
STATUTORY INSTRUMENTS

2001 No. 2711

**MAGISTRATES' COURTS,
ENGLAND AND WALES**

**The Magistrates' Courts Committees
(Constitution) (Amendment) Regulations 2001**

Made - - - - 23rd July 2001
Laid before Parliament 26th July 2001
Coming into force - - 1st September 2001

The Lord Chancellor, in exercise of the powers conferred on him by section 29 of the Justices of the Peace Act 1997(1), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Magistrates' Courts Committees (Constitution) (Amendment) Regulations 2001 and shall come into force on 1st September 2001.

(2) In these Regulations—

- (a) “the 1999 Regulations” means the Magistrates' Courts Committees (Constitution) Regulations 1999(2); and
- (b) references to a regulation by number alone are references to a regulation so numbered in the 1999 Regulations.

Amendments to the 1999 Regulations

2. For regulation 5 there shall be substituted the following regulation—

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

(1) 1997 c. 25. A new section 29 was substituted by section 82 of the Access to Justice Act 1999 (c. 22).
(2) S.I. 1999/2395.

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- (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, four representatives of the bench;
 - (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) No justice shall be eligible for appointment to the selection panel if his name will be entered in the supplemental list—
 - (a) in the case of appointments commencing on 1st January 2002, before 31st December 2004; and
 - (b) in any other case, before the expiry of the period for which, but for this subparagraph, he would be appointed.
- (6) 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.
- (7) Subject to paragraph (15), the first members of the selection panel appointed after 31st August 2001 shall hold office for a term commencing on 1st January 2002 and ending on the dates specified in the table below—

<i>Column 1</i> <i>Number of members of selection panel</i>	<i>Column 2</i> <i>Term of office to end on 31st December 2002</i>	<i>Column 3</i> <i>Term of office to end on 31st December 2003</i>	<i>Column 4</i> <i>Term of office to end on 31st December 2004</i>
4	1 member	1 member	remaining members
5 or 6	2 members	2 members	remaining members
7, 8 or 9	3 members	3 members	remaining members
10 or more	4 members	4 members	remaining members

- (8) All subsequent appointments shall, subject to paragraph (15), be for a period of three years commencing on 1st January next after the appointment.
- (9) A member of the selection panel shall, subject to paragraphs (5) and (6), be eligible for reappointment.
- (10) The names of members of the selection panel to take office on 1st January in any year shall be notified to the clerk to the selection panel by 31st December in the preceding year.
- (11) As soon as practicable after 31st December 2001, and in any case no later than 28th February 2002, the members of the selection panel who take office on 1st January 2002 shall hold a meeting. At that meeting the length of the terms of office of those members may be agreed between them, and if not agreed, shall be determined by lot conducted by the clerk to the selection panel.
- (12) As soon as practicable after 1st January each year, the members of the selection panel shall choose from amongst themselves a chairman to serve until the following 31st December.

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

(14) 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.

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

3. For paragraphs (2) and (3) of regulation 8 there shall be substituted the following paragraphs—

“(2) A justice may not serve as a member of the committee, other than as a co-opted member (when regulation 12(2A) applies), for periods totalling more than 9 years.

(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, but for this paragraph, he would be appointed.”

4. For paragraph (2) of regulation 12 there shall be substituted the following paragraphs—

“(2) Subject to paragraph (2A), the committee may, with the approval of the Lord Chancellor, renew the period of co-option of a co-opted member.

(2A) A person may not serve as a co-opted member of the committee for periods totalling more than 3 years unless there are exceptional circumstances.

(2B) Any period served as a co-opted member of the committee before 1st September 2001 shall not count towards the maximum period of service permitted by paragraph (2A).”

5. Regulation 15 shall be omitted.

6. For regulation 16 there shall be substituted the following regulation—

“**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 a vacancy on the committee occurs because the Lord Chancellor has—

(a) ordered specified members of the committee to vacate their office in accordance with section 38(3)(b)(ii); or

(b) ordered that a person cease to be a member of the committee or cease to be a member for a specified period in accordance with section 39B(2)(a)(3),

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) Subject to paragraph (5), regulation 9(2) shall apply—

(a) to a justice appointed to replace a member under paragraph (2); and

(b) to a justice appointed to be a member of the new committee under paragraph (3) as if each justice were appointed in the place of an individual member of the committee replaced by the Lord Chancellor.

