



# Justices of the Peace Act 1949

## 1949 CHAPTER 101

An Act to amend the law relating to justices of the peace (including stipendiary magistrates), justices' clerks and the administrative and financial arrangements for magistrates' courts, to provide for paying travelling and lodging allowances to members of probation committees and case committees and for enabling probation committees to hold land, to authorise the appointment of interim clerks of the peace in Scotland, and for purposes connected therewith. [16th December 1949]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### PROVISIONS AS TO INDIVIDUAL JUSTICES

##### **1 Residence qualification of justices**

- (1) Subject to the provisions of this section, a person shall not be appointed justice of the peace by the commission of the peace for any area, nor act as justice of the peace by virtue of any such appointment, unless he resides in or within fifteen miles of that area.
- (2) If the Lord Chancellor is of opinion that it is in the public interest for a person to act as justice of the peace for a particular area though not qualified so to do under the foregoing subsection, he may direct that so long as any conditions specified in the direction are satisfied the foregoing subsection shall not apply in relation to that person's appointment as justice by the commission of the peace for the area so specified.
- (3) Subject to the next following subsection, where a person appointed justice of the peace by the commission of the peace for any area (whether so appointed before or after the coming into force of this section) is not qualified under the foregoing provisions of

this section to act by virtue of the appointment, his name shall be removed from the commission if the Lord Chancellor is of opinion that the appointment ought not to continue having regard to the probable duration and other circumstances of the want of qualification.

- (4) Nothing in this section shall apply in relation to the appointment of a person, as holding or having been appointed to any office mentioned in the first column of the First Schedule to this Act, to be a justice of the peace for an area specified in relation to that office in the second column of that Schedule.
- (5) In the application of this section to the county palatine of Lancaster, references to the Chancellor of the Duchy of Lancaster shall be substituted for references to the Lord Chancellor.

## **2 The mayor as a justice**

Subsections (7) and (8) of section eighteen of the Local Government Act, 1933, shall be amended as follows:—

- (a) the mayor of a borough shall not under subsection (7) be a justice of the peace for the borough during the year next after he ceases to be mayor;
- (b) subsection (7) shall not apply to the mayor of a borough not having a separate commission of the peace, and he shall accordingly be a justice for the county under subsection (8) but not for the borough;
- (c) subsection (8) shall not apply to the mayor of a borough having a separate commission of the peace, and he shall accordingly be a justice for the borough under subsection (7) but not for the county.

## **3 Disqualification in certain cases of justices who are members of local authorities**

- (1) A justice of the peace who is a member of a local authority within the meaning of the Local Government Act, 1933, the London Government Act, 1939, or the Local Government (Scotland) Act, 1947, shall not act as a member of a court of quarter sessions or of a magistrates' court in any proceedings brought by or against, or by way of appeal from a decision of, the authority or any committee or officer of the authority.
- (2) For the purposes of the foregoing subsection—
  - (a) any reference to a committee of a local authority includes a joint committee, joint board, joint authority or other combined body of which that authority is a member or on which it is represented; and
  - (b) any reference to an officer of a local authority refers to a person employed or appointed by the authority or a committee thereof in the capacity in which he is employed or appointed to act.
- (3) A justice of the peace who is a member of the common council of the City of London shall not act as a member of a court of quarter sessions or of a magistrates' court in any proceedings brought by or against, or by way of appeal from a decision of, the corporation of that City or the common council or any committee or officer of the corporation or common council; and the last foregoing subsection shall apply for the purposes of this subsection, with the substitution for references to a local authority of references to the corporation or common council.
- (4) Nothing in this section shall prevent a justice acting in any proceedings for an offence by reason only of their being brought by a police officer.

- (5) This section shall in its application to Scotland have effect as if in subsection (1) after the words " magistrates' court " there were inserted the words " or of a small debt court ".

#### **4 Supplemental list**

- (1) The Lord Chancellor may by statutory instrument make rules directing that in connection with any commission of the peace issued by His Majesty there shall be kept a list for the purposes of this section (in this Act called " the supplemental list"), and those rules shall make provision for the entry in the supplemental list kept in connection with any commission of the name of any such person appointed a justice by the commission as is hereinafter mentioned, and for the removal of names from the list.
- (2) A person who is appointed justice of the peace by the commission of the peace for any area, but whose name is for the time being entered in the supplemental list kept in connection with the commission, shall not by virtue of that appointment be qualified as a justice to do any act, except as mentioned in the next following subsection, nor by virtue of that appointment be qualified as a justice to be a member of any committee or other body.
- (3) The last foregoing subsection shall not preclude a justice from doing all or any of the following acts as a justice, that is to say,—
- (a) signing any document for the purpose of authenticating another person's signature;
  - (b) taking and authenticating by his signature any written declaration not made on oath ; and
  - (c) giving a certificate of facts within his knowledge or of his opinion as to any matter.
- (4) Subject to the two next following subsections any rules made under this section shall provide for entering in the supplemental list the names of persons—
- (a) who are of the age of seventy-five years or over and neither hold nor have held high judicial office within the meaning of the Appellate Jurisdiction Act, 1876 ; or
  - (b) who apply to have their names entered therein;
- and the Lord Chancellor may direct that the name of any person appointed a justice of the peace by the commission of the peace for any area shall be entered in the supplemental list kept in connection with that commission if the Lord Chancellor is satisfied either—
- (i) that by reason of that person's age or infirmity or other like cause it is expedient he should cease to exercise judicial functions as a justice for the area; or
  - (ii) that that person declines or neglects to take a proper part in the exercise of those functions.
- (5) The said rules may provide that in such circumstances as may be prescribed by the rules a person's name shall not be entered in a supplemental list on his own application except with the approval of the Lord Chancellor.
- (6) Until the expiration of five years from the coming into force of this section, the said rules may also provide for exceptions from the provisions relating to justices of the

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age of seventy-five years or over in any area where it appears to the Lord Chancellor necessary in order to have enough experienced justices.

- (7) The said rules may provide that if, with respect to any commission of the peace, it appears to the Lord Chancellor that those of the persons appointed justices thereby who are to be subject to the disqualifications specified in subsection (2) of this section can be more conveniently designated in some manner other than the entry of their names in the supplemental list, they may be designated in such other manner as may be prescribed by the rules, and, where such provision is made, the rules shall provide for the application of this section, with the necessary adaptations, to the designation of such persons, and to persons so designated, in like manner in all respects as it applies to the entry of the names of persons in supplemental lists, and to persons whose names are entered in such lists, and references in any other provision of this Act to the supplemental list shall have effect accordingly.
- (8) This section shall apply to a person who under the Local Government Act, 1933, the London Government Act, 1939, or the Local Government (Scotland) Act, 1947, is a justice of the peace for any area by virtue of his office as mayor, lord provost or provost or chairman of a local authority as if his appointment as justice by that Act were an appointment by the commission of the peace for the area.
- (9) In the application of this section to the county palatine of Lancaster, references to the Chancellor of the Duchy of Lancaster shall be substituted for references to the Lord Chancellor.
- (10) Any rules made or other thing done under or for the purposes of the Justices (Supplemental List) Act, 1941, shall have effect as if made or done under or for the purposes of this section.

## **5 Saving for acts and appointments**

No act or appointment shall be invalidated by reason only of the disqualification or want of qualification under any of the foregoing sections of the person acting or appointed.

## **6 Amendment of Fisheries Acts**

In section seventy-six of the Salmon and Freshwater Fisheries Act, 1923 (which relates to the disqualification of justices who are members of a fishery board or subscribers to a society for the protection of fish), the words " a member of a fishery board or " shall cease to have effect, and section thirty-four of the Salmon Fisheries (Scotland) Act, 1868, in so far as it directs that a justice shall not be disqualified from hearing any case arising under the said Act by reason of his being a member of a district board shall cease to have effect.

## **7 Restriction on right to practise as solicitor**

- (1) The provisions of this section shall have effect in place of section fifty-four of the Solicitors Act, 1932 (which limits the right of county justices and their partners to practise as solicitors).
- (2) Subject to the following subsections, it shall not be lawful for any solicitor who is one of the justices of the peace for any area, nor for any partner of his, to act in connection

with proceedings before any of those justices as solicitor or agent for the solicitor of any person concerned in those proceedings.

- (3) Where a solicitor is a justice of the peace for any area, but either—
- (a) his name is entered in the supplemental list for that area; or
  - (b) he is for the time being excluded from the exercise of his functions as a justice for that area under section four of the Justices of the Peace Act, 1906 (which relates to *ex officio* justices);

his being a justice for the area shall not subject him or any partner of his to any disqualification under this section.

- (4) Where a solicitor is a justice of the peace for the county of London, but is so by virtue only of his office as mayor of a metropolitan borough, his being a justice for the county shall not subject any partner of his to any disqualification under this section.

## **8 Travelling and lodging allowances**

- (1) Subject to the provisions of this section, a justice of the peace shall be entitled to receive payments at the prescribed rates by way of travelling allowance or lodging allowance where expenditure on travelling or, as the case may be, on accommodation for the night is necessarily incurred by him for the purpose of enabling him to perform any of his duties as a justice.
- (2) For the purposes of this section, a justice following a course of instruction under a scheme made in accordance with arrangements approved by the Lord Chancellor shall be deemed to be acting in the performance of his duties as a justice.
- (3) A justice shall not be entitled to any payment under this section in respect of any duties—
- (a) if the duties are performed not more than three miles from his usual place of residence; or
  - (b) if in respect of those duties a travelling or lodging allowance may be paid to him under arrangements made apart from this section or regulations provide that this section shall not apply.
- (4) A stipendiary magistrate or recorder shall not be entitled to any payment under this section in respect of his duties as such, and a paid chairman or paid deputy chairman of quarter sessions shall also not be entitled as aforesaid except in so far as may be agreed between the court of quarter sessions and the authority paying his salary at the time his salary is determined.
- (5) Allowances under this section shall be paid as follows:—
- (a) any allowance to a justice for the City of London in respect of his duties as such shall be paid by the corporation of the City ;
  - (b) any allowance to a county justice or a borough justice in respect of his duties as such shall be paid by the county council or borough council, as the case may be.
- (6) Regulations may make provision as to the manner in which this section is to be administered, and in particular—
- (a) for prescribing the rates of allowances, and the forms to be used and the particulars to be provided for the purpose of claiming payment thereof; and

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- (b) for avoiding duplication between payments under this section and under other arrangements where expenditure is incurred for more than one purpose, and otherwise for preventing abuses.
- (7) Regulations for the purposes of this section shall be made by the Secretary of State by statutory instrument, which shall be subject to annulment by resolution of either House of Parliament.
- (8) This section shall in its application to Scotland have effect subject to the following modifications:—
  - (a) references to recorders and paid chairmen or paid deputy chairmen of quarter sessions shall be omitted;
  - (b) for subsection (5) there shall be substituted the following subsection:—
    - “(5) Section one hundred and eighty-seven of the Local Government (Scotland) Act, 1947 (which relates to expenses of justices of the peace), shall apply to the allowances payable to justices under this section in like manner as it applies to the sums mentioned in the said section one hundred and eighty-seven”;
  - (c) the provisions of this section shall not apply in relation to the duties of a justice as a member of a licensing court or court of appeal under the Licensing (Scotland) Acts, 1903 to 1934.

## 9 Application of Part I to Scotland

In the application of this Part of this Act to Scotland—

- (i) the words " not made on oath " in paragraph (b) of subsection (3) of section four shall be omitted; and
- (ii) for section seven there shall be substituted the following section:—

Section four of the Justices (Scotland) Act, 1856, and section three of the Justices of the Peace Act, 1906, in so far as they prohibit solicitors being justices or their partners from practising shall not apply in relation to a solicitor as justice for any county or county of a city if his name is entered in the supplemental list for that county or county of a city.”

