

2002 No. 193

JUSTICES OF THE PEACE, ENGLAND AND WALES

**The Justices of the Peace
(Size and Chairmanship of Bench) Rules 2002**

Made - - - - - *31st January 2002*

Laid before Parliament *4th February 2002*

Coming into force - - *1st March 2002*

The Lord Chancellor, in exercise of the powers conferred on him by section 24 of the Justices of the Peace Act 1997(a) and after consultation with the Rule Committee appointed under section 144 of the Magistrates' Courts Act 1980(b), 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 2002 and shall come into force on 1st March 2002.

Interpretation

2. In these Rules—

- (a) “a BTDC” means a Bench Training and Development Committee established in accordance with rule 14;
“election meeting” means a meeting held in accordance with rule 10;
“first choice vote”, “second choice or subsequent choice vote” have the meaning specified in rule 6(4) and (5);
“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;
“justices’ clerk” in relation to a petty sessions area means a justices’ clerk for that area and includes any person acting as such;
“justices’ chief executive” in relation to a petty sessions area means the justices’ chief executive for the magistrates’ court committee area in which that petty sessions area falls and includes any person acting as such;
“the Schedule” means the Schedule to these Rules;
“the 1997 Act” means the Justices of the Peace Act 1997;
“the supplemental list” means the supplemental list referred to in section 7 of the 1997 Act(c);

(a) 1997 c. 25; section 24 has been amended by the Access to Justice Act 1999 (c. 22), Schedule 15, Part V(3).

(b) 1980 c. 43; section 144 is extended by section 145 of that Act and amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 25(7); and the Access to Justice Act 1999, Schedule 11, paragraphs 26 and 29 and Schedule 13, paragraphs 95 and 116.

(c) Section 7 has been amended by the Access to Justice Act 1999, Schedule 11, paragraphs 43 and 45 and Schedule 15, Part V(1).

- (b) where a justices' chief executive has appointed a nominee in accordance with rule 19, references to a justices' chief executive shall be read as references to his nominee in relation to the function or functions for which he was appointed nominee;
- (c) references to a ballot are references to a ballot conducted under these Rules;
- (d) references to a postal ballot are references to a postal ballot conducted under rule 6.

Size of bench

3.—(1) Subject to paragraph (2), the number of justices sitting to deal with a case as a magistrates' court shall not be greater than three.

(2) Paragraph (1) shall not apply to a magistrates' court sitting as a youth court, a family proceedings court or a licensing or betting licensing committee.

Elections

4.—(1) The justices for each petty sessions area shall each year elect from among themselves a chairman and one or more deputy chairmen.

(2) Subject to paragraph (3), a secret ballot shall be held in accordance with these Rules for the election of chairman and for the election of deputy chairman.

(3) Paragraph (2) shall not apply where, as the case may be, the chairman or all the deputy chairmen required to fill the number of offices available have been elected under rule 5(8).

(4) A justice for a petty sessions area in respect of which the election is held may vote in the election if—

- (a) in the case of an election by postal ballot, the justice is a justice for that petty sessions area on the date the notices seeking nominations are posted; and
- (b) in the case of an election held at a meeting, the justice is a justice for that petty sessions area on the date of the meeting.

Nomination procedure

5.—(1) The justices' chief executive shall give written notice, in accordance with paragraph (2), to each justice eligible to vote in a postal ballot.

(2) The notice shall—

- (a) notify the recipient that he may submit to the justices' chief executive nominations in writing for the offices of chairman and deputy chairman, the number of which will have been determined under rule 10(2)(d);
- (b) specify a closing date for receipt of nominations;
- (c) specify the date, time and place of the election meeting;
- (d) be posted by first class post at least 28 days before the closing date for receipt of nominations (including the date of posting but excluding the closing date for receipt of nominations); and
- (e) not be posted earlier than 12 weeks, nor later than 9 weeks, before the date of the election meeting (including the date of posting but excluding the date of the election meeting).

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

(4) Each nomination must be proposed and seconded by justices eligible to vote in a postal ballot and shall contain the full names and signatures of the proposer, seconder and justice nominated.

