

1999 No. 2395

MAGISTRATES' COURTS, ENGLAND AND WALES

**The Magistrates' Courts Committees (Constitution)
Regulations 1999**

<i>Made</i>	- - -	<i>31st August 1999</i>
<i>Laid before Parliament</i>		<i>1st September 1999</i>
<i>Coming into force</i>		<i>27th September 1999</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 29 of the Justices of the Peace Act 1997(a), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Magistrates' Courts Committees (Constitution) Regulations 1999 and shall come into force on 27th September 1999.

Interpretation

2. In these Regulations—

- (a) “the 1994 Regulations” means the Magistrates' Courts Committees (Constitution) Regulations 1994(b);
“the 1997 Act” means the Justices of the Peace Act 1997;
“the 1999 Act” means the Access to Justice Act 1999(c);
“committee” means a magistrates' courts committee established under Part III of the 1997 Act;
“committee area” means the area to which the committee relates;
“supplemental list” means the supplemental list referred to in section 7 of the 1997 Act (d); and
“justice” means a justice of the peace whose name has not been entered in the supplemental list.
- (b) references to a section number are references to a section of the 1997 Act; and
- (c) references to section 28(e) are, in relation to Greater London, references to section 28 as saved and modified by paragraphs 30 and 31 of Schedule 14 to the 1999 Act.

Revocations, savings and transitional provisions

3.—(1) The 1994 Regulations are revoked.

(2) These Regulations do not affect the validity of any appointment made or any other thing done under the 1994 Regulations.

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- (a) 1997 c. 25. A new version of section 29 is substituted by section 82 of the Access to Justice Act 1999 (c. 22), subject to saving provisions for Greater London in paragraphs 30 and 31 of Schedule 14 to the Access to Justice Act 1999. Section 82 comes into force on 27th September 1999.
 - (b) S.I. 1994/2811.
 - (c) 1999 c. 22.
 - (d) Section 7(3) of the Justices of the Peace Act 1997 is amended by Part V(1) of Schedule 15 to the Access to Justice Act 1999 (c. 22) which comes into force on 27th September 1999.
 - (e) A new version of section 28 is substituted by section 82 of the Access to Justice Act 1999 (c. 22), subject to saving provisions for Greater London in paragraphs 30 and 31 of Schedule 14 to the Access to Justice Act 1999. Section 82 comes into force on 27th September 1999.

(3) Appointments made under the 1994 Regulations shall continue for the term specified in the 1994 Regulations.

(4) The Chief Metropolitan Stipendiary Magistrate shall be chairman of the committee for the inner London area until (and including) 31st March 2000 and thereafter regulation 10 shall apply.

Application to Greater London

4. These Regulations apply to committees in Greater London until the Greater London Magistrates' Courts Authority becomes the magistrates' courts authority for Greater London under section 30A(a).

Selection panel

5.—(1) In this regulation “bench” means the justices assigned to a petty sessions area including—

- (a) until section 78 of the 1999 Act comes into force, a stipendiary magistrate attached to a petty sessions areas; and
- (b) after section 78 of the 1999 Act comes into force, a District Judge (Magistrates' Courts) for the area for which he is for the time being acting as a justice.

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

(3) The justices' chief executive 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 of the bench as the members think fit;

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

(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 also include one representative from the family panel and one representative from the youth court panel for the area; and—

- (a) until section 78 of the 1999 Act comes into force, the Chief Metropolitan Stipendiary Magistrate or any metropolitan stipendiary magistrate nominated by him; and
- (b) after section 78 of the 1999 Act comes into force, the Senior District Judge (Chief Magistrate) or any District Judge (Magistrates' Courts) 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) When paragraph (4)(a)(ii), (b), or (c) applies, the representatives shall be appointed as each bench thinks fit, but—

- (a) may only remain on the panel while remaining members of the bench; and
- (b) may not be selected as members of the committee during the period of appointment.

(8) Subject to paragraph (13), 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.

(a) Section 30A is inserted into the Justices of the Peace Act 1997 by section 83 of the Access to Justice Act 1999 (c. 22) which comes into force on such date as the Lord Chancellor may by order appoint.

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

(12) If a casual vacancy on a selection panel arises, the name of a replacement representative from the bench that nominated the representative being replaced may be notified to the clerk to the selection panel, but there is no obligation to do this unless the selection panel would otherwise be inquorate.

(13) A replacement representative shall serve only for the remaining part of the period for which the representative he replaced was appointed.

Selection of the committee

6.—(1) The selection panel shall decide by vote how it wishes to select members of the committee and if the votes are equal the chairman shall have a casting vote.

(2) The selection panel shall publish selection criteria for selection to a committee.

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

(4) The selection panel shall annually select the number of members requested by the committee to take office on 1st April in each year.

(5) The selection panel shall make the selection referred to in paragraph (4) from those candidates whose written notice of candidature had been received by the clerk to the selection panel in accordance with regulation 7 and who meet the selection criteria referred to in paragraph (2).