## PART II

### COMMISSION OF THE PEACE, CONSTITUTION OF COURTS AND RULES OF PROCEDURE

## 10 Area of commission

- (1) Subject to the provisions of this Act, there shall be a separate commission of the peace for every county, for every county borough and for such non-county boroughs as satisfy one of the following conditions, that is to say—
  - (a) that at the end of December nineteen hundred and forty eight the borough had a separate commission of the peace and a population of thirty-five thousand or over ;
  - (b) that at the end of that month the borough had a separate commission of the peace and court of quarter sessions and a population of twenty thousand or over;

- (c) that at the end of that month the borough had a separate commission of the peace and court of quarter sessions, and the Lord Chancellor makes an order under subsection (5) of this section saving the grant to the borough of its commission and quarter sessions;
  - (d) that after the passing of this Act His Majesty grants a separate commission of the peace to the borough under section one hundred and fifty-six of the Municipal Corporations Act, 1882, on a petition made by the council at a time when the borough has a population of sixty-five thousand or over,and there shall not be a commission of the peace or justices of the peace for any other area.
- (2) For the purposes of this section, the county shall be the administrative county except that, in the case of London, the county shall be the county of London as constituted under subsection (2) of section forty of the Local Government Act, 1888, unless the City of London is made subject to the jurisdiction of the county justices and court of quarter sessions under subsection (3) of that section.
- (3) For the purposes of this section, an administrative county shall be deemed to include any area in a county borough not having a separate court of quarter sessions which forms part of the county for the purpose of the appointment of a coroner, but this shall not affect the commission of the peace or justices of the peace for the borough and the jurisdiction of the borough justices as respects matters within their commission shall be exclusive of that of the justices for the county to the same extent as if the area did not form part of the county.
- (4) For the purposes of this section, the administrative county of Cornwall shall be deemed to include the Scilly Isles.
- (5) The Lord Chancellor may make an order saving for the purposes of subsection (1) of this section the grant to a borough of its commission and quarter sessions if—
  - (a) the borough council applies for the order not later than two months after the date of the passing of this Act or within such further time as the Lord Chancellor may allow; and
  - (b) the Lord Chancellor is satisfied that it is desirable to save the grant to the borough of its commission and quarter sessions on account—
    - (i) of the assistance the borough court of quarter sessions has given or is likely to be able to give in the administration of justice in the county which includes the borough ; and
    - (ii) of historical or geographical reasons;and it shall be the duty of the recorder for the time being of any borough named in an order under this section, before he fixes the date for holding any quarter sessions for the borough, to consult the chairman of the court of quarter sessions of the county or quarter sessions division of a county in which the borough is situated or (failing the chairman) the deputy chairman or one of the deputy chairmen of that court.
- (6) The power of the Lord Chancellor to make an order under this section shall be exercisable by statutory instrument.
- (7) The Second Schedule to this Act shall have effect for the preservation and adaptation of existing commissions of the peace and other purposes consequential on the changes effected by the foregoing subsections.
- (8) Except as provided by that Schedule, any existing commission of the peace which is not in accordance with subsection (1) of this section, and any appointment in

connection therewith of a recorder, deputy recorder, clerk or deputy clerk of the peace, justices' clerk, crier, or other officer shall become inoperative on the coming into force of this section.

- (9) For the purposes of this section, the population at any time of a borough shall be ascertained according to the estimates of the registrar-general and the population at the end of December nineteen hundred and forty-eight shall be ascertained to the nearest thousand.
- (10) The boroughs retaining their existing commissions of the peace by virtue of paragraphs (a) and (b) of subsection (1) of this section are those named in the Third Schedule to this Act.
- (11) For the purposes of this section, the expression "existing" means existing immediately before the coming into force of this section.

## **11 Justices and courts in London**

- (1) Subsection (1) of the last foregoing section shall not affect the justices of the peace for the City of London or any power of His Majesty in relation to justices for the City.
- (2) At either of the justice rooms of the City of London the place of the Lord Mayor or alderman may, for the purposes of the exercise of any powers of a magistrates' court, be taken by the assistant judge of the Mayor's and City of London Court appointed under the Borough and Local Courts of Record Act, 1872, or any additional judge of that court appointed under the Mayor's and City of London Court Act, 1920.
- (3) At quarter sessions for the City of London the court may, for the purpose of hearing and determining any appeal from a court of summary jurisdiction or dealing with costs, recognisances and other matters preliminary to or arising out of any such appeal, consist of the recorder of the City of London (if appointed by His Majesty to exercise judicial functions) or the common serjeant of the City of London.
- (4) A court constituted in accordance with subsection (2) or (3) of this section shall have the same jurisdiction and powers as if constituted in the ordinary way.
- (5) The justices of the peace for the City of London shall not exercise any jurisdiction which is required to be exercised by a juvenile court, or any jurisdiction to hear and determine domestic proceedings; and metropolitan stipendiary magistrates and other justices for the county of London may exercise in relation to the City of London—
  - (a) any jurisdiction which may be exercised by a juvenile court; and
  - (b) any jurisdiction under the Guardianship of Infants Acts, 1886 and 1925, the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, or subsection (3) of section four of the Family Allowances Act, 1945;
 as if the City were included in the county of London.
- (6) So much of Part III of the Children and Young Persons Act, 1933, and the Summary Procedure (Domestic Proceedings) Act, 1937, as relates specifically to courts of summary jurisdiction for the City of London shall cease to have effect, and references in the said Part III and the said Act of 1937 to the metropolitan stipendiary court area shall include the City.
- (7) In subsection (5) of this section the expression "domestic proceedings" means domestic proceedings within the meaning of the Summary Procedure (Domestic Proceedings) Act, 1937, and references to the City of London include any area forming



part of the administrative county of London but not forming part of the county within the meaning of the last foregoing section.

- (8) Subsection (5) of this section shall not affect any jurisdiction of the justices of the peace for the City of London in relation to orders made by those justices before the coming into force of that subsection.
- (9) Section forty-two of the Metropolitan Police Courts Act, 1839 (which limits the cases in which fees may be taken in proceedings before justices in the metropolitan stipendiary court area), shall cease to have effect, but justices acting for any petty sessional division of the county of London (not being metropolitan stipendiary magistrates) shall comply with any order of the Secretary of State as to the classes of case which should or should not be taken by them.
- (10) Nothing done by any such justices shall be invalidated by reason of any non-compliance with an order under the last foregoing subsection.
- (11) Any such order shall be made by statutory instrument and may be varied or revoked by a subsequent order.

## **12 Licensing authorities for non-county boroughs**

- (1) For the purposes of the Licensing (Consolidation) Act, 1910, as respects licensing districts being non-county boroughs—
  - (a) the licensing justices shall be for all purposes the borough licensing committee;
  - (b) the confirming authority shall be a committee of the borough justices; and
  - (c) the compensation authority shall be the county confirming and compensation committee of the county in which the borough is situated.
- (2) Section forty of the Licensing (Consolidation) Act, 1910, as set out in the Second Schedule to the Licensing Act, 1949 (which relates to the disqualification of justices), and section twelve of the Licensing Act, 1949 (which relates to the constitution and procedure of licensing authorities in county boroughs), shall apply in relation to a non-county borough having a separate commission of the peace and to the confirming authority in such a borough as they apply in relation to a county borough and the confirming and compensation committee in a county borough.
- (3) The justices of any non-county borough shall be entitled to appoint one of their number to act on the county confirming and compensation committee when the committee is discharging functions as compensation authority (whether for the county or for any borough situated therein), and for the purpose of those functions any justice so appointed shall be deemed to be an additional member of the committee.
- (4) Notwithstanding the foregoing provisions of this section the confirming authority in any borough mentioned in Part III of the Third Schedule to this Act or in an order of the Lord Chancellor under section ten thereof shall be a joint committee of the borough justices and justices for the county in which the borough is situated (constituted in accordance with section four of the Licensing (Consolidation) Act, 1910), if and so long as it appears to the borough justices expedient having regard to the small number of the borough justices available to act as members of a confirming authority constituted as provided by subsection (2) of this section.

### **13 Size and chairmanship of bench**

- (1) The number of county or borough justices sitting to deal with a case as a court of quarter sessions or as a magistrates' court shall not be greater than the number prescribed in that behalf by rules made under this section.
- (2) In any petty sessions area there shall be a chairman and one or more deputy chairmen of the justices chosen from amongst themselves by the magistrates for the area by secret ballot.
- (3) Subject to the next following subsection, at any meeting of justices for a petty sessions area the chairman or a deputy chairman of the justices shall preside, if present, and the mayor of a borough shall not as such have any right to preside at meetings of justices.
- (4) The last foregoing subsection shall not confer on the chairman and deputy chairmen of the justices as such any right to preside at quarter sessions or in a juvenile court, or at meetings of a committee or other body of justices having its own chairman, or at meetings when any stipendiary magistrate is engaged as such in administering justice.
- (5) Rules made under this section may make provision as to the manner in which this section is to be administered and in particular—
  - (a) as to the arrangements to be made for securing the presence on the bench of enough, but not more than enough, justices; and
  - (b) as to the term of office and the procedure at an election of the chairman and deputy chairmen of the justices in a petty sessions area, and the number of deputy chairmen to be elected in any such area.
- (6) Rules for the purposes of this section shall be made by the Lord Chancellor by statutory instrument, which shall be subject to annulment by resolution of either House of Parliament.

### **14 Age of bench in juvenile courts**

- (1) The rules with respect to the formation and revision of juvenile court panels made under paragraph 1 of the Second Schedule to the Children and Young Persons Act, 1933, or section fifty-one of the Children and Young Persons (Scotland) Act, 1937, may include provision for securing that a justice shall not be a member of a panel after he has attained the retiring age prescribed by the rules.
- (2) Those rules may also include provision for securing that a justice is not appointed a member of a panel after he has attained such age as may be so prescribed.

### **15 Rule committee and rules of procedure**

- (1) The Lord Chancellor may appoint a rule committee for magistrates' courts, and may on the advice of or after consultation with the rule committee make rules for regulating and prescribing the procedure and practice to be followed in magistrates' courts and by justices' clerks.
- (2) The rule committee shall consist of the Lord Chief Justice, the President of the Probate, Divorce and Admiralty Division of the High Court, the chief magistrate of the metropolitan stipendiary court at Bow Street and such number of other persons appointed by the Lord Chancellor as he may determine.

- (3) Among the members of the committee appointed by the Lord Chancellor there shall be at least one justices' clerk, one practising barrister and one practising solicitor of the Supreme Court.
- (4) The power to make rules conferred by this section shall (without prejudice to the generality of subsection (1) thereof) include power to make provision as to—
  - (a) the practice and procedure of justices in exercising functions preliminary or incidental to proceedings before a magistrates' court;
  - (b) the service and execution of process issued by or for the purposes of a magistrates' court, including the service and execution in England and Wales of process issued in other parts of the United Kingdom ;
  - (c) the keeping of records of proceedings before magistrates' courts and the manner in which things done in the course of or as preliminary or incidental to, any such proceedings may be proved in any legal proceedings;
  - (d) the extent to which a justices' clerk may engage in practice as a solicitor or barrister;
  - (e) any other matters as to which immediately before the coming into force of this section provision is or can be made by virtue of the enactments and parts of enactments repealed by Part II of the Seventh Schedule to this Act.
- (5) After the establishment of the rule committee, no rules shall be made by the Lord Chancellor under section thirteen of this Act except on the advice of or after consultation with the committee and the reference in the last foregoing section to paragraph 1 of the Second Schedule to the Children and Young Persons Act, 1933, shall be taken as a reference to this section.
- (6) Any Act passed before this Act, in so far as that Act relates to matters about which rules may be made under this section, shall have effect subject to any rules so made and may be amended or repealed by the rules accordingly:

Provided that nothing in this section shall authorise the rules to reduce the number of justices required for any purpose by any Act.
- (7) In subsection (4) of section thirty-three of the Criminal Justice Act, 1925, for the reference to section seventeen of that Act there shall be substituted a reference to this section, and in subsection (2) of section five of the Dogs Act, 1906, and in section thirteen of the Money Payments (Justices Procedure) Act, 1935, the reference to rules shall be taken as a reference to rules under this section.
- (8) Any rules, directions, forms or other instrument having effect under the enactments repealed by Part II of the Seventh Schedule to this Act shall have effect as if contained in rules made under this section.
- (9) The power to make rules conferred by this section shall be exercisable by statutory instrument which shall be subject to annulment by resolution of either House of Parliament.
- (10) In this section the expression " justices' clerk " includes a clerk to a stipendiary magistrate, a clerk to a metropolitan stipendiary court and a clerk at either of the justice rooms of the City of London.

### PART III

#### MAGISTRATES' COURTS COMMITTEES AND JUSTICES' CLERKS

#### 16 **Establishment of magistrates' courts committees**

- (1) Committees (to be called magistrates' courts committees) shall be set up in accordance with the following provisions of this section with such functions in relation to justices' clerks, to the division of counties into petty sessional divisions, to the provision of courses of instruction for justices and to other matters of an administrative character as are or may be provided by or under this Act or as they may be authorised to undertake by the Secretary of State.
- (2) There shall be a magistrates' courts committee for each county and for each county borough:  
Provided that—
  - (a) there may be a single magistrates' courts committee for an area (in this Act referred to as " a joint committee area ") consisting of two or more counties, or of two or more county boroughs, or of one or more counties and one or more county boroughs ; and
  - (b) a quarter sessions division of a county may be treated for the purposes of this section as a separate county; and
  - (c) there may be a separate magistrates' courts committee for a non-county borough having a separate commission of the peace, if at the time of the establishment of the committee the borough has a population of sixty-five thousand or over.
- (3) Where a non-county borough has for the time being a separate magistrates' courts committee, the jurisdiction of the borough justices as respects matters within their commission shall be exclusive of that of the justices for the county to the same extent as if the borough did not form part of the county.
- (4) The Fourth Schedule to this Act shall have effect with respect to the procedure for establishing magistrates' courts committees and with respect to the constitution and procedure of and other matters relating to those committees.
- (5) For the purpose of the provisions of this Act relating to magistrates' courts committees, the expression " county" in the case of London has the same meaning as it has for the purposes of section ten of this Act, and in any other case means the administrative county exclusive of any area in a county borough included in the county for the purposes of that section, and the administrative county of Cornwall shall be deemed to include the Scilly Isles, so, however, that references to a county, except in so far as the context otherwise requires, shall include a quarter sessions division of a county which is for the time being to be treated for the purposes of this section as a separate county.
- (6) For the purposes of this section,—
  - (a) the expression " quarter sessions division " means part of a county, being a part for which (with or without the whole or part of one or more county boroughs) quarter sessions are ordinarily held separately by adjournment or otherwise ; and
  - (b) the population at any time of a borough shall be determined according to the estimates of the registrar-general.