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

(6) If a justice nominated for election as chairman wishes, should he not be elected chairman, to be nominated for election as deputy chairman, his nomination shall contain a statement to that effect signed by the proposer, seconder and justice nominated.

(7) If the statement referred to in paragraph (6) is included in a nomination for chairman, that nomination shall be treated as a nomination for the office of chairman and for the office of deputy chairman (but a justice may not hold both offices at the same time).

(8) Where—

- (a) only one justice is nominated for election as chairman, that justice shall be elected chairman (and his nomination, if any, to the office of deputy chairman shall be treated as having been withdrawn);
- (b) the number of justices nominated to the office of deputy chairman equals or is less than the number of offices available, those justices shall be elected to the office of deputy chairman.

(9) Nominations withdrawn before the date of posting the ballot papers shall be disregarded when determining the number of nominations for the purposes of paragraph (8).

(10) If a justice is elected to the office of deputy chairman under paragraph (8)(b) and is subsequently elected chairman, he shall not take up the office of deputy chairman and his nomination for that office shall be treated as having been withdrawn before the closing date for receipt of completed ballot papers.

(11) If a chairman or deputy chairman is elected under paragraph (8), the justices' chief executive shall give written notice, in accordance with paragraph (12), to each justice eligible to vote in a postal ballot of the name of the justice or justices elected.

(12) The notice under paragraph (11) shall be sent by first class post at least 28 days before the date of the election meeting (including the date of posting but excluding the date of the election meeting).

(13) Where a justice who has been nominated for election to the office of chairman or deputy chairman ceases to be a justice at any time after nomination up to (and including) the closing date for receipt of completed ballot papers, his nomination shall be treated as having been withdrawn when he ceased to be a justice.

(14) A nomination cannot be withdrawn after the closing date for receipt of completed ballot papers.

Conduct of postal ballot

6.—(1) Where nominations are received under rule 5 and have not been withdrawn before the date of posting the ballot papers, the secret ballot held under rule 4(2) shall be a postal ballot held in accordance with this rule.

(2) The justices' chief executive shall—

- (a) where there is to be an election of chairman, prepare ballot papers which contain a list in alphabetical order of the justices nominated as chairman;
- (b) where there is to be an election of a deputy chairman or deputy chairmen, prepare ballot papers which contain a list in alphabetical order of the justices nominated as deputy chairman; and
- (c) send by first class post to each justice eligible to vote in a postal ballot one ballot paper for each election.

(3) There must be—

- (a) at least 21 days between the date of posting the ballot papers and the closing date for receipt of completed ballot papers (including the date of posting but excluding the closing date for receipt of completed ballot papers); and
- (b) at least 7 days between the closing date for receipt of completed ballot papers and the date of the election meeting (including the closing date for receipt of completed ballot papers but excluding the date of the election meeting).

(4) Each justice who votes shall write the figure '1' on the appropriate ballot paper against the name of the justice who is his first choice to be chairman and the name of the justice who is his first choice to be deputy chairman ("a first choice vote").

(5) Each justice who votes may indicate which justice is his second and third choice (and so on) to be chairman or deputy chairman, by writing the figure '2', '3' (and so on) on the appropriate ballot paper against the name of the appropriate justice ("a second choice or subsequent choice vote").

(6) A justice who votes shall return his ballot paper to the justices' chief executive by post or by hand.

- (7) A ballot shall not be invalidated by reason of—
 - (a) a ballot paper not being received by a justice eligible to vote in a postal ballot; or
 - (b) a completed ballot paper not being received by the justices' chief executive.
- (8) As soon as practicable after the closing date for receipt of the completed ballot papers, the justices' chief executive (assisted if need be by staff of the magistrates' courts committee whose area consists of or includes the petty sessions area), shall—
 - (a) determine the result of the postal ballot for election as chairman; and
 - (b) then, subject to paragraph (9), determine the result of the postal ballot for election to the office of deputy chairman.
- (9) Where a chairman is not elected before the election meeting, the result of the postal ballot for the election to the office of deputy chairman shall not be determined until after a chairman has been elected at the election meeting.

Determining result of postal ballot for election of chairman and sole deputy chairman

7.—(1) This rule applies for determining the result of the postal ballot for the election of chairman and, if only one deputy chairman is to be elected, the election of the deputy chairman.

