmanship committee whose function is to maintain a list of approved court chairmen eligible to preside in court.