## **17 Provision of courses of instruction**

It shall be the duty of every magistrates' courts committee, in accordance with arrangements approved by the Lord Chancellor, to make and administer schemes providing for courses of instruction for justices of their area.

## **18 Powers and duties of committee as to petty sessional divisions**

- (1) Subject to the provisions of this section, a magistrates' courts committee acting for a county may at any time submit to the Secretary of State a draft order making such provision about the division of the county or any part thereof into petty sessional divisions as the committee think fit.
- (2) It shall be the duty of such a committee, if directed to do so by the Secretary of State, to review the division of the county or any part thereof into petty sessional divisions and on completion of the review to submit to the Secretary of State either a draft order under the foregoing subsection or a report giving reasons for making no change.
- (3) Subject to the provisions of this section—
  - (a) where such a committee submit a draft order to the Secretary of State under this section, he may by statutory instrument make the order either in the terms of the draft or with such modifications as he thinks fit; and
  - (b) where such a committee fail to comply within six months with a direction of the Secretary of State under the last foregoing subsection, or the Secretary of State is dissatisfied with the draft order or report submitted in pursuance of such a direction, he may by statutory instrument make such order as he thinks fit about the division into petty sessional divisions of the area to which the direction related.
- (4) Any order under this section—
  - (a) may contain transitional and other consequential provisions; and
  - (b) may be revoked or varied by a subsequent order thereunder.
- (5) Before submitting to the Secretary of State a draft order or a report under this section about any area, a magistrates' courts committee—
  - (a) shall consult the county council and the magistrates for any existing petty sessional division in the area ; and
  - (b) in the case of a draft order, after complying with the foregoing paragraph shall send a copy of their proposals to every interested authority and take into consideration any objections made in the prescribed manner and within the prescribed time.
- (6) A magistrates' courts committee submitting to the Secretary of State a draft order or a report under this section shall comply with such requirements (if any) as to notice as may be prescribed, and the Secretary of State before making an order under this section about any area otherwise than in accordance with a draft submitted to him by the magistrates' courts committee shall send a copy of his proposals to the committee, to the county council, to the magistrates for any existing petty sessional division in the area and to every interested authority.
- (7) Before making any order under this section the Secretary of State shall take into consideration any objections made in the prescribed manner and within the prescribed time and may cause a local inquiry to be held.

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- (8) An order under this section may provide for a county ceasing to be divided into petty sessional divisions, and a direction under subsection (2) thereof may be given with respect to the division of a county which is not for the time being so divided.
- (9) For the purposes of this section—
  - (a) the expression "interested authority" means, in relation to any order or draft order, the council of any borough, metropolitan borough or urban or rural district which includes the whole or any part of the area to which the order relates; and
  - (b) an order shall be deemed to be made in accordance with a draft order if it is made in terms of the draft order or the departures from the draft order do not, in the opinion of the Secretary of State, effect important alterations in the draft order.
- (10) The powers conferred by this section shall be in substitution for any other power to create or alter petty sessional divisions in a county, except powers conferred by any other provision of this Act or by section one hundred and forty-eight of the Local Government Act, 1933.

## **19 Appointment and conditions of service of justices' clerks**

- (1) Justices' clerks shall be appointed by the magistrates' courts committee and shall hold office during the pleasure of the committee, and the committee may appoint more than one justices' clerk for any area.
- (2) A justices' clerk shall be paid a salary for his personal remuneration, and the salary shall be deemed to be remuneration for all business which he may by reason of his office as justices' clerk be called upon to perform, other than any duties as secretary to a licensing planning committee under the Licensing Planning (Temporary Provisions) Acts, 1945 and 1946.
- (3) A justices' clerk may be paid a single salary in respect of two or more clerkships.
- (4) Subject to subsection (6) of this section, a justices' clerk shall be provided with the accommodation and staff, and the furniture, books and other things, proper to enable him to carry out his duties.
- (5) A justices' clerk shall, in addition to his salary, be paid the amount of any expenses of a description specified when his salary is determined, being expenses incurred by him with the general or special authority of the magistrates' courts committee.
- (6) Where a justices' clerk devotes part of his time to work other than the duties appertaining to his clerkship or clerkships, he may by arrangement with the magistrates' courts committee make use for the purpose of those duties of any accommodation, staff or equipment which he has for other purposes, and the sums payable to him under the last foregoing subsection may include payments for accommodation, staff or equipment so provided by him, whether or not he thereby incurs additional expense.
- (7) Any staff provided for a justices' clerk shall be employed by the magistrates' courts committee but shall work under the direction of the clerk, and subject to this Act the committee may make any arrangements they think fit for staff to be engaged and dismissed, and the terms of their employment fixed, on behalf of the committee.

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Before any such staff are engaged or dismissed (otherwise than by the clerk himself on behalf of the committee), the clerk shall be consulted.

- (8) The approval of the Secretary of State shall be required—
  - (a) for any decision to increase the number of justices' clerks in a petty sessions area or to have more than one justices' clerk in a new petty sessions area;
  - (b) for any appointment of a justices' clerk;
  - (c) for the removal of the justices' clerk for a petty sessional division of a county where the magistrates for the division do not consent to the removal.
- (9) A magistrates' courts committee shall consult the magistrates for any petty sessional division of a county on the appointment or removal of a justices' clerk for the division, and the Secretary of State before approving the appointment or removal of a justices' clerk for such a division shall consider any representations made to him by the magistrates for the division, and before approving the removal of any such clerk shall consider any representations made to him by the clerk.
- (10) The two last foregoing subsections shall apply to a non-county borough having a separate commission of the peace but not a separate magistrates' courts committee, and to a county borough or county not divided into petty sessional divisions which is included in a joint committee area, as if it were a petty sessional division of a county.
- (11) The magistrates' courts committee shall inform the Secretary of State of the age, qualification and experience of any person proposed to be appointed a justices' clerk and, if the Secretary of State so requires, of any other person offering himself for the appointment.
- (12) Section forty-eight of the Summary Jurisdiction Act, 1879 (which provides that in a petty sessional division the duties of the clerk of a court of summary jurisdiction shall belong to the justices' clerk), shall apply in relation to any petty sessions area as it applies in relation to a petty sessional division, and references in that section to the Justices Clerks Act, 1877, or section five thereof shall be taken as including references to this section.
- (13) Subsection (1) of section forty-nine of the Licensing (Consolidation) Act, 1910 (which prohibits clerks to licensing justices from acting professionally in connection with proceedings at licensing sessions), shall apply to a clerk appointed after the coming into force of this section in relation to the general annual licensing meeting, transfer sessions and petty sessions held for any district as it applies in relation to those held for the clerk's district, and the words excepting the preparation of notices and forms from the operation of the subsection shall not have effect in the application of the subsection to a clerk appointed after the coming into force of this section.

## **20 Qualification of justices' clerk**

- (1) Except as provided by this section, no person shall be appointed a justices' clerk unless either at the time of appointment he is a barrister of not less than five years' standing or solicitor of the Supreme Court of the like standing and is within any limit of age prescribed for appointments to a clerkship of that class or description, or he then is or has previously been a justices' clerk.
- (2) A lower as well as an upper limit of age may be prescribed under the foregoing subsection for appointments to any class or description of clerkship.

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- (3) A person who has not been bound by and served under articles as required by paragraph (a) of section fourteen of the Solicitors Act, 1932, but has served as assistant to a justices' clerk, may be admitted a solicitor of the Supreme Court, subject to the following provisions—
- (a) the person to be admitted shall have had not less than ten years' service as such an assistant and, out of that service, not less than five years shall have been before the first day of January, nineteen hundred and sixty, and not less than the required number of years shall have been approved service ;
  - (b) for the purpose of the foregoing paragraph " approved service " means service either—
    - (i) as an articled clerk ; or
    - (ii) with respect to which the person to be admitted has obtained from the Law Society a certificate under this section on an application made after he has had five years' service as such an assistant and before the said first day of January,

and the required number of years of approved service is the number which that person would, apart from this subsection, be required by the said Act to serve under articles entered into at the date of that application ;
  - (c) the Law Society may grant a person a certificate with respect to service in any employment as assistant to a justices' clerk if they are satisfied that at the time of granting the certificate it is not practicable for him to serve as an articled clerk in that employment, and the certificate shall relate to any service by him in that employment after that time ;
  - (d) subject to the foregoing paragraphs, the Solicitors Acts, 1932 to 1941, shall apply, with any necessary modifications, in relation to a person's certificate under this section and a person applying for or obtaining such a certificate as if the certificate were articles of clerkship and the service to which it relates were service under those articles.
- (4) A person not having the qualification as barrister or solicitor which is required by subsection (1) of this section may be appointed a justices' clerk—
- (a) if at the time of appointment he is a solicitor of the Supreme Court and has served for not less than five years in one or more of the following capacities, that is to say, clerk to a stipendiary magistrate, clerk to a metropolitan stipendiary court, clerk at one of the justice rooms of the City of London, assistant to any such clerk as aforesaid and assistant to a justices' clerk ; or
  - (b) if before the time of appointment or the first day of January, nineteen hundred and sixty, whichever is the earlier, he has served for not less than ten years in one or more of the said capacities and, in the opinion of the magistrates' courts committee and of the Secretary of State, there are special circumstances making the appointment a proper one.
- (5) A person may be appointed a justices' clerk notwithstanding that he is over the upper limit of age mentioned in subsection (1) of this section if he has served in one or more of the capacities mentioned in the last foregoing subsection continuously from a time when he was below that limit to the time of appointment.
- (6) A person shall not be justices' clerk for any area wholly or partly comprised in an area in which he or a partner of his holds any of the following offices, namely, clerk of the peace, town clerk, clerk to the urban district council and deputy of any such clerk:



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Provided that a person shall not be disqualified under this subsection for holding any justices' clerkship by reason of his or his partner's holding any of the said offices where neither appointment is made after the coming into force of this subsection.

- (7) Subsection (2) of section one hundred and fifty-nine of the Municipal Corporations Act, 1882 (which relates to the qualification for being clerk to borough justices), shall cease to have effect.

## **21 Functions of justices' clerk as collecting officer**

- (1) As from the date when section nineteen of this Act comes into force, a justices' clerk shall by virtue of his office be collecting officer of any court of summary jurisdiction of which he is the clerk, and as such—

- (a) shall discharge all such functions as are conferred by any enactment on a collecting officer appointed by the justices for a petty sessional division or a borough under the Affiliation Orders Act, 1914;
- (b) shall act under any order directing the payment of money to him made by any court under section thirty of the Criminal Justice Administration Act, 1914 (which provides for periodical payments under court orders to be made through an officer of the court or other third person);

and section four of the Married Women (Maintenance) Act, 1949, shall apply to orders under any enactment directing payment to a justices' clerk as collecting officer on behalf of any person as it applies in relation to orders under the enactments mentioned in that section directing payment to him on behalf of a married woman.

- (2) Any order of a court of summary jurisdiction under subsection (1) or (2) of the said section thirty shall direct payment to be made to the collecting officer of that or some other court.
- (3) Where a court of summary jurisdiction makes an order for the periodical payment of money under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, or the Guardianship of Infants Acts, 1886 and 1925, the court shall, unless upon representations expressly made in that behalf by the applicant for the order they are satisfied that it is undesirable so to do, exercise their power to direct payment to the collecting officer of that or some other court:

Provided that, in relation to an order made under section five of the Licensing Act, 1902, on the application of the husband, there shall be substituted for the reference in this subsection to the applicant for the order a reference to his wife.

- (4) Any order made before the coming into force of this section in pursuance of the powers exercisable under the said section thirty or under section one of the Affiliation Orders Act, 1914—
- (a) if it directs payments to be made to any officer of a court of summary jurisdiction shall have effect as if it directed them to be made to the clerk of that court in his capacity as collecting officer; and
  - (b) if it directs payments to be made to a person who is not an officer of a court of summary jurisdiction shall have effect as if it directed them to be made to the clerk of the court making the order in his capacity as collecting officer.
- (5) The last foregoing subsection shall apply in relation to payments due at the coming into force of this section as well as to those becoming due thereafter, but until the person liable to make payments under an order to which that subsection applies has been

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given in the prescribed manner the prescribed notice of the effect of that subsection, he shall be deemed to have complied with the order if he makes payments in accordance with the terms thereof.