(6) If the selection panel chooses to select the members of the committee by vote—

- (a) each member of the selection panel shall have one vote per vacancy; and
- (b) paragraph (7) applies.

(7) The selection panel shall determine before the votes are taken whether, if the votes are equal for any candidate, the matter shall be resolved by either—

- (a) the choice of those members of the selection panel representing the greater number of justices prevailing; or
- (b) the chairman having a casting vote.

(8) The selection panel shall make the selection and notify the candidates in writing of the result no later than 28th February each year.

(9) If a candidate has not been selected because he has not met the selection criteria, the selection panel shall, in the notification under paragraph (8), identify the criteria that the candidate has not met.

(10) If, for any reason, the number of candidates who meet the selection criteria is less than the number of members requested by the committee to take office on 1st April in that year—

- (a) the selection panel shall notify the committee as soon as practicable after the preceding 31st December;
- (b) the committee may reduce the number of members it requires to take office on 1st April in that year and notify the selection panel of the reduced number as soon as practicable after it receives the notification under paragraph (a); and
- (c) if the number of candidates who meet the selection criteria is still less than the number of members requested by the committee to take office on 1st April of that year, the selection panel may, subject to paragraph (11), appoint any justice who meets the selection criteria to the vacancy and shall do so if the committee would otherwise be inquorate.

(11) The selection panel shall decide before the preceding 31st December if it wishes to exercise its power to appoint a justice under paragraph (10)(c).

Notice of candidature

7. A candidate for appointment to the committee must—

- (a) be nominated by one justice for that committee area and seconded by three other justices for that area; and
- (b) give written notice of his candidature, together with written notice of his qualifications, experience, interests and any other matter which might support his candidature including how he meets the selection criteria, to the clerk to the selection panel

by 31st December.

Committee membership

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

(2) Subject to section 28(3)(a), a justice may not serve as a member of the committee for more than a total of 9 years.

(3) No justice shall be eligible for reappointment 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 of 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 on the committee

9.—(1) If a casual vacancy arises on a committee, 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 inquorate.

(2) A justice who is appointed to a casual vacancy on a committee 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 committee shall appoint a chairman at its first meeting after 1st April in each year.

(2) 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.

(3) A justice may serve no more than a total of 6 terms of office as chairman.

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 28(2) 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 28(2) unless the Lord Chancellor directs otherwise in accordance with paragraph (3); and

(b) a member who is a member by virtue of section 28(3).

(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 28(2) are to be left out of account in applying the upper limit of 12 members.

Co-opted and appointed members

12.—(1) A member co-opted by the committee under section 28(2)(a) shall serve for a period of one year from the date of the first meeting following the approval 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 28(2)(b), 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 28(2)(b), 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.

(a) A new version of section 28 is substituted by section 82 of the Access to Justice Act 1999 (c. 22), subject to saving provisions for Greater London in paragraphs 30 and 31 of Schedule 14 to the Access to Justice Act 1999. Section 82 comes into force on 27th September 1999.

Quorum

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

Proceedings in committee

14. The proceedings of a magistrates' courts committee shall not be invalidated by reason of any vacancy among the members or of any defect in the appointment of a member.

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) Where the Lord Chancellor has ordered the chairman to vacate his office in accordance with section 38(3)(b)(i) the committee shall, at its next meeting, appoint a different chairman.

(2) Where the Lord Chancellor has ordered specified members of the committee to vacate their office in accordance with section 38(3)(b)(ii) 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.

(3) Where the Lord Chancellor replaces all the members of the committee with persons nominated by him in accordance with section 38(4)(b), 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.

(4) Regulation 9(2) shall apply—

- (a) to a justice appointed to replace a member under paragraph (2); and
- (b) to a justice appointed by the selection panel under paragraph (3) as if each justice were appointed in the place of an individual member of the committee replaced by the Lord Chancellor.

(5) Any period of office served by a justice as a nominee of the Lord Chancellor under section 38(4)(b) shall not count towards the maximum periods of service set out in regulations 8 and 10.

(6) A person ordered to vacate office as chairman or as a member of a committee under section 38(3) or (4) 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.

Signed by the authority of the Lord Chancellor

Dated 31st August 1999

Keith Vaz
Parliamentary Secretary, Lord Chancellor's Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Magistrates' Courts Committees (Constitution) Regulations 1994. They repeat the provisions for the constitution and quorum of magistrates' courts committees and introduce new provisions. These are:

- obligations on the selection panel to publish selection criteria, to select only those candidates who meet the criteria; and, if a candidate is not selected because he has not met the selection criteria, to identify the criteria that the candidate has not met;
- an obligation on the selection panel to determine before selection by vote how to proceed if the votes are equal for any candidate; and
- a power for the selection panel, if there are insufficient candidates to fill the number of vacancies on the committee, to seek the committee's agreement to a lesser number of members. If this is not agreed, the selection panel have a power (instead of an obligation) to appoint a justice to the vacancies.

These Regulations also include provision for filling casual vacancies on a selection panel.

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