(2) Where a justice has received more than half of the first choice votes cast, that justice shall be elected chairman or deputy chairman (as the case may be).

(3) Where all justices have received an equal number of first choice votes, the justices' chief executive shall, at the election meeting, decide between them by lot and paragraph (8) shall apply.

(4) In the following paragraphs—

“continuing candidate” means a justice who has not become an excluded candidate;

“excluded candidate” means a justice who is excluded from further consideration in accordance with paragraph (5)(a) or (b); and

“next choice vote” means a second or subsequent choice vote for a continuing candidate, disregarding votes for excluded candidates; or, if there is more than one such vote, the one with the highest priority.

(5) Where neither paragraph (2) nor (3) applies—

(a) the justice who received the least number of first choice votes shall be excluded from further consideration in the ballot;

(b) if the least number of first choice votes was received by two or more justices, all those justices shall be so excluded;

(c) if there is now only one continuing candidate, that justice shall be elected chairman or deputy chairman (as the case may be);

(d) otherwise paragraph (6) shall apply.

(6) Where this paragraph applies—

(a) a first choice vote cast by a voter for an excluded candidate shall be transferred to the continuing candidate, if any, who received that voter's next choice vote;

(b) if there is no such continuing candidate, the first choice vote cast for the excluded candidate shall be disregarded and shall no longer be counted as a first choice vote;

(c) if a continuing candidate now has received more than half of the first choice votes cast, that justice shall be elected chairman or deputy chairman (as the case may be);

(d) if all continuing candidates now have received an equal number of first choice votes, the justices' chief executive shall, at the election meeting, decide between them by lot and paragraph (8) shall apply.

(7) Where neither paragraph (6)(c) nor (d) applies, the procedure in paragraph (5) shall be repeated until a chairman or deputy chairman (as the case may be) is elected.

(8) Where this paragraph applies—

(a) the justice on whom the lot falls shall be elected chairman or deputy chairman (as the case may be); and

(b) the justices' chief executive shall, at the election meeting, announce the name of the justice so elected.

Determining result of postal ballot for election of deputy chairmen

8.—(1) This rule applies for determining the result of the postal ballot where more than one deputy chairman is to be elected.

(2) In this rule, “requisite number” means the number of deputy chairmen to be elected.

(3) The requisite number of justices who have received the most first choice votes shall be elected deputy chairmen.

(4) If less than the requisite number of justices have received first choice votes, that justice or those justices who have received first choice votes shall be elected deputy chairman or deputy chairmen (as the case may be).

(5) If—

(a) two or more justices have received an equal number of first choice votes; and

(b) the addition of a first choice vote to those cast for any one or more of those justices is necessary to enable him or them to be elected,

the justices’ chief executive shall, at the election meeting, decide between those justices by lot.

(6) The justice or justices on whom the lot falls shall be elected deputy chairman or deputy chairmen (as the case may be) and the justices’ chief executive shall, at the election meeting, announce the names of the justices so elected.

(7) If any deputy chairmen remain to be elected, the justices shall elect them at the election meeting in accordance with the provisions of the Schedule.

(8) The election referred to in paragraph (7) shall be by secret ballot unless paragraph 3 of the Schedule applies.

Election where no or insufficient nominations

9. Where—

(a) no nomination for the office of chairman is received under rule 5 or where all nominations for that office are withdrawn at any time up to (and including) the closing date for receipt of completed ballot papers; or

(b) fewer nominations for the office of deputy chairman are received under rule 5 than the number of deputy chairmen to be elected; or

(c) one or more nominations for the office of deputy chairman are withdrawn at any time up to (and including) the closing date for receipt of completed ballot papers with the result that the remaining number of nominations for that office falls below the number of deputy chairmen to be elected,

the justices shall by secret ballot elect the chairman or the number of deputy chairmen that have still to be elected at the election meeting in accordance with the provisions of the Schedule.