- (6) This section shall apply in relation to an order made under paragraph (c) of section five of the Summary Jurisdiction (Married Women) Act, 1895, and not directing payment to the applicant personally and in relation to an order made under paragraph (c) of subsection (2) of section five of the Licensing Act, 1902, and not directing payment to the applicant's wife personally as it applies in relation to an order made under subsection (1) of section thirty of the Criminal Justice Administration Act, 1914.
- (7) In this section the expression " justices' clerk " includes a clerk to a stipendiary magistrate, a clerk to a metropolitan stipendiary court and a clerk at either of the justice rooms of the City of London.
- (8) Subsection (4) of section thirty of the Criminal Justice Administration Act, 1914 (which provides for the payment of remuneration to a person through whom money is paid under that section), shall cease to have effect.

## **22 Superannuation of justices' clerks and their staff**

- (1) Subject to this Act, a justices' clerk appointed by a magistrates' courts committee, or person employed by a magistrates' courts committee to assist a justices' clerk, shall be superannuate in accordance with this section ; and section twenty of the Local Government Superannuation Act, 1937 (in this and the next following section referred to as " the 1937 Act") shall cease to have effect.
- (2) The 1937 Act shall have effect in relation to any such clerk or person as if magistrates' courts committees were local authorities mentioned in Part I of the First Schedule to the 1937 Act and, in the case of a clerk, as if he were employed by the committee appointing him.
- (3) For the purposes of the 1937 Act a magistrates' courts committee shall be deemed to be a local Act authority in relation to any such clerk or person if the council paying his remuneration is a local Act authority.
- (4) Without prejudice to subsection (3) of section forty of the 1937 Act (which treats employments under one authority as distinct where one can be given up without the other), a person who holds two or more clerkships under a magistrates' courts committee, or is employed by a magistrates' courts committee to assist a justices' clerk or clerks in two or more clerkships, shall be deemed for the purposes of this section to be in separate employments under separate authorities as respects any clerkships for which the remuneration is paid by different councils.
- (5) Part I of the Fifth Schedule to this Act shall have effect for the purpose of adapting the 1937 Act in relation to any such clerk or person as is mentioned in subsection (1) of this section.
- (6) A magistrates' courts committee shall not be deemed to be a local Act authority for the purposes of section twenty-six of the 1937 Act (which relates to the modification or replacement of local Act superannuation schemes) but the Minister of Health shall by order modify any local Act scheme within the meaning of the 1937 Act in such manner as he thinks appropriate to secure that the scheme shall operate in relation to any such clerk or person as is mentioned in subsection (1) of this section whose remuneration or any part thereof is paid by the local Act authority as it operates in relation to employees

of the local Act authority, subject however to such adaptations (including any increase in the age of compulsory retirement) as may be provided by the order.

- (7) Where by a local Act or otherwise provision is made for a county or borough council to make, outside the 1937 Act or any local Act scheme, payments to or in respect of their employees in the event of injury, disease or death, then, in relation to any person who is by virtue of this section a contributory employee or local Act contributor in respect of an employment for which his remuneration is paid by the council, that provision shall apply as if in that employment he were an employee of the council, subject however to such adaptations as may be provided by order of the Minister of Health.
- (8) Any order under this section or under Part I of the Fifth Schedule to this Act—
  - (a) shall be made by statutory instrument;
  - (b) may be varied or revoked by a subsequent order there under ;
  - (c) in so far as it varies or revokes a previous order, may have retrospective effect.
- (9) For the purposes of this section, any reference to a person employed by a magistrates' courts committee shall apply whether the employment is permanent or temporary, but not where it is of a casual nature.

## **23 Existing and former justices' clerks, etc.**

- (1) A justices' clerk holding office immediately before the date of the coming into force of section nineteen of this Act shall be deemed for the purposes of this Act to have been appointed by the magistrates' courts committee and, subject to the provisions of this section, any persons then employed by him to assist him in the performance of the duties appertaining to that clerkship shall be transferred to the employment of the committee on the said date.
- (2) The salary payable under the said section nineteen to a justices' clerk to whom the foregoing subsection applies shall be fixed with due regard to any additional duties imposed on him as justices' clerk by section twenty-one of this Act and to any remuneration formerly payable in respect of the duties so imposed on him.
- (3) Subsection (1) of this section shall not transfer to the employment of the magistrates' courts committee from that of a justices' clerk a person who immediately before the said date is employed by the clerk for purposes not connected with any clerkship to justices held by him, and a person employed by a justices' clerk shall not be transferred by that subsection to the employment of the committee as respects his employment by the clerk in connection with a clerkship to justices outside the area of the committee.
- (4) Where immediately before the said date a person is justices' clerk and collecting officer at the same court, subsections (1) and (3) of this section shall apply in relation to persons then employed by him as if his duties as collecting officer of that court had been duties appertaining to the clerkship.
- (5) Where immediately before the said date a person to whom subsection (1) of this section does not apply is collecting officer of any court and devotes substantially the whole of his time to his duties as collecting officer of that court, he shall be transferred on the said date to the employment of the magistrates' courts committee as a member of the staff provided for the clerk of that court.
- (6) Where the collecting officer of any court is transferred as mentioned in the last foregoing subsection, any person who immediately before the said date is employed by him to assist him in the performance of his duties as collecting officer of that court,

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and who devotes substantially the whole of his time to that employment, shall also be so transferred.

- (7) Where a person who immediately before the said date is employed by a justices' clerk or collecting officer is transferred by this section to the employment of a magistrates' courts committee, the terms and conditions on which he is then employed by the justices' clerk or collecting officer, so far as they remain applicable, shall apply to his employment by the committee; and the terms and conditions on which a person is transferred to the employment of a magistrates' courts committee by subsection (5) of this section shall be such as in the opinion of the magistrates' courts committee are on the whole not less beneficial to him than those on which he held office as collecting officer.
- (8) In relation to any person to whom the 1937 Act applies by virtue of the last foregoing section, being either—
- (a) a person who before the said date has been a justices' clerk or employed by such a clerk in connection with the clerkship; or
  - (b) a person who on the said date is transferred to the employment of a magistrates' courts committee by subsection (5) or (6) of this section;
- the provisions set out in Part II of the Fifth Schedule to this Act shall have effect as well as those set out in Part I thereof.
- (9) Paragraph (g) of Part III of the Second Schedule to the 1937 Act shall continue, notwithstanding the repeal of section twenty of that Act, to apply to a person who has been a contributory employee by virtue of the said section twenty; and in the case of such a person any rules made under section one of the Superannuation (Miscellaneous Provisions) Act, 1948 (which relates to national service), so far as they refer to an employment in which, immediately before he left it, he was a contributory employee by virtue of the said section twenty, shall have effect as if that section had continued in force and the foregoing provisions of this Part of this Act had not been passed.
- (10) Provision corresponding to subsections (8) and (9) of this section may, in relation to any local Act scheme, be made by any order modifying the scheme under the last foregoing section.
- (11) For the purposes of this section, a person's employment by any justices or by the Middlesex standing joint committee to assist a justices' clerk shall be deemed employment by that clerk; and in relation to a person who has been a contributory employee by virtue of section four hundred and eighteen of the Middlesex County Council Act, 1944, subsection (9) of this section shall apply with the substitution of references to that section for references to section twenty of the 1937 Act and of a reference to paragraph (f) of the Fifth Schedule to the said Act of 1944 for the reference to paragraph (g) of Part III of the Second Schedule to the 1937 Act.
- (12) For the purposes of this section, the expression "collecting officer" means collecting officer of a court of summary jurisdiction appointed under the Affiliation Orders Act, 1914.

## **24 Clerk in proceedings for rates in London**

The provisions of section seven of the Vestries Act, 1850, relating to the recovery of rates shall not require or authorise the town clerk of a metropolitan borough to attend on or advise any justices as their clerk.

## PART IV

### ADMINISTRATIVE AND FINANCIAL ARRANGEMENTS

#### 25 Duties of county and borough councils

- (1) Subject to the provisions of this Act, the council of each county and of each borough having a separate commission of the peace shall provide the petty sessional court houses and other accommodation, and the furniture, books and other things, proper for the due transaction of the business, and convenient keeping of the records and documents, of the county or borough justices out of sessions or any committee of such justices, or for enabling the justices' clerk for the county or borough or any part thereof to carry out his duties.
- (2) The council of each county and of each borough having a separate commission of the peace shall pay—
  - (a) any expenses of the magistrates' courts committee, or in the case of a committee acting for the area of more than one such council the proper proportion of those expenses; and
  - (b) the sums payable under Part III of this Act on account of a person's salary or expenses as justices' clerk for the county or borough or any part thereof and the remuneration of any staff employed by the magistrates' courts committee to assist him, together with any contributions for which the committee may be liable under the National Insurance Acts, 1946, as employer of the clerk or staff; and
  - (c) so far as they are not otherwise provided for, all other costs incurred with the general or special authority of the magistrates' courts committee by the county or borough justices out of sessions or by any of the county or borough justices in defending any legal proceedings taken against him in respect of any order made or act done out of sessions in the execution of his duty as such a justice; and
  - (d) any costs or damages awarded against any of the county or borough justices in such proceedings as aforesaid in so far as the magistrates' courts committee determine that they ought not to be borne by the justice personally.
- (3) Any accommodation provided under this section for any justices or justices' clerk may be outside the area for which the justices act and, in the case of a petty sessional court house, shall be deemed to be in that area for the purpose of the jurisdiction of the justices when acting in the court house.
- (4) Two or more councils may arrange for accommodation, furniture, books or other things provided for the purposes of this section by one of them to be used also as if provided for those purposes by the other or each of the others.
- (5) Section sixty-six of the Local Government Act, 1888 (which directs certain costs to be paid out of the county fund subject to the sanction of the standing joint committee of the county council and quarter sessions), shall cease to apply to costs incurred by justices out of sessions or by a justice in defending legal proceedings in respect of an order made or act done out of sessions.
- (6) Nothing in this section shall prejudice the power to appoint an occasional court house conferred by section twenty of the Summary Jurisdiction Act, 1879, or the power to appoint a petty sessional court house in the university of Oxford conferred by the Oxford University (Justices) Act, 1886.

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## **26 Supplementary provisions as to powers and duties of councils**

- (1) Subject to the provisions of this section,—
- (a) the petty sessional court houses and other accommodation, furniture, books and other things to be provided by a council under the last foregoing section ; and
  - (b) the salary to be paid to a justices' clerk and the staff to be provided for him ; and
  - (c) the nature and amount of the expenses which a magistrates' courts committee may incur in the discharge of any functions or may authorise to be incurred (including the sums payable to a justices' clerk in respect of accommodation, staff or equipment provided by him);
- shall be such as may from time to time be determined by the magistrates' courts committee after consultation with the council or councils concerned.
- (2) Where the expenses of a magistrates' courts committee, or the sums payable to or in respect of a justices' clerk holding more than one clerkship or to or in respect of staff provided for any such clerk, fall to be borne by more than one council, any question as to the manner in which they are to be borne by the councils concerned shall be determined by agreement between those councils.
- (3) Any council concerned which is aggrieved by a determination of a magistrates' courts committee under subsection (1) of this section, or under paragraph (d) of subsection (2) of the last foregoing section, may within one month from the receipt by the council of written notice of such determination appeal to the Secretary of State whose decision shall be binding upon the magistrates' courts committee and any council concerned; and any question which by the last foregoing subsection is directed to be determined by agreement shall in default of agreement be determined by the Secretary of State; and the approval of the Secretary of State shall be required for any determination under subsection (1) of this section reducing the salary of a justices' clerk, unless the clerk consents to the reduction.

## **27 Application of fines and fees, and payment of expenses of courts**

- (1) Subject to paragraphs (a), (b) and (c) of subsection (1) of section five of the Criminal Justice Administration Act, 1914 (which relate to the payment or repayment of court and police fees), there shall be paid to the Secretary of State—
- (a) all fines imposed by a court of summary jurisdiction, and all sums which become payable by virtue of an order of such a court and are by any enactment made applicable as fines so imposed or any class or description of such fines ; and
  - (b) all other sums received by a justices' clerk by reason of his office except sums to which a person other than the Secretary of State is by law entitled and which are paid to that person ;
- and any enactment directing a justices' clerk to pay any sums received by him to the responsible authority or their treasurer shall cease to have effect:
- Provided that—
- (i) paragraph (a) of this subsection shall not apply to any such sums as are referred to in subsection (7) of this section; and
  - (ii) paragraph (b) of this subsection shall not apply to sums received by a justices' clerk on account of his salary or expenses as such, and any sums paid to the

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Secretary of State by virtue of the said paragraph (b) shall be paid to him subject to their being repaid to any person establishing his title thereto.