(3) Section 39B was inserted into the Justices of the Peace Act 1997 by section 86 of the Access to Justice Act 1999 (c. 22).

(5) If the Lord Chancellor has ordered that a member of the committee cease to be a member for a specified period in accordance with section 39B(2)(a), the replacement member shall serve only for that specified period.

(6) 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.

(7) A person who—

- (a) has been ordered to vacate office as chairman or as a member of a committee under section 38(3) or (4); or
- (b) is the subject of an order under section 39B(2)(a) that he cease to be a member of a committee or cease to be a member for a specified period,

shall be deemed to have served for the whole period for which he was appointed 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.

(8) Where the Lord Chancellor has ordered that a member of the selection panel cease to be a member of the selection panel or cease to be a member for a specified period in accordance with section 39B(2)(a), 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.

(9) Subject to paragraph (10), regulation 5(15) shall apply to a member of the selection panel appointed to replace a member under paragraph (8).

(10) If the Lord Chancellor has ordered that a member of the selection panel cease to be a member for a specified period in accordance with section 39B(2)(a), the replacement member shall serve only for that specified period.”

Transitional provisions

7. Appointments to a selection panel for a term ending on 31st December 2001 made under regulation 5 before a new regulation 5 was substituted by these Regulations shall continue for the term specified.

8.—(1) Paragraph (2) applies where by virtue of an Order made under section 4(2) of the Justices of the Peace Act 1997(4) all or some members of a selection panel must be appointed for a term expiring on 31st December 2002.

(2) Where this paragraph applies—

- (a) the term of office of all other members of the selection panel (if there are other members) shall expire on 31st December 2002; and
- (b) members of the selection panel shall be appointed for periods after 31st December 2002 in accordance with regulation 5 (as substituted by these Regulations) but as if every reference in regulation 5(5), (7) and (11) to a year were replaced by a reference to the following year.

(4) A new section 4 of the Justices of the Peace Act 1997 was substituted by section 75 of the Access to Justice Act 1999(c. 22).

Signed by the authority of the Lord Chancellor

Dated 23rd July 2001

Michael Wills
Parliamentary Secretary,
Lord Chancellor's Department

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Magistrates' Courts Committees (Constitution) Regulations 1999 as follows:

- A new regulation 5 (selection panels) is substituted. The new regulation 5 repeats the provisions of the old regulation 5 with amendments. The amendments provide that where a magistrates' courts committee area consists of a single petty sessions area, the selection panel shall always consist of four representatives of the bench. (The right of all members of the bench to be members of the selection panel has been removed.)
- In addition, the new regulation 5 provides that after an initial period, members of selection panels shall be appointed for a term of three years (instead of a term of one year as was the case under the old regulation 5). Members of selection panels continue to be eligible for reappointment after their term of appointment has ended.
- Transitional provisions provide for appointment to selection panels when there has been an order altering petty sessions areas.
- Regulation 12 (co-opted and appointed members) is amended by providing that co-opted members of magistrates' courts committees may serve for a maximum of three years only unless there are exceptional circumstances. Any period of service before 1st September 2001 is disregarded.
- Regulation 8 (committee membership) is amended. The amendments are consequential on the amendment to regulation 12 and also clarify eligibility for membership where a justice's name will be entered on the supplemental list.
- Regulation 15 (rights of attendance) is omitted. This means that the rights of the keeper of the rolls and Liaison Judges to attend committee meetings, receive papers and make representations to the committee are removed.
- A new regulation 16 (exercise of default powers) is substituted. The new regulation 16 repeats the provisions of the old regulation 16 with amendments. The amendments provide for replacement of members of the selection panel and the committee if the Lord Chancellor orders a member to cease to be a member for non-compliance with the code of conduct in the Code of Conduct (Magistrates' Courts Committees and Selection Panels) Order 2000 (S.I.2000/2148).