Election meeting

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

(2) At the election meeting—

(a) the justices’ chief executive shall announce the result of any election conducted by postal ballot where the result has been determined before the meeting;

(b) where rule 6(9) applies, the justices’ chief executive (assisted if need be by staff of the magistrates’ courts committee whose area consists of or includes the petty sessions area) shall determine the result of the postal ballot for the election to the office of deputy chairman and shall announce the name of the justice or justices who has or have been elected to that office;

(c) the justices’ chief executive shall announce the number of first choice votes each justice received at each stage of the count of the votes cast in the postal ballot; and

(d) the justices shall decide the number of deputy chairmen to be elected to take office in the year commencing on 1st January after the next election meeting.

(3) Where a chairman and one or more deputy chairmen are elected at the election meeting, the result of the election to the office of chairman shall be announced before the election to the office of deputy chairman.

Miscellaneous provisions about ballots

11.—(1) If a justice has been elected chairman and his name was included on a ballot paper for the election of deputy chairman—

- (a) all the votes for him as deputy chairman shall be disregarded and shall no longer be counted as votes;
- (b) if that justice received a first choice vote from a voter for the office of deputy chairman, the second choice vote given by that voter for the office of deputy chairman, if any, shall be counted as a first choice vote cast by that voter; and
- (c) if that justice received a second choice vote from a voter for the office of deputy chairman, the third choice vote given by that voter for the office of deputy chairman, if any, shall be counted as a second choice vote cast by that voter (and so on).

(2) If a justice withdraws his nomination on the date of posting the ballot papers or at any time after that date up to (and including) the closing date for receipt of completed ballot papers—

- (a) all the votes for that justice shall be disregarded and shall no longer be counted as votes;
- (b) if that justice received a first choice vote from a voter, the second choice vote given by that voter shall be counted as a first choice vote; and
- (c) if that justice received a second choice vote from a voter, the third choice vote given by that voter shall be counted as a second choice vote (and so on).

(3) Where a ballot paper—

- (a) is returned unmarked; or
 - (b) in a postal ballot, is not marked with a figure ‘1’ or is marked in such a manner that there is doubt as to the order of preference of the voter; or
 - (c) in a ballot held at a meeting, 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.

(4) There shall be no disclosure as to how any justice voted in any ballot.

(5) The justices’ chief executive shall—

- (a) keep a note of the date that a ballot paper was received by him; and
- (b) keep the ballot papers received for a period of 12 months commencing with the day after the election meeting.

Period of office and eligibility for re-election

12.—(1) A chairman or (as the case may be) deputy chairman elected under these Rules shall, subject to rule 13(3) and (9), hold office for one year beginning on 1st January after his election and shall, subject to paragraphs (3), (4) and (5), be eligible for re-election.

(2) In paragraphs (3) and (4) “previous chairman” means a justice who has held office as chairman of the justices for the petty sessions area in respect of which the election is held.

(3) Subject to paragraph (4), a previous chairman shall not be eligible for re-election as chairman if, on 1st January after the election, he will have held such office for periods totalling more than two years unless at least six years have elapsed since he last held office.

(4) In any event, a previous chairman shall not be eligible for re-election as chairman if, on the 1st January after the election, he will have held such office for periods totalling more than five years.

(5) A justice who has held office as deputy chairman of the justices for the petty sessions area in respect of which the election is held shall not be eligible for re-election as deputy chairman if on 1st January after the election he will have held such office for periods totalling more than five years.

(6) Any period served as chairman or deputy chairman, as the case may be, before 31st December 2001 shall not count towards the maximum periods of service permitted by paragraphs (3), (4) and (5).

Vacancy in office

13.—(1) If the office of chairman or deputy chairman becomes or is about to become vacant for any reason, the justices' chief executive shall give written notice sent by first class post as soon as practicable to each justice eligible to vote in a postal ballot that he may submit nominations in writing to the justices' chief executive for another chairman or deputy chairman (as the case may be).

(2) Rule 5(3), (4) and (5) shall apply to a nomination made under this rule as it applies to a nomination made under rule 5.

(3) If only one nomination is received, the justice nominated shall hold office for the remainder of the term of the appointment of the justice whom he replaces.

(4) If more than one nomination is received, the justices shall by secret ballot elect another chairman or deputy chairman (as the case may be).