- (2) Subject to the next following subsection, the Secretary of State shall repay to the responsible authorities the net cost to them in any year of their functions under Parts III and IV of this Act (or, in the case of responsible authorities other than county and borough councils, their corresponding functions) and of making payments under section eight of this Act otherwise than in respect of duties as chairman, deputy chairman or member of a court of quarter sessions :

Provided that a responsible authority shall not be entitled to any repayment in respect of expenditure not properly incurred.

- (3) The last foregoing subsection shall not require the Secretary of State to pay in respect of the aggregate cost to responsible authorities in any year an amount exceeding the balance of the sums received by him in respect of that year under subsection (1) of this section after deducting from those sums any Exchequer moneys included therein.
- (4) Where in any year the balance referred to in the last foregoing subsection is less than the aggregate cost so referred to, the Secretary of State may with the approval of the Treasury pay to the responsible authorities an additional amount not exceeding two-thirds of the deficiency, and the aggregate amount payable by him under this section shall be divided between the responsible authorities in proportion to their shares of that aggregate cost.
- (5) The Secretary of State, with the concurrence of the Treasury, may by statutory instrument make regulations as to the manner in which income and expenditure of responsible authorities are to be taken into account in determining the net cost to them in any year of the matters mentioned in subsection (2) of this section, and for the purposes of this section any question as to that cost shall (subject to any such regulations) be determined by the Secretary of State and any question whether expenditure was properly incurred shall also be so determined.
- (6) The sums payable by the Secretary of State under this section shall be paid at such times, in such manner and subject to such conditions as the Secretary of State may with the approval of the Treasury determine.
- (7) The sums payable to the Secretary of State by virtue of paragraph (a) of subsection (1) of this section shall not include—
- (a) any sums which by or in pursuance of any provision in the enactments relating to those sums are directed to be paid to the Commissioners of Customs and Excise or to any officer of theirs or person appointed by them ; or
  - (b) any sums which by or in pursuance of any such provision are directed to be paid to or for the benefit of the party aggrieved, party injured or a person described in similar terms or to or for the benefit of the family or relatives of a person described in any such terms or of a person dying in consequence of an act or event which constituted or was the occasion of an offence ; or
  - (c) any sums which by or in pursuance of any such provision are directed to be applied in making good any default or repairing any damage or paying or reimbursing any expenses (other than those of the prosecution) ; or
  - (d) any sums which are directed to be paid to any person by or in pursuance of any such provision referring in terms to awarding or reimbursing a loss, or to damages, compensation or satisfaction for loss, damage, injury or wrong.

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- (8) The sums payable to the Secretary of State by virtue of paragraph (b) of subsection (1) of this section (notwithstanding proviso (ii) to that subsection) shall include any sums paid to a justices' clerk, not being a clerk to county justices, out of the compensation fund under the Licensing (Consolidation) Act, 1910, in respect of work done by him as clerk to the compensation authority under that Act.
- (9) The Secretary of State, with the concurrence of the Treasury, may by statutory instrument make regulations as to the times at which and manner in which justices' clerks shall account for and pay the sums payable to him under subsection (1) of this section, and as to the keeping, inspection and audit of accounts of justices' clerks whether for the purposes of this section or otherwise.
- (10) In this section the following expressions have the following meanings respectively:—
- (a) " Exchequer moneys" means moneys which, if this section had not been passed, would be paid into the Exchequer or to any Government department or person on behalf of His Majesty by virtue of a specific provision to that effect made by or under any Act or would be so paid but for any local or other special right or privilege of whatever origin;
  - (b) " fine" has the same meaning as in the Summary Jurisdiction Act, 1879, but any reference to a fine imposed by a court of summary jurisdiction includes also any non-pecuniary forfeiture on conviction by, or under an order of, such a court so far as the forfeiture is converted into or consists of money;
  - (c) " justices' clerk" includes a clerk to a stipendiary magistrate, a clerk to a metropolitan stipendiary court, a clerk at either of the justice rooms of the City of London and a clerk of special sessions;
  - (d) " responsible authority " means any of the following authorities, namely, the corporation of the City of London, the council of any county or any borough having a separate commission of the peace, the receiver of the metropolitan police district and the commissioners under any of the Staffordshire Stipendiary Acts ;
  - (e) " the Staffordshire Stipendiary Acts" means the Staffordshire Potteries Stipendiary Justice Acts, 1839 to 1895, and the South Staffordshire Stipendiary Justice Act, 1899.
- (11) For the avoidance of doubt it is hereby declared that sums paid to a county court registrar which section one hundred and seventy of the County Courts Act, 1934, directs to be dealt with as directed by the Lord Chancellor are to be treated for the purposes of this section as paid to the registrar on behalf of His Majesty.
- (12) For the purposes of subsection (1) of this section, anything done by a court of quarter sessions on appeal from a court of summary jurisdiction shall be treated as done by the court of summary jurisdiction.

## **28 Making good defaults of justices' clerks**

- (1) Where a justices' clerk does not duly pay to the Secretary of State or other person entitled thereto any sums received by him by reason of his office (other than sums received on account of his salary or expenses as justices' clerk), or a person employed to assist a justices' clerk does not duly pay to the clerk or some person on his behalf any sums received in the course of that employment, the responsible authority shall pay the amount of those sums to the Secretary of State or other person entitled to receive them from the clerk.



- (2) A county or borough council shall have the same power under subsection (2) of section one hundred and nineteen of the Local Government Act, 1933 (or in the case of the London County Council subsection (2) of section eighty-six of the London Government Act, 1939), to take security with respect to the sums referred to in the foregoing subsection as they have with respect to money belonging to the council which is entrusted to the custody or control of a person not employed by them.
- (3) The reference in subsection (2) of the last foregoing section to the functions of county and borough councils under this Part of this Act shall include the taking of security by virtue of the last foregoing subsection, but not the making of payments under subsection (1) of this section.
- (4) In this section the expression " justices' clerk " has the same meaning as in the last foregoing section, and references to the responsible authority shall, in relation to sums payable to a clerk by reason of any office, be taken as references to the responsible authority within the meaning of that section who pay his salary in that office or (if he receives a single salary for that and some other office) who bear the part of his salary attributable to that office.

## PART V

### STIPENDIARY MAGISTRATES

#### 29 Appointments outside London

- (1) It shall be lawful for His Majesty to appoint a barrister of not less than seven years' standing or a solicitor of the Supreme Court of the like standing to be a stipendiary magistrate for any of the following areas—
  - (a) any borough having a separate commission of the peace ;
  - (b) the whole or part of any county exclusive of any such borough as aforesaid;
  - (c) a district (in this section referred to as a " joint district ") comprising two or more areas for which separate appointments might be made under the foregoing paragraphs.
- (2) A stipendiary magistrate appointed under this section shall hold office during His Majesty's pleasure and shall by virtue of his office be a justice of the peace for any county, and for any borough having a separate commission of the peace, which includes his area or any part of it.
- (3) Any appointment of a stipendiary magistrate under this section shall be of a person recommended to His Majesty by the Lord Chancellor, and a stipendiary magistrate appointed under this section shall not be removed from office except on the Lord Chancellor's recommendation.
- (4) No appointment (whether original or on a vacancy) of a stipendiary magistrate under this section—
  - (a) shall be made for a borough having a separate commission of the peace except on a petition presented to the Secretary of State by the borough council; or
  - (b) shall be made for the whole or part of a county exclusive of any such borough except on a petition so presented by the county council; or

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- (c) shall be made for a joint district except on a joint petition so presented by the borough and county councils who might present separate petitions under the foregoing paragraphs for the several parts of the joint district.
- (5) The salary of a stipendiary magistrate appointed under this section shall be paid by the council or councils on whose petition he was appointed; and, where he was appointed on a joint petition, each of the councils shall be liable to him for the whole salary but it shall be borne by them in the shares from time to time agreed, and the joint petition shall specify the shares agreed at the time of its presentation.
- (6) Before presenting a petition under this section a council shall consult the magistrates' courts committee acting for their area, and the Secretary of State before submitting the petition to His Majesty shall take into account any representations made to him by the committee.
- (7) Where a stipendiary magistrate is appointed under this section on a petition presented by a county council (whether alone or jointly with other councils), the Secretary of State shall (where necessary) by statutory instrument make an order constituting the area for which he is appointed, or that part in which the county justices have jurisdiction, a petty sessional division or divisions of the county and making consequential provisions as to the remainder of the county, and subsections (4), (6) and (7) of section eighteen of this Act shall apply as if the order were an order under that section.
- (8) A stipendiary magistrate appointed under this section for an area consisting of or including the whole or part of a county shall not act as a member of any court of quarter sessions for the county, nor act for any petty sessional division of the county other than the division or divisions in his area.
- (9) The grant of a commission of the peace to a borough forming part of an area for which a stipendiary magistrate has been appointed under this section shall not affect the appointment of the magistrate or the liability for his salary of the council of the county which includes that borough.
- (10) More than one magistrate may be appointed under this section for the same area.
- (11) The foregoing provisions of this section shall not apply to the City of London or the county of London.
- (12) Section one hundred and sixty-one of the Municipal Corporations Act, 1882, shall cease to have effect and this section shall apply to any magistrate appointed on a petition under that section who is in office at the coming into force of this section as if the petition had been a petition under this section.

### **30 Local Act stipendiaries**

- (1) Nothing in the foregoing provisions of this Act shall affect the continuance in office or a new appointment of a stipendiary magistrate under any of the following enactments, namely,—
- (a) the Staffordshire Potteries Stipendiary Justice Acts, 1839 to 1895;
  - (b) the South Staffordshire Stipendiary Justice Act, 1899;
  - (c) the Merthyr Tydfil Stipendiary Justice Acts, 1843 to 1907 ;
  - (d) the Pontypridd Stipendiary Magistrate Act, 1920 ;

(e) Part II (which relates to the county borough of Salford) of the Manchester Division and Borough of Salford (Stipendiary Justices) Act, 1878 ;  
but no new appointment of a stipendiary magistrate shall be made under the Chatham and Sheerness Stipendiary Magistrate Act, 1867.

(2) The consequential and other provisions set out in the Sixth Schedule to this Act shall have effect in relation to the enactments referred to in paragraphs (a) to (e) of the foregoing subsection and stipendiary magistrates thereunder.

### **31 Appointments under previous Acts**

(1) A solicitor of the Supreme Court of not less than seven years' standing may be appointed stipendiary magistrate under any Act passed before this Act.

(2) A barrister of not less than seven years' standing may be appointed a metropolitan stipendiary magistrate notwithstanding that he has not practised as a barrister during the seven years immediately preceding his appointment as required by section three of the Metropolitan Police Courts Act, 1839.

(3) A person may be appointed a magistrate's deputy under section two of the Stipendiary Magistrates Act, 1869, if he has the qualification required by law for appointment to the magistrate's office, notwithstanding that he is not a person who has practised as a barrister for at least seven years.

(4) Any appointment of a stipendiary magistrate under any Act passed before this Act except the Manchester Division and Borough of Salford (Stipendiary Justices) Act, 1878, shall be of a person recommended to His Majesty by the Lord Chancellor and a stipendiary magistrate appointed under any Act so passed shall hold office during His Majesty's pleasure but shall not be removed from office except on the recommendation of the Lord Chancellor or, in the case of a magistrate appointed under the said Act of 1878, the recommendation of the Chancellor of the Duchy of Lancaster.

### **32 Salary of stipendiary magistrates**

(1) Subject to the following provisions of this section, a stipendiary magistrate other than a metropolitan stipendiary magistrate shall be paid a salary of such amount as the Secretary of State may from time to time direct after consultation with the authority or authorities liable to pay the salary.

(2) The amount of the salary shall not be greater than that of the salary for the time being payable to a metropolitan stipendiary magistrate other than the chief magistrate.

(3) The amount of the salary shall not at any time be reduced without the consent of the stipendiary magistrate.

(4) A stipendiary magistrate in office at the coming into force of this section shall, until the Secretary of State otherwise directs under subsection (1) of this section, continue to receive the salary to which he is then entitled.

