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STATUTORY INSTRUMENTS

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**2016 No. 709**

**The Justices of the Peace Rules 2016**

**PART 3**

**Elections**

**CHAPTER 1**

**Procedure**

**General provision**

6. This Part sets out the election procedure for —
- (a) the offices of chairman and deputy chairman for each local justice area, and
  - (b) membership of the FTAAAC and JTAAAC selection panels for each FTAAAC and JTAAAC area.

**Eligibility of justices and family justices**

7.—(1) A justice is eligible to stand for election and to vote in an election for the offices of chairman and deputy chairman, and membership of a JTAAAC selection panel if, on the relevant date, that justice is assigned to a local justice area to which the election relates.

(2) A family justice is eligible to stand for election and to vote in an election for membership of an FTAAAC selection panel if, on the relevant date, that justice is assigned to a local justice area to which the election relates.

(3) The relevant date in paragraphs (1) and (2) is the day on which the justices' clerk informs the eligible justices under Rule 10(2).

**Procedure for elections**

8.—(1) The election procedure consists of a notice of candidacy procedure, and, except as provided in paragraph (2), a secret ballot.

(2) A secret ballot is not required where the justices required to fill the available vacancies are elected under Rule 10(6)(a) or (b).

(3) The timetable for the election procedure must be determined by the justices' clerk and published before or at the start of the procedure.

(4) Any timetable must allow sufficient time for receipt of notices of candidacy and a secret ballot where required.

**Deputy chairmen**

9.—(1) The election procedure in respect of a deputy chairman must commence after the election of the chairman has been completed and the result declared.

(2) The number of deputy chairmen is determined by the justice elected as chairman for the duration of the term in which the deputy chairman or chairmen will serve.

### **Notice of candidacy procedure**

**10.**—(1) Eligible justices who want to be elected in respect of a vacancy must complete a notice of candidacy.

(2) The justices' clerk must inform eligible justices that they may submit a notice of candidacy, in accordance with paragraph (3).

(3) The justices' clerk must determine and specify:

- (a) the manner in which notices are to be submitted;
- (b) the means by which notices can be submitted, and
- (c) a closing date for receipt of notices.

(4) The justices' clerk, or anyone nominated to act on their behalf, must be satisfied that each notice has been submitted in accordance with the specifications made under paragraph (3).

(5) A notice that has not been submitted in accordance with the specifications in paragraph (3) must not be treated as a valid notice.

(6) Where—

- (a) a single valid notice of candidacy is received for a vacancy, the candidate who submitted that notice is elected;
- (b) the number of valid notices of candidacy received is less than or equal to the number of vacancies, those candidates are elected.

(7) As soon as practicable after an election under paragraph (6), the justices' clerk must notify the candidates as to the result.

(8) As soon as practicable after notifying the candidates under paragraph (7), the justices' clerk must notify the eligible justices as to the result.

### **Secret ballot**

**11.**—(1) Where the valid notices of candidacy exceed the number of vacancies, the justices' clerk must arrange a secret ballot.

(2) The justices' clerk must inform the eligible justices that they may vote in the secret ballot in accordance with paragraph (3).

(3) The justices' clerk must —

- (a) determine and specify the procedure to be followed for the ballot;
- (b) inform eligible justices of the names of the candidates and the means by which votes may be cast, and
- (c) specify a closing date by which votes must be cast if they are to be counted in the ballot.

(4) Where the election is for a single vacancy, each eligible justice may cast one vote in accordance with the specified procedure.

(5) Where the election is for more than one vacancy, each eligible justice may cast one vote per vacancy (up to but not exceeding the number of vacancies) in accordance with the specified procedure.

### **Determining result of secret ballot**

**12.**—(1) Where there is a single vacancy, the candidate who receives the highest number of votes cast is elected.

(2) Where there is more than one vacancy, the requisite number of candidates (being the number equal to the number of vacancies) who have received the highest number of votes are elected.

(3) If—

(a) two or more candidates have received an equal number of votes for a vacancy (the “tied candidates”), and

(b) taking into account the election of any candidate who has received a higher number of votes than the tied candidates—

(i) the election of one or more of the tied candidates is necessary to make up the requisite number, but

(ii) the election of all of the tied candidates would exceed the requisite number,

the justices’ clerk must decide between them by lot, and paragraph (4) applies.

(4) Where this paragraph applies, the candidate or candidates (as applicable) on whom the lot falls is elected.

(5) As soon as practicable after an election under this Rule, the justices’ clerk must notify the candidates, as to—

(a) the result;

(b) the number of votes cast for each candidate, and

(c) where relevant, if a lot was required.

(6) As soon as practicable after notifying the candidates under paragraph (5), the justices’ clerk must notify the eligible justices as to—

(a) the result;

(b) the number of votes cast for each candidate, and

(c) where relevant, if a lot was required.

### **Miscellaneous provisions about secret ballots**

**13.**—(1) Unless otherwise determined in accordance with Rule 16, the justices’ clerk must not treat a ballot as invalidated by reason of—

(a) information sent by the justices’ clerk in accordance with the election procedure not being received by a justice,

(b) a vote not being received by the justices’ clerk.

(2) Where an eligible justice does not follow the specified procedure, any vote by that eligible justice must not be taken into account when the votes are counted.

(3) The justices’ clerk and any other person carrying out the ballot procedure must not disclose how any justice voted in any ballot.