(5) The ballot shall be a postal ballot except that—

- (a) the ballot papers shall be posted by first class post as soon as practicable;
- (b) there shall be at least 7 days between the date of posting the ballot papers and the closing date for receipt of completed ballot papers (including the date of posting but excluding the closing date for receipt of completed ballot papers);
- (c) rule 6(1), (3), (8) and (9) shall not apply;
- (d) as soon as practicable after the closing date for receipt of completed ballot papers, the justices' chief executive (assisted if need be by staff of the magistrates' courts committee whose area consists of or includes the petty sessions area) shall determine the result of the ballot;
- (e) rules 7(3), 7(6)(d), 7(8), 8(5) and 8(6) shall be read as if the decision by lot shall take place before at least 3 justices (instead of at the election meeting) and the names of the justice or justices elected shall be notified to the justices by post as soon as practicable (instead of being announced at the election meeting).

(6) Where no nomination for a vacancy is received, the justices' chief executive shall as soon as practicable, convene a meeting of the justices for the petty sessions area.

(7) At that meeting, the justices shall by secret ballot elect another chairman or deputy chairman (as the case may be).

(8) The provisions of the Schedule shall apply to the election with the following modifications—

- (a) the list of justices shall comprise the names of all the justices for the petty sessions area on the date of the meeting (excluding, in the case of an election to the office of deputy chairman, the name of any justice who holds office as chairman or deputy chairman);
- (b) references to the election meeting in the Schedule shall be read as references to the meeting held under this rule.

(9) Any justice elected under this rule shall hold office for the remainder of the term of the appointment of the justice whom he replaces.

(10) Any period served as chairman or deputy chairman by virtue of this rule shall not count towards the maximum period of service permitted by rule 12(3), (4) and (5).

Constitution of Bench Training and Development Committee

14.—(1) The justices for each petty sessions area shall establish a Bench Training and Development Committee, the membership of which shall, in accordance with this rule, rotate by one third in each calendar year.

(2) The membership of the BTDC shall consist of three, six, or nine justices for the petty sessions area, appointed in accordance with this rule.

(3) The justices shall decide at the election meeting in 2002 the number of members of the BTDC.

- (4) At any election meeting held after 2002, the justices may, subject to paragraph (2), decide that the number of members of the BTDC shall be more or less than previously decided.
- (5) Members of the BTDC appointed in 2002 shall hold office for a term beginning on 1st January 2003 and ending on—
- (a) 31st December 2003 in the case of one third of the members;
 - (b) 31st December 2004 in the case of one third of the members; and
 - (c) 31st December 2005 in the case of the remaining third of the members.
- (6) Except as mentioned in paragraphs (5), (7), (8), (16) and (17), a member of the BTDC shall be appointed to hold office for a term of three years beginning on 1st January following his appointment.
- (7) If the justices decide to increase or decrease the number of members of the BTDC in accordance with paragraph (4)—
- (a) all existing members of the BTDC shall retire at the end of the year in which the decision is made;
 - (b) members of the BTDC appointed in that year shall hold office from 1st January in the following year for the following periods (subject to paragraph (8))—
 - (i) one year, in the case of one third of the members;
 - (ii) two years, in the case of one third of the members; and
 - (iii) three years, in the case of the remaining one third of the members.
- (8) If, on a date before the end of the period specified in paragraph (6) or (as the case may be) paragraph (7)(b), the member would have served as a member of the BTDC for periods totalling nine years, that member's term of office shall end on that date.
- (9) At each election meeting the justices shall either—
- (a) proceed at the meeting to elect the members of the BTDC; or
 - (b) choose a panel of justices who shall within a period of 28 days of the meeting select the members of the BTDC.
- (10) A member of the BTDC shall be eligible for reappointment if, at the end of his most recent term of office, he will have served as a member of the BTDC for periods totalling less than nine years.
- (11) Members of the BTDC who take office on 1st January 2003 (and where paragraph (7) applies, on 1st January in the year on which the members' terms of office begin) shall hold a meeting as soon as practicable.
- (12) At that meeting the length of the terms of office of those members, subject to paragraphs (5) and (7), may be agreed between them, and if not agreed, shall be determined by lot conducted by the justices' chief executive.
- (13) At the first meeting of the BTDC after 1st January in each year, the members of the BTDC shall appoint a chairman to hold office until 31st December of that year.
- (14) Any casual vacancy shall be filled as soon as practicable in accordance with the method of filling casual vacancies agreed at the preceding election meeting.
- (15) If, but for paragraph (8), a member would have been appointed for a longer term, a casual vacancy shall arise when that member's term of office ends.
- (16) A member appointed to fill a casual vacancy (other than one described in paragraph (15)) shall serve only for the remaining part of the period for which the member he replaced was appointed.
- (17) A member appointed to fill a casual vacancy described in paragraph (15) shall serve for the remaining part of such period as the member he is replacing would, but for paragraph (8), have been appointed.
- (18) Any period served by virtue of paragraphs (16) and (17) shall not count towards the period of nine years' service referred to in paragraphs (8) and (10).
- (19) The justices for two petty sessions areas which share a justices' clerk may establish a combined BTDC and—
- (a) the provisions of this rule shall apply to such a BTDC as they apply to a BTDC for a single petty sessions area, subject to such modifications to paragraphs (9) and (14) as are agreed by the justices for the petty sessions areas concerned; and