### **33 Compulsory retirement and superannuation**

(1) Subject to the provisions of this section, a stipendiary magistrate—

(a) shall vacate his office at the end of the completed year of service in the course of which he attains the age of seventy-two; but

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- (b) shall, from the date on which he ceases to serve as a stipendiary magistrate, be entitled to be paid an annual sum by way of pension by the authority paying his salary in the office or last office in which he so served.
- (2) Where the Secretary of State considers it desirable in the public interest to retain a stipendiary magistrate in office after the time for the magistrate's office to be vacated under the foregoing subsection, he may from time to time authorise the magistrate to continue in office up to such age (not exceeding seventy-five years) as the Secretary of State thinks fit.
- (3) A person shall not be entitled to a pension under this section on ceasing to serve as a stipendiary magistrate unless—
- (a) his office is vacated under this section ; or
  - (b) he retires from the office after five years' service as a stipendiary magistrate, whether in that or any other office, and either—
    - (i) at the time of retirement he has attained the age of sixty-five years ; or
    - (ii) the authority liable for his pension are satisfied by means of a medical certificate that, by reason of infirmity of mind or body, he is incapable of discharging the duties of the office, and that the incapacity is likely to be permanent.
- (4) The pension payable to any person under this section on ceasing to serve in any office shall be of an amount equal to fifteen-sixtieths of his salary in that office, together with an addition for each complete year of his service as a stipendiary magistrate (as well in any other office as in that office) after the first five years equal to one-sixtieth or, in the case of any year of service after the first ten years, two-sixtieths of that salary ; but the pension shall in no case exceed two-thirds of that salary.
- (5) The pension payable to any person under this section shall be calculated on the salary he was receiving in the office in question immediately before ceasing to serve therein, except that where he had been in receipt of that salary for less than three years it shall be calculated on the average rate of the salary received by him in that office during the three years immediately preceding that date or during the part of those three years for which he served therein.
- (6) Where the amount of a person's pension under this section is calculated by reference to his service in more than one office, the authority liable for the pension shall be entitled to such contributions as may be just in respect of the service in any office other than his last office, and the contribution in respect of service in any office shall be paid by the same authority as his salary in that office.
- (7) The pension payable to any person under this section shall cease on his resuming service as a stipendiary magistrate ; and a person who becomes entitled to such a pension on his retirement on a medical certificate shall until he attains the age of sixty-five years be liable to be called on to serve as a stipendiary magistrate at a salary not less than that on which his pension is calculated, and if when called on he declines so to do, or declines or neglects to execute the duties of a stipendiary magistrate satisfactorily, being in a competent state of health, he shall forfeit any right to pension in respect of service as a stipendiary magistrate.
- (8) Any question whether a pension is payable under this section, or as to the amount of any such pension or any contribution in respect thereof, shall be determined by the Secretary of State.

- (9) Subsection (1) of this section shall not apply to a stipendiary magistrate who held office before the coming into force of this section unless he is serving at the coming into force thereof and within six months thereafter gives notice in writing to the authority paying his salary of his desire that the subsection should apply to him.
- (10) Where subsection (1) of this section applies to a stipendiary magistrate by virtue of a notice given under the last foregoing subsection, half only of his service before the coming into force of this section shall be taken into account for the purpose of calculating the amount of any pension under this section, and if he has attained the age of seventy-two before giving the notice the said subsection (1) shall apply to him with the substitution of a reference to the year of service in the course of which he gives the notice for the reference to that in the course of which he attains the said age:

Provided that this subsection so far as it relates to the extent to which any service is to be taken into account shall have effect subject to any determination under the next following subsection that the whole of the service or a part of it larger than a half shall be taken into account.

- (11) A determination for the purposes of the last foregoing subsection with respect to the stipendiary magistrate serving in any office at the date when this section comes into force may be given—
- (a) at any time on or after the said date and before he ceases to serve in that office, by the authority paying his salary in that office ; or
  - (b) on his ceasing to serve as a stipendiary magistrate, by the authority liable for any pension payable to him under this section ;
- and a determination under paragraph (a) of this subsection may be varied by a subsequent determination (whether under that paragraph or under paragraph (b) of this subsection) so as to increase, but not so as to reduce, the extent to which any service is to be taken into account.
- (12) Where a stipendiary magistrate has held office in a joint district within the meaning of section twenty-nine of this Act, then—
- (a) each of the authorities paying his salary in that office shall be liable for any pension payable to him on his retirement therefrom or for any contributions in respect of his service therein to a pension payable to him on his retirement from any other office as a stipendiary magistrate; and
  - (b) where they are liable for his pension,—
    - (i) they shall together determine anything which under this section is a matter for the decision of the authority so liable;
    - (ii) they, or the one paying the pension, shall be entitled to contributions thereto under subsection (6) of this section in respect of his service in any previous office; and
  - (c) they shall share among themselves the net liability for the pension (after allowing for any contributions received under the said subsection (6)), or the liability for contributions payable under that subsection, as the case may be, in such manner as they may agree or as in default of agreement may be determined by the Secretary of State.
- (13) Subsection (1) of this section shall not apply to a metropolitan stipendiary magistrate, but for the purposes of the Police Magistrates (Superannuation) Acts, 1915 and 1929, in their application to any such magistrate retiring after the coming into force of this section any service as a stipendiary magistrate shall be taken into account as

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if it were service as a metropolitan stipendiary magistrate, and contributions to his superannuation allowance under those Acts shall be payable in respect of that service under subsection (6) of this section as in the case of a pension under this section:

Provided that half only of any service before the coming into force of this section shall be taken into account by virtue of this subsection and, in the case of a metropolitan stipendiary magistrate appointed before the coming into force thereof, no contributions shall be payable in respect of that service.

- (14) A stipendiary magistrate to whom subsection (1) of this section applies shall not be entitled to any payment under any other enactment providing for the superannuation of stipendiary magistrates or be a contributory employee under the Local Government Superannuation Act, 1937, as applied by any local Act or other instrument; and, where a stipendiary magistrate holding office at the coming into force of this section gives notice of his desire that subsection (1) thereof should apply to him, any contributions previously paid by him as stipendiary magistrate under the said Act of 1937 as so applied shall be returned to him.

#### **34 Sittings of stipendiary magistrates**

- (1) A stipendiary magistrate shall sit at such petty sessional court houses, on such days and at such times as may be determined by or in accordance with directions given by the Secretary of State from time to time:

Provided that the number of days in a week on which a stipendiary magistrate may be required to attend shall not, without the consent of the magistrate, be increased beyond that determined by the directions given on his appointment.

- (2) In the case of a stipendiary magistrate appointed under a local Act, the foregoing subsection shall be subject to any provision in any such Act limiting the number of days in a week on which he may be required to attend.
- (3) This section shall not apply to a stipendiary magistrate appointed before the coming into force thereof or to any metropolitan stipendiary magistrate.

#### **35 Remuneration of deputies**

- (1) Subject to subsection (2) of section one of the Recorders, Stipendiary Magistrates, and Clerks of the Peace Act, 1906 (which relates to deputies continuing to act after the death of the office holder), any deputy appointed by a magistrate under the Stipendiary Magistrates Act, 1869, shall be paid such remuneration as the Secretary of State may assign in approving the appointment.
- (2) Any remuneration of a magistrate's deputy, whether appointed as aforesaid or by the Secretary of State instead of the magistrate under subsection (1) of section one of the said Act of 1906, shall be paid by the authority paying the magistrate's salary and not by the magistrate or out of his salary ; and accordingly in subsection (1) of section one of the said Act of 1906, the words " out of his salary or stipend " shall not apply in the case of a magistrate's deputy.
- (3) Where a stipendiary magistrate has been appointed for a joint district within the meaning of section twenty-nine of this Act, each of the authorities paying his salary in that office shall be liable under the last foregoing subsection for the remuneration of the magistrates' deputy, but it shall be borne by them in the shares agreed or last agreed for the magistrate's salary.

## PART VI

### MISCELLANEOUS AND GENERAL

#### **36 Travelling and lodging allowances of members of probation committees and case committees**

- (1) Subject to the provisions of this section, a member of a probation committee or case committee constituted under the Criminal Justice Act, 1948, shall be entitled to receive payments at the prescribed rates by way of travelling allowance or lodging allowance where expenditure on travelling or, as the case may be, on accommodation for the night is necessarily incurred by him for the purpose of enabling him to perform any of his duties as a member of the committee.
- (2) A member of a committee shall not be entitled to any payment under this section in respect of any duties if the duties are performed not more than three miles from his usual place of residence.
- (3) Allowances under this section to a member of a committee shall be defrayed as part of the expenses of the committee.
- (4) Rules made under the Fifth Schedule to the Criminal Justice Act, 1948, may make provision as to the manner in which this section is to be administered, and in particular—
  - (a) for prescribing the rates of allowances and the forms to be used and the particulars to be provided for the purpose of claiming payment thereof; and
  - (b) for avoiding duplication between payments under this section and under other arrangements where expenditure is incurred for more than one purpose, and otherwise for preventing abuses.
- (5) This section shall apply to committees constituted for the metropolitan stipendiary court area or any part thereof under paragraph 7 of the said Fifth Schedule as it applies to probation committees and case committees.

#### **37 Incorporation of probation committees**

- (1) A probation committee constituted under the Criminal Justice Act, 1948, shall be a body corporate and shall have power to hold land without licence in mortmain.
- (2) Any contract made or other thing done by or on behalf of a probation committee before the coming into force of this section shall have effect as if made or done by or on behalf of the body corporate constituted by this section.
- (3) Notwithstanding this section any provision applying to employees of justices shall, unless the contrary intention appears, apply to employees of a probation committee.

#### **38 Place for holding county quarter sessions**

Courts of quarter sessions for a county may be held in any borough forming part of, surrounded by or adjoining the county, notwithstanding that the borough is not part of the area for which the courts are held.

**39 Transfer to Lord Chancellor of certain functions of Secretary of State**

- (1) Any appointment of a recorder under section one hundred and sixty-three of the Municipal Corporations Act, 1882, and any appointment of a paid chairman or deputy chairman of the quarter sessions for the county of London under section forty-two of the Local Government Act, 1888, shall be made by His Majesty on the recommendation of the Lord Chancellor.
- (2) The Lord Chancellor, instead of the Secretary of State, shall give the approval required by subsection (6) of section one hundred and sixty-eight of the Municipal Corporations Act, 1882, in the case of a barrister to be appointed assistant recorder under that section, but any such approval given by the Secretary of State before the coming into force of this subsection shall have effect as if given by the Lord Chancellor.
- (3) The Lord Chancellor shall take the place of the Secretary of State—
  - (a) as the authority to approve a resolution increasing a recorder's salary under section one hundred and sixty-three of the Municipal Corporations Act, 1882, to give any direction under section one hundred and sixty-five of that Act for holding borough quarter sessions oftener than once a quarter, and to sanction a resolution increasing the number of days for which an assistant recorder may receive remuneration under the Fourth Schedule to that Act; and
  - (b) as the authority having power to appoint to the office of recorder within the meaning of the Recorders, Stipendiary Magistrates and Clerks of the Peace Act, 1906 (which provides for the appointment and removal of a deputy when it cannot be done by the recorder).
- (4) In section two of the Quarter Sessions (London) Act, 1896 (which relates to the appointment of persons to act temporarily in the office of paid chairman or deputy chairman of the quarter sessions for the county of London), references to the Lord Chancellor shall be substituted for the references to the Secretary of State.

**40 Appointment of interim clerk of the peace in Scotland**

In the event of the clerk of the peace for any county or county of a city in Scotland being by reason of ill-health or other cause temporarily unable to discharge the duties of his office or in the event of a vacancy in the office of any such clerk of the peace, it shall be lawful for the Secretary of State on the recommendation of the Lord Advocate to appoint a person to act ad interim in the place of such clerk during his incapacity or until such vacancy be filled.

**41 Authentication of certain licences**

- (1) A billiard licence or music and dancing licence granted at the general annual licensing meeting, transfer sessions or other special sessions for any area may, instead of being signed or signed and sealed by the majority of the justices, be authenticated in accordance with the next following subsection by means of any seal or stamp used in that area to authenticate justices' licences under the Licensing (Consolidation) Act, 1910.
- (2) The seal or stamp shall be affixed under the authority, given at the meeting or sessions at which the licence is granted, of the justices attending that meeting or sessions and shall be verified by the signature of their clerk, and any seal or stamp purporting to be so affixed and verified shall be received in evidence without further proof.



- (3) Where a billiard licence is authenticated by means of a seal or stamp, the necessary adaptations shall be made in the form of licence as set out in the Third Schedule to the Gaming Act, 1845.
- (4) In this section, the expression " billiard licence " means a licence under section ten of the Gaming Act, 1845, and the expression " music and dancing licence " means a licence under subsection (2) of section fifty-one of the Public Health Acts Amendment Act, 1890, or any similar provision in a local Act.
- (5) It is hereby declared—
  - (a) that licences granted by justices at petty sessions under subsection (11) of section fifty-one of the Public Health Acts Amendment Act, 1890 (which relates to fourteen-day licences for music, dancing, etc.) do not require to be authenticated in the way directed by subsection (2) of that section for licences granted under the said subsection (2); and
  - (b) that licences granted by justices at petty sessions under section five of the Theatres Act, 1843, by virtue of powers delegated to them by a county council under section twenty-eight of the Local Government Act, 1888, do not require to be authenticated or publicly read as originally provided by the said section five for licences granted at a special sessions held thereunder.

#### **42 Compensation for loss of office**

- (1) The Secretary of State shall by statutory instrument make regulations providing, subject to any exceptions or conditions provided for by the regulations, for the payment of compensation to persons suffering any loss of office or employment, or loss or diminution of emoluments, which is attributable to the coming into force of any of the provisions of Parts II and III of this Act or to anything done under any of those provisions.
- (2) The regulations shall not apply to any person unless at the date of the passing of this Act—
  - (a) he is the holder of an office or employment in respect of which he is paid a salary by a county or borough council; or
  - (b) he is employed by the holder of such an office or employment to assist him in the performance of the duties of that office or employment; or
  - (c) he would be within one of the foregoing paragraphs but for any national service (as defined by the regulations) in which he has been engaged.
- (3) The compensation payable under the regulations shall be paid by such county or borough council as may be prescribed by the regulations.
- (4) The regulations may include provision as to the manner in which, and the persons to whom, any claim for compensation thereunder is to be made and for the determination of questions arising thereunder.
- (5) In relation to any such person as is referred to in paragraph (c) of subsection (2) of this section, any reference in this section to loss of office or employment shall include loss of the prospect of re-appointment or re-employment.