### **Withdrawal of notices of candidacy**

**14.**—(1) A candidate may withdraw their notice of candidacy—

(a) before the closing date for receipt of notices;

(b) where, after the closing date, there is (or otherwise would be) a need for a ballot, before the justices’ clerk has provided to the eligible justices the information under Rule 11 (3)(b), or

- (c) where there has been a ballot and an equality of votes requires the drawing of lots, before the lots are drawn.
- (2) Where a candidate has withdrawn their notice of candidacy after the closing date for receipt of notices but before the justices clerk has provided to the eligible justices the information under Rule 11(3)(b), the name of that candidate must be omitted from the ballot, save that—
  - (a) where (after the withdrawal of the notice) there is only one candidate for a single vacancy, that candidate is elected, and
  - (b) where (after the withdrawal of the notice) the number of candidates equals or is less than the number of vacancies, those candidates are elected.
- (3) Where a candidate has withdrawn their notice after there has been a ballot and an equality of votes requires the drawing of lots, that candidate’s name must not be included in the drawing of lots, save that—
  - (a) where (after the withdrawal of the notice) there remains only one candidate for a single vacancy, that candidate is elected;
  - (b) where (after the withdrawal of the notice) the number of candidates for the relevant vacancy equals or is less than the number of vacancies, those candidates are elected.

**Absence or insufficiency of notices of candidacy**

**15.**—(1) Where no notices of candidacy have been received within the relevant timetable, or all notices submitted are withdrawn, the justices’ clerk must inform the eligible justices of that fact and inform them that they may further submit notices by a date specified by the justices’ clerk.

(2) Where notices are received in accordance with paragraph (1), the procedure set out at Rule 8 must be followed.

(3) If no notices are received in accordance with paragraph (1) for the office of chairman, the justices’ clerk must arrange a secret ballot, following the procedure in Rules 11, 12 and 13.

(4) For the purposes of the secret ballot under paragraph (3), all eligible justices must be treated as candidates and their names presented in alphabetical order for the vote.

(5) If no or insufficient notices are received in accordance with paragraph (1) for the office of deputy chairman, any vacancy may remain for the duration of the term.

(6) In respect of a local justice area, if either—

- (a) no notices are received in accordance with paragraph (1) for election to a JTAAAC selection panel; or
- (b) insufficient notices are received for members of a JTAAAC selection panel,

the chairman of that local justice area must select the requisite number of justices to act in that regard.

(7) In respect of a local justice area, if either—

- (a) no notices are received in accordance with paragraph (1) for election to an FTAAAC selection panel, or
- (b) insufficient notices are received for members of an FTAAAC selection panel,

the justice with the leadership role in relation to family justices in the area must select the requisite number of justices to act in that regard.

**Material irregularity in election procedure**

**16.**—(1) Where the justices’ clerk is satisfied (either of their own motion or following representation from an eligible justice) that a material irregularity has occurred in the election

procedure, the justices' clerk may revoke the result of the election and repeat the election procedure, or a part of it, in respect of the relevant vacancy or vacancies.

(2) An eligible justice must make a representation as to any material irregularity to the justices' clerk within 14 days of the notification of the result of the election under Rule 10(8) or 12(6).

(3) The justices' clerk must notify the eligible justice who made the representation of their decision within 14 days.

(4) If the justices' clerk does not repeat the election procedure, an eligible justice may, within 14 days of notice of such decision, request a judicial office holder, nominated for this purpose by the Lord Chief Justice, to revoke the result of the election and repeat the election procedure, or a part of it.

(5) The eligible justice making a request under paragraph (4) must—

- (a) make the request in writing to the justices' clerk; and
- (b) specify the grounds on which the request is made.

(6) The nominated judicial office holder may—

- (a) confirm the result of the election, or
- (b) if satisfied that a material irregularity has occurred in the election procedure, revoke the result of the election and direct the justices' clerk to repeat the election procedure, or a part of it.

(7) The justices' clerk or nominated judicial office holder must give candidates and any eligible justice who has made representations under paragraph (2), the opportunity to make representations before determining whether to repeat the election procedure, or any part of it.

## CHAPTER 2

### Provisions specific to chairman and deputy chairmen

#### **Duration of term in office and vacancies**

**17.**—(1) Subject to paragraphs (2), (5) and (6), a chairman and deputy chairman elected under Rules 8 to 15 inclusive will serve a term of one year commencing on 1st April following their election and ending on 31st March of the following year (the “normal term”).

(2) The term may be less than one year if—

- (a) the chairman or deputy chairman ceases to act as such, whether by ceasing to be a justice, resignation or for any other reason, in which case the term finishes on the date the person ceases to act, or
- (b) the relevant local justice area ceases to exist, in which case the term finishes on the date the local justice area ceases to exist.

(3) Where a vacancy arises during the normal term under paragraph (2), the justices' clerk must, as soon as possible, commence the election procedure in respect of the vacancy.

(4) Paragraph (3) does not apply if the vacancy is that of a deputy chairman and the chairman determines that the vacancy should not be filled.

(5) The term may commence on a date other than 1st April if—

- (a) there has been an election under paragraph (3), in which case the term commences on the date of the election or such other date as may have been specified by or on behalf of the justices' clerk, or
- (b) a new local justice area is created, in which case a new term commences on the date that the new local justice area comes into existence.

(6) Subject to paragraph (7), in respect of a justice elected to a vacancy under paragraph (5), the term is until the end date of the normal term.

(7) If a justice is elected under paragraph (5) in respect of a term commencing on a date between 1st January and 31st March in any given year, the term continues until 31st March of the following year.

**Eligibility for re-election**

**18.**—(1) A justice is not eligible to be elected as chairman for a local justice area for more than three terms in that local justice area, unless at least six years have elapsed since the justice last filled that vacancy.

(2) In any event, a justice is not eligible to be elected as chairman for a local justice area for more than six terms in total in any one local justice area.

(3) A justice is not eligible to be elected as a deputy chairman for a local justice area for more than five terms in any one local justice area.