- (b) the justices for the petty sessions areas concerned shall decide the number of members of the combined BTDC.

(20) Three members of the BTDC shall constitute a quorum, except if there is an emergency when two members shall constitute a quorum.

(21) The justices' chief executive and the justices' clerk may attend the meetings of the BTDC and act in an advisory capacity only.

Functions of BTDC

15.—(1) The BTDC shall compile annually a list of justices approved to preside in court (in this rule and rule 16 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 BTDC 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 BTDC—

- (a) must regularly review the list of approved court chairmen; and
- (b) may at any time remove a justice’s name from, or add a justice’s name to, the list.

Presiding justices

16. No justice may preside in court unless he has completed a course of instruction for chairmanship provided by a magistrates’ courts committee in accordance with arrangements approved by the Lord Chancellor under section 64 of the 1997 Act and either—

- (a) he has been included by the BTDC in the list of approved court chairmen; or
- (b) he is presiding under the supervision of an approved court chairman as part of his chairmanship training.

Absence of justice entitled to preside

17. 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 16, 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 64 of the 1997 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

18.—(1) A chairman or deputy chairman of the justices for a petty sessions area who is present at a meeting of those justices may, if he thinks it appropriate to do so, request another justice to preside under the provisions of section 22(2) of the 1997 Act.

(2) 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 64 of the 1997 Act.

Justices’ chief executive’s nominee

19. A justices’ chief executive may, with the approval of the magistrates’ courts committee for the area for which he is the justices’ chief executive, appoint a nominee to perform some or all of his functions under these Rules.

Revocation

20. The Justices of the Peace (Size and Chairmanship of Bench) Rules 1995(a) (“the 1995 Rules”) and the Justices of the Peace (Size and Chairmanship of Bench) (Amendment) Rules 1999(b) are revoked.

Transitional provisions

21.—(1) Subject to paragraph (2), appointments made under the 1995 Rules shall continue for the term specified in those Rules.

(2) Members of the chairmanship committee appointed under the 1995 Rules shall retire on 31st December 2002.

(3) Rule 10, rule 12, rule 13(4), (5), (9), (11), (12), and rules 14–17 of the 1995 Rules shall continue to apply until (and including) 31st December 2002 as if the 1995 Rules had not been revoked.

(4) Rule 13 of these Rules shall not apply to any vacancy in an appointment made under the 1995 Rules.

Signed by the authority of the Lord Chancellor

Dated 31st January 2002

Michael Wills
Parliamentary Secretary,
Lord Chancellor’s Department

(a) S.I. 1995/971.
(b) S.I. 1999/2396.