### **43 Expenses and payments into Exchequer**

- (1) There shall be paid out of moneys provided by Parliament any expenses of the Lord Chancellor or the Secretary of State under this Act and any increase resulting from the provisions of this Act in the sums which under Part I or Part II of the Local Government Act, 1948, or under section seventy-seven of the Criminal Justice Act, 1948, fall to be paid out of moneys so provided.
- (2) There shall be paid out of the Consolidated Fund or the growing produce thereof—
  - (a) any increase resulting from the provisions of this Act in any superannuation allowance payable under the Police Magistrates (Superannuation) Acts, 1915 and 1929;
  - (b) any contributions towards the pension under this Act of a stipendiary magistrate which are payable in respect of any service as a metropolitan stipendiary magistrate.
- (3) There shall be paid into the Exchequer—
  - (a) all sums received by the Secretary of State under subsection (1) of section twenty-seven of this Act; and
  - (b) any contributions under this Act towards the pension of a metropolitan stipendiary magistrate.

### **44 Interpretation**

- (1) In this Act, except in so far as the context otherwise requires, the following expressions have the following meanings respectively:—
  - " county " has the meaning assigned to it by section ten of this Act or that assigned to it by section sixteen thereof according to the context;
  - " county justice " does not include a justice for the City of London or, in relation to the county of London, a metropolitan stipendiary magistrate;
  - " court of quarter sessions " includes any committee by which the powers and duties of such a court are exercisable by virtue of any Act;
  - " justices' clerk " means a clerk to the justices for a petty sessions area and in relation to a time before the coming into force of section ten of this Act includes a clerk to any of the justices for a riding or division of a county, for the Isle of Ely or for the Soke of Peterborough;
  - " magistrate " means in relation to a county or a borough having a separate commission of the peace a justice of the peace for the county or borough, but does not include a justice whose name is entered in the supplemental list kept in connection with the county or borough commission, and in relation to a part of a county (other than a borough having a separate commission of the peace) means a magistrate for the county who ordinarily acts in and for that part;
  - " magistrates' court " means a court of summary jurisdiction or examining justices, and includes a single examining justice;
  - " metropolitan stipendiary magistrate " means a metropolitan police magistrate;
  - " metropolitan stipendiary court " means a metropolitan police court;
  - " metropolitan stipendiary court area " means the metropolitan police court area;

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" petty sessions area " means any of the following areas, that is to say, a borough having a separate commission of the peace, a county not divided into petty sessional divisions and a petty sessional division of a county;

" prescribed " in Part III of this Act means prescribed by regulations made by the Secretary of State by statutory instrument;

" stipendiary magistrate " includes a metropolitan stipendiary magistrate.

- (2) Any Order in Council under this Act may be varied or revoked by a subsequent Order in Council thereunder.
- (3) References in this Act to any enactment shall, except in so far as the context otherwise requires, include a reference to that enactment as amended, extended or applied by any other enactment, including this Act.
- (4) Save as expressly provided by this Act, it shall have effect notwithstanding any local or other special right or privilege of whatever origin.
- (5) The inclusion in this Act of any express saving or amendment shall not be taken as prejudicing the operation of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals).

#### **45 Commencement**

- (1) This Act shall come into force on such day as His Majesty may by Order in Council appoint.
- (2) Except in so far as this Act provides to the contrary, different days may be appointed under this section for the purpose of different provisions of this Act and for different purposes of the same provision.
- (3) Any Order in Council under this section may make such transitional provision as appears to His Majesty to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions or of any provisions of this Act then in force as appear to His Majesty necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the Order).
- (4) Provision shall be made by Order in Council under this section for securing that so far as practicable questions as to the salaries under section nineteen of this Act of justices' clerks holding office immediately before the date when that section comes into force, and other questions arising under that section on its coming into force, shall be determined before it comes into force and, so far as it is not practicable for any such clerk's salary to be determined as aforesaid, for securing either that the subsequent determination thereof shall have effect from the coming into force of section nineteen of this Act or that pending the determination thereof subsections (2) to (6) of section nineteen and subsection (8) of section twenty-one of this Act shall apply to him only to such extent and subject to such modifications as may be determined by or in accordance with the Order.

#### **46 Citation, repeal and extent**

- (1) This Act may be cited as the Justices of the Peace Act, 1949.
- (2) The enactments mentioned in the Seventh Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

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*Status: This is the original version (as it was originally enacted).*

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Provided that the repeal by this subsection of any enactment relating to petty sessional divisions shall not affect the division of a county into petty sessional divisions as it exists at the coming into force of the repeal.

- (3) This Act extends to England and Wales only except that the following provisions shall extend to Scotland, videlicet:—
- (a) sections one, three to six, eight, nine, fourteen, forty, forty-three to forty-five, and subsection (1) of this section;
  - (b) the First Schedule ;
  - (c) subsection (2) of this section and Part I of the Seventh Schedule, so far as relating to the Justices of the Peace Act, 1906, and the Justices (Supplemental List) Act, 1941 ; and
  - (d) any other provision so far as it affects section thirty-eight of the Local Government Superannuation Act, 1937 (which relates to reciprocal arrangements between England and Scotland).

## SCHEDULES

### FIRST SCHEDULE

Section 1

#### JUSTICES EXEMPT FROM RESIDENCE QUALIFICATION

| <i>Office</i>   | <i>Area</i>  |
|---|--|
| Lord Chancellor, Lord President or a member of the Privy Council, Lord Keeper of the Privy Seal, Judge of the Supreme Court, Lord Justice General, Lord Justice Clerk, Judge of the Court of Session, Attorney General, Lord Advocate, Solicitor General, Solicitor General for Scotland. | Any area.  |
| Custos rotulorum  | The area for which he is custos.   |
| Judge of a county court   | The area in which the court is held.   |
| Sheriff or sheriff substitute in Scotland   | Any area comprised in the sheriffdom of which he is sheriff or sheriff substitute. |

### SECOND SCHEDULE

Section 10

#### PROVISIONS CONSEQUENTIAL ON CHANGES IN COMMISSION OF THE PEACE

##### *Interpretation*

- 1 (1) In this Schedule in relation to a time before the coming into force of section ten of this Act—
  - (a) the expression " county " includes a riding or division of a county having a separate commission of the peace, the liberty of the Isle of Ely and the Soke of Peterborough, but does not include a county of a city or a town;
  - (b) references to the county in which a borough is situated, in the case of a borough which is a county of a city or a town, refer to the county by which it is surrounded or which it adjoins.
- (2) In this Schedule the expression " Hampshire" means the administrative county of Southampton and the expression " county of Southampton" (except in this subparagraph) means the entire county of Southampton inclusive of the Isle of Wight.
- (3) In this Schedule the expression " borough losing its commission " means any non-county borough which has an existing commission of the peace but is not mentioned in the Third Schedule to this Act or in any order of the Lord Chancellor under section ten of this Act.

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*Continuance of existing commissions, etc.*

- 2 (1) The existing commission of the peace for any county and the supplemental list kept in connection therewith shall have effect for the county within the meaning of subsection (1) of section ten of this Act, and any existing appointment made in connection with the commission (including that of *custos rotulorum* and of any justice appointed otherwise than by the commission) and any existing appointment made by or in connection with any court of quarter sessions for the county or any division thereof shall have effect accordingly.
  - (2) The schedule to any existing commission of the peace for a borough losing its commission, or for the liberty of Ripon, and the supplemental list kept in connection with any such commission shall be treated for the purposes of the foregoing sub-paragraph as having formed part respectively of the schedule to the existing commission of the peace for the county in which the borough or liberty is situated and of the supplemental list kept in connection with that commission.
  - (3) The foregoing sub-paragraphs shall apply in relation to East and West Suffolk, to East and West Sussex and to Hampshire and the Isle of Wight as if they had been separate counties for the purposes of justices before the coming into force of section ten of this Act, and as if the existing commissions of the peace for the counties of Suffolk, Sussex and Southampton respectively had been issued separately for each of the two divisions thereof referred to in this sub-paragraph and the supplemental list kept in connection with any of those commissions had been a list for each of the two divisions.
  - (4) With respect to any such appointments in the counties of Suffolk, Sussex and Southampton as are referred to in sub-paragraph (1) of this paragraph the following provisions shall have effect:—
    - (a) the appointment of a *custos rotulorum* shall have effect as if made for each division of the county;
    - (b) any other appointments relating to the whole county shall have effect in Suffolk and Sussex as if made for each division thereof, and in the county of Southampton (subject to the following provisions of this Schedule) as if made for Hampshire;
    - (c) appointments made by the court of quarter sessions for the county of Southampton shall have effect as if made by a court of quarter sessions for the division to which they relate or, if they relate to the whole county, by a court of quarter sessions for Hampshire.
- 3 (1) The existing commission of the peace for any of the cinque ports, other than a borough losing its commission, shall have effect for the borough only exclusive of any part of the members and liberties of the cinque port outside the limits of the borough; and any supplemental list kept in connection therewith, the existing grant of quarter sessions to the borough and any appointment in connection with the commission or grant shall have effect accordingly.
  - (2) This paragraph shall apply in relation to the ancient town of Rye as if it were one of the cinque ports.
- 4 A person who has taken the oaths required by law as justice of the peace for any area shall not be required to take any oath on becoming by virtue of any of the foregoing paragraphs a justice of the peace for a different area.

*Petty sessional divisions*

- 5 (1) Subject to the provisions of this paragraph the existing petty sessional divisions of any county shall form petty sessional divisions of the county within the meaning of subsection (1) of section ten of this Act.
- (2) Subject to the next following sub-paragraph the existing petty sessional divisions of Suffolk, and the existing petty sessional divisions of Sussex, shall respectively form petty sessional divisions of East Suffolk or West Suffolk and of East Sussex or West Sussex according to their situation and the existing petty sessional divisions of the county of Southampton, except the Isle of Wight division, shall form petty sessional divisions of Hampshire.
- (3) The foregoing provisions of this paragraph shall not apply to an existing petty sessional division consisting of, or wholly comprised in, a county borough or a borough losing its commission; and, where any existing petty sessional division of a county includes the whole or part of any such borough in addition to an area not situated in any such borough, the said provisions shall apply to that area as if it were an existing petty sessional division in itself.
- 6 (1) Where by virtue of paragraph 2 of this Schedule the existing justices for a borough become justices for a county, the borough shall become a petty sessional division of that county.
- (2) Each of the existing petty sessional divisions of the liberty of Ripon, exclusive of any part of the borough of Ripon included therein, shall become a petty sessional division of the West Riding of Yorkshire.
- (3) Sub-paragraph (1) of this paragraph shall apply to the boroughs of Ryde and Newport in the Isle of Wight, notwithstanding that the Island is not otherwise divided into petty sessional divisions, and the remainder of the Island shall become a separate petty sessional division thereof.
- 7 Where in a county divided into petty sessional divisions any area not included in a borough having a separate commission of the peace does not form part of an existing petty sessional division of the county, and neither of the two last foregoing paragraphs applies to it, it shall, as the Secretary of State may by order direct, become either a petty sessional division of the county or a part of such petty sessional division thereof as may be so directed.

*Existing clerks to justices*

- 8 (1) The justices' clerk for any existing petty sessional division of a county shall become justices' clerk for any petty sessional division formed out of the first mentioned division or any part thereof under paragraph 5 or sub-paragraph (3) of paragraph 6 of this Schedule.
- (2) Where by virtue of paragraph 2 of this Schedule the existing justices for a borough become justices for a county, the existing clerk to those justices shall become justices' clerk for the petty sessional "division consisting of the borough.
- (3) The justices' clerk for each of the existing petty sessional divisions of the liberty of Ripon shall become justices' clerk for the corresponding petty sessional division of the West Riding of Yorkshire.
- (4) Subject to this Act, a person who becomes justices' clerk for a petty sessional division by virtue of this paragraph shall continue to receive remuneration equal to his

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existing remuneration until otherwise determined in accordance with the provisions applicable to clerks to county justices.

- (5) Where by virtue of this paragraph a person (whether a justices' clerk or employed by a justices' clerk) becomes a contributory employee under a county council instead of a borough council, he shall be entitled to the benefit of subsection (1) of section thirteen of the Local Government Superannuation Act, 1937 (which provides for reckoning previous service under a different authority), without giving the information required by the proviso to that subsection.
- (6) In the case of a person who before the coming into force of section ten of this Act has been a contributory employee by virtue of section twenty of the said Act of 1937, or any corresponding provision of a local Act scheme, any rules made under section one of the Superannuation (Miscellaneous Provisions) Act, 1948 (which relates to national service), so far as they refer to an employment in which he was a contributory employee as aforesaid and which he left before the coming into force of the said section ten, shall have effect as if the said section ten had not been passed.