PROCEDURE FOR ELECTIONS AT ELECTION MEETING

List of justices

1. The justices' chief executive shall compile a list of justices ("list of justices") as specified in paragraphs 2, 4 and 5.
2. Where rule 8(7) applies, the list shall comprise the names of the justices who were nominated for the office of deputy chairman excluding the name of any justices who have been elected chairman or deputy chairman.
3. If the number of justices whose names are on the list described in paragraph 2 equals or is less than the number of offices available, the justices whose names are on the list shall be elected to the office of deputy chairman without a ballot.
4. Where rule 9(a) applies, the list shall comprise the names of all the justices for the petty sessions area on the date of the election meeting.
5. Where rule 9(b) or (c) applies, the list shall comprise the names of all the justices for the petty sessions area on the date of the election meeting excluding the name of any justice or justices who have been elected chairman or deputy chairman.

Conduct of ballot

6. The justices' chief executive shall—
 - (a) prepare ballot papers containing the list of justices in alphabetical order; and
 - (b) hand to each justice present at the election meeting and eligible to vote in a postal ballot—
 - (i) where there is to be an election of a chairman, one ballot paper for the election of chairman;
 - (ii) where there is to be an election of a deputy chairman or deputy chairmen, one ballot paper for that election.
7. Each justice who votes shall place a mark on the appropriate ballot paper against the name of the justice he wishes to be chairman and the name of the justice or justices he wishes to be deputy chairman or deputy chairmen (as the case may be).
8. Immediately after the ballot has been closed, the justices' chief executive, 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

9. Except as mentioned below, the justice who has received more than half the votes cast shall be elected chairman.
10. Where no justice receives such a majority after the first ballot, up to two further ballots shall be held.
11. If, following two further ballots, no justice has obtained such a majority, the justice who has received the most votes in aggregate in the three ballots shall be elected chairman.
12. If, after three ballots, two or more justices have received 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' chief executive shall immediately decide between them by lot and shall proceed as if the justice on whom the lot falls had received an additional vote.
13. Where a ballot (other than the third ballot) has been inconclusive the justices' chief executive shall announce the fact and state the names of the justices for whom votes have been cast and the number of votes each justice received.
14. Where a ballot has been conclusive the justices' chief executive shall announce the result.

Election of deputy chairman

15. 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. The justice or justices (if there is to be more than one deputy chairman) who has or have received the most votes shall be elected to the office of deputy chairman.
16. If—
 - (a) two or more justices obtain an equal number of votes; and
 - (b) the addition of a vote to those cast for any one or more of those justices would entitle him or them to be elected,the justices' chief executive shall immediately decide between those justices by lot and proceed as if any justice on whom the lot falls had received an additional vote.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules replace the Justices of the Peace (Size and Chairmanship of Bench) Rules 1995 (“the 1995 Rules”). They reproduce some of the provisions of the 1995 Rules and introduce new provisions.

The new provisions are:

- introduction of a postal ballot for the election of chairman and deputy chairman of the justices following receipt of nominations (*rules 5 and 6*);
- introduction of a preferential voting system for such elections (*rules 6, 7 and 8*);
- a new maximum period of office for chairman (3 years unless at least 6 years have elapsed since he last held office but no more than 6 years) and deputy chairman (6 years) (*rule 12*);
- the justices’ chief executive is responsible for convening the election meeting and conducting the elections (*rules 5 to 13*). He can appoint a nominee to perform these functions (*rule 19*);
- introduction of a postal ballot for filling vacancies in the office of chairman or deputy chairman (*rule 13*);
- replacement of chairmanship committees by bench training and development committees (“BTDCs”) (*rule 14*).

BTDCs have the same functions as chairmanship committees in that they must compile a list annually of justices approved to preside in court but the BTDCs must regularly review that list and may amend it at any time. The Rules provide that there shall be 3, 6 or 9 members of a BTDC as determined by the justices for a petty sessions area.

The following provisions of the 1995 Rules have been reproduced:

- the rule that the maximum number of justices dealing with a case as a magistrates’ court (apart from youth courts, family proceedings courts, licensing and betting licensing committees) is three (*rule 3*); and
- the requirement that the justices for a petty sessions area hold an election meeting every year in October (*rule 10*).

In addition there are provisions for holding elections at the election meeting where there are no or insufficient nominations for chairman or deputy chairman; or insufficient first choice votes for deputy chairmen (*rules 8(7) and 9*).

Transitional provisions provide that appointments made under the 1995 Rules will continue until 31st December 2002 and the 1995 Rules will apply to those appointments (*rule 21*).

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