#### *Coroners*

- 9 (1) Any existing coroner appointed under the Municipal Corporations Act, 1882, for a borough losing its commission shall become a coroner for the county in which the borough is situated, and any existing appointment of a person as his deputy or assistant deputy shall have effect accordingly.
- (2) A person who becomes a county coroner by virtue of this paragraph shall continue to receive a salary equal to his existing salary, until otherwise determined in accordance with the provisions applicable to county coroners.
- (3) Where a person becomes a county coroner by virtue of this paragraph, his service as coroner of the borough shall count as service as coroner of the county for the purpose of section six of the Coroners (Amendment) Act, 1926 (which relates to superannuation); and if he held office as coroner of the borough at the commencement of that Act that section shall apply to him as county coroner if, but only if, it applied to him as borough coroner.
- (4) The abolition by this Act of the court of quarter sessions of Faversham shall not extend to Faversham the jurisdiction, powers or authority of the coroner of Dover. '
- 10 (1) Where by virtue of the last foregoing paragraph the coroner of a borough becomes coroner of a county, the borough shall become a coroner's district of the county and the district shall be deemed to have been assigned to him.
- (2) The foregoing sub-paragraph shall apply notwithstanding that there are no existing coroners' districts in the county, and in that case the area for which the existing county coroner acted shall also be deemed to be a coroner's district and to have been assigned to him.
- (3) Sections five, nineteen and twenty of the Coroners Act, 1844 (which relate to the assignment of districts to county coroners and to the residence and jurisdiction of the county coroners within districts assigned to them), shall apply to districts formed by virtue of this paragraph and the coroners deemed to have been assigned thereto as they apply in other cases:

Provided that this sub-paragraph shall not require a former borough coroner to change his existing residence.



- (4) The Secretary of State shall not make an order under section twelve of the Coroners (Amendment) Act, 1926 (which relates to the alteration of coroners' districts), so as to affect any district formed by virtue of sub-paragraph (1) of this paragraph so long as the former borough coroner holds office for that district and objects to the order.

#### *Sheriffs*

- 11 (1) In the application of the Sheriffs Act, 1887, to any sheriff or under sheriff for a county which includes two counties within the meaning of section ten of this Act, references to a justice of the peace for the county in the following provisions, that is to say—
- (a) section seven and subsection (3) of section twenty-three (which relate to the making of a declaration of office before a justice); and
  - (b) section seventeen (which precludes the sheriff from acting as a justice);
- shall be taken as references to a justice for either of the said two counties, and the reference in subsection (1) of section thirty (which provides for filing the declaration of office) to the clerk of the peace for the county shall be taken as a reference to the clerk of the peace having the custody of the records which include the declarations made before the coming into force of section ten of this Act.
- (2) In the application of the said Act to any sheriff or under sheriff of any borough which is a borough losing its commission, but is a county of a city or a town, the said references shall be taken as references to a justice of the peace or the clerk of the peace, as the case may be, of the county within the meaning of section ten of this Act in which the borough is situated, and in the case of any such borough any jurisdiction conferred by the said Act on the recorder or court of quarter sessions of the borough may be exercised by the court of quarter sessions for the said county.

#### *Jurors*

- 12 Any provision of this Act extending or limiting the area in which a court of quarter sessions has jurisdiction shall have effect also for the purpose of jurors to serve at that court.

#### *Special provisions for Hampshire and Isle of Wight*

- 13 (1) The court of quarter sessions for the Isle of Wight shall not have jurisdiction to deal—
- (a) with any person committed for trial or sentence before the date of the coming into force of section ten of this Act; or
  - (b) with any appeal brought (whether before that date or not) from a conviction, sentence, order or decision before that date, except an appeal against conviction brought by a person who is sentenced or committed for sentence in pursuance of the conviction after that date;
- and the court of quarter sessions for Hampshire shall have the same jurisdiction to deal with any such person as is mentioned in paragraph (a) of this sub-paragraph and any such appeal as is mentioned in paragraph (b) thereof as if it were a court of quarter sessions for the county of Southampton.
- (2) The justices for the Isle of Wight shall as soon as practicable after the coming into force of the said section ten hold a special sessions at which—
- (a) they shall appoint a chairman of the court of quarter sessions for the Island, unless they determine to apply to the Lord Chancellor for the appointment

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- of a legally qualified chairman under section one of the Administration of Justice (Miscellaneous Provisions) Act, 1938;
- (b) they shall appoint a clerk of the peace for the Island;
  - (c) they shall fix the times for holding quarter sessions for the Island in accordance with section twenty-two of the Criminal Justice Act, 1925;
  - (d) they shall make such other appointments and transact such other business (being appointments or business which a court of quarter sessions for a county has power to make or transact) as appear to them to be required before the first meeting of the court of quarter sessions for the Island.
- (3) The justices for the Isle of Wight shall not be required to hold a court of quarter sessions before the expiration of three months from the coming into force of the said section ten or have power by virtue of anything in paragraph (d) of the last foregoing sub-paragraph to deal at the special sessions required by that sub-paragraph with any person committed for trial or sentence or with any appeal.
- (4) Notwithstanding the general provision of this Schedule limiting to Hampshire any appointments made for the whole county of Southampton by the court of quarter sessions thereof, any committee appointed by that court to act for the purposes of the Licensing (Consolidation) Act, 1910, as compensation or confirming authority for the county of Southampton shall, until the expiration of one year from the beginning of the last Epiphany sessions for the county of Southampton, continue to act as aforesaid as if the county of Southampton remained one county for purposes of justices and as if the justices for Hampshire and the justices for the Isle of Wight were justices for the county of Southampton:
- Provided that casual vacancies on any such committee shall be filled by the court of quarter sessions for Hampshire.
- (5) Notwithstanding the general provision referred to in the last foregoing sub-paragraph, the following provisions shall have effect with respect to appointments made under the Lunacy Act, 1890, by the court of quarter sessions for the county of Southampton, namely—
- (a) any appointment under section ten of that Act of a justice to make reception orders, if at the coming into force of section ten of this Act the justice is resident in the Isle of Wight, shall have effect for the Island as if made by a court of quarter sessions for the Island, and shall not have effect for Hampshire unless the justice is then resident in Hampshire too; and
  - (b) until the expiration of one year from the beginning of the last Michaelmas quarter sessions for the county of Southampton, the visitors of licensed houses appointed under section one hundred and seventy-seven of that Act shall continue to act as such for the whole county of Southampton as if it remained one county for purposes of justices and as if the justices for Hampshire and the justices for the Isle of Wight were justices for the county of Southampton, so, however, that any power or duty of quarter sessions in relation to the visitors shall belong to the court of quarter sessions for Hampshire and any reference to the clerk of the peace in relation to the visitors shall be construed as a reference to the clerk of the peace for Hampshire.
- (6) As at the date when the committee referred to in sub-paragraph (4) of this paragraph ceases to act as compensation authority for the county of Southampton, the assets standing to the credit of the accounts of Hampshire and of the Isle of Wight in the compensation fund of the said authority shall respectively become assets of

the compensation funds of the compensation authority for Hampshire and of the compensation authority for the Isle of Wight, and any rights or liabilities of the authority for the county of Southampton in respect of their fund shall vest in the authority for Hampshire or the authority for the Isle of Wight accordingly.

- (7) Any buildings which at the coming into force of section ten of this Act are vested in or held in trust for the Hampshire and Isle of Wight county councils jointly and are used in connection with assizes or with quarter sessions shall pass to, vest in and be held in trust for the Hampshire county council alone, and there shall cease to have effect any special provision made in relation to quarter sessions by the order constituting the Isle of Wight a separate county and confirmed by the Local Government Board's Provisional Order Confirmation (No. 2) Act, 1889.
- (8) In determining the costs of assizes for the purposes of the said order, the expenses of the Hampshire county council in respect of any buildings which besides being used in connection with assizes are used in connection with the Hampshire quarter sessions or for administrative purposes of that council shall be treated as costs of assizes so far only as may be determined by agreement between the Hampshire and Isle of Wight county councils or, in default of agreement, by arbitration.
- (9) There shall also be determined as aforesaid any other question arising between those councils with respect to their property and liabilities in consequence of the coming into force of section ten of this Act.

#### *Property and liabilities*

- 14 (1) Where by virtue of paragraph 2 of this Schedule the existing justices for a borough become justices for a county, the borough council shall continue to provide, on such terms as may be agreed between them and the county council or, in default of agreement, may be determined by the Secretary of State, the accommodation and other things required for the due transaction of the business, and convenient keeping of the records and documents, of the justices for the petty sessional division consisting of the borough.
- (2) This paragraph shall apply until the coming into force of section twenty-five of this Act and, unless otherwise agreed between the county and borough councils with the approval of the magistrates' courts committee acting for the county, until the expiration of one year thereafter.
- 15 (1) Where by virtue of paragraph 9 of this Schedule, the existing coroner for a borough becomes coroner for a county, the borough council shall continue, on such terms as may be agreed between them and the county council or, in default of agreement, may be determined by the Secretary of State, to allow the coroner the use of any accommodation of which they allowed him the use as borough coroner.
- (2) Unless otherwise agreed between the county and borough councils, this paragraph shall apply until the expiration of one year from its coming into force.
- 16 Subject to the three last foregoing paragraphs His Majesty may by Order in Council make such provision with respect to the apportionment and transfer of property and liabilities, and with respect to the making or revision of any equitable adjustment between county and borough councils, as appears to Him to be necessary or expedient in consequence of the abolition by this Act of any commission of the peace or grant of quarter sessions, or of any change made by this Act in the area in which any court of quarter sessions or justices have jurisdiction.

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*Power to make supplementary provisions*

- 17 (1) His Majesty may by Order in Council make such provision as appears to Him necessary or expedient to avoid interruption or inconvenience in the administration of justice or the discharge of other functions of justices (including recorders) in consequence of the establishment or abolition by this Act of any commission of the peace or court of quarter sessions, or of any change made by this Act in the area in which any court of quarter sessions or justices have jurisdiction.
- (2) Without prejudice to the generality of the foregoing sub-paragraph, any Order in Council made thereunder may include provision—
- (a) as to the exercise of any jurisdiction conferred on any justices in or out of quarter sessions (including a recorder) by any Act or other instrument;
  - (b) as to the effect of process issued, orders made, appeals brought, cases stated, licences granted and other things done before the establishment, abolition or change;
  - (c) as to the preservation and custody of writs, process, records and documents;
  - (d) where a borough ceases to have a recorder, as to the person who is to take his place as judge of any court for the trial of civil actions.
- (3) Where it appears to His Majesty that any court with respect to which He has power to make provision as mentioned in paragraph (d) of the last foregoing sub-paragraph is disused, the Order in Council may provide for the abolition of the court instead of for the appointment of a judge thereto.
- (4) An Order in Council under this paragraph may provide for enabling any recorder or justices to continue for such period as may be specified in the Order to act, either generally or in the exercise of a particular jurisdiction or to such other extent as may be so specified, as if this Act had not been passed, and may make incidental and supplementary provision for that purpose, including provision for continuing the appointment, powers and duties of any officer and for adapting enactments relating to the payment of expenses (including the remuneration of a recorder or of any officer) or to the filling of casual vacancies on any committee or body consisting of or including justices.

*Savings on separation of counties and county boroughs*

- 18 (1) Where any existing enactment contains, in relation to justices of the peace, a reference to a particular county which at the passing of this Act is treated for purposes of justices as including any county borough, His Majesty may by Order in Council direct that the enactment shall apply in relation to the county borough as it applies in relation to the county, if it appears to Him expedient so to do for the purpose of giving effect to the intention of that enactment.
- (2) An Order in Council made under the foregoing sub-paragraph with respect to any enactment may direct, that notwithstanding paragraph 2 of this Schedule, any existing appointment for the county made under or for the purposes of the enactment shall have effect for the county borough as well as for the county.
- 19 For the purpose of the jurisdiction of the chancellor, vice-chancellor and deputy vice-chancellor of the University of Oxford as justices of the peace for the county of Oxford, and of that of any other justices for that county sitting with them or any of them at a courthouse appointed under the Oxford University (Justices) Act, 1886,

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the county borough of Oxford shall continue to be treated as forming part of the county of Oxford.

*Saving for Soke of Peterborough*

- 20 The justices for the Soke of Peterborough shall, by virtue of the commission of the peace and without any further commission, have within the county the same jurisdiction as before the coming into force of section ten of this Act the justices for the liberty had within the liberty by virtue of the commissions of oyer and terminer and gaol delivery customarily issued to those justices, but as respects any matters within their competence as justices of the peace shall act as such and not as justices of oyer and terminer or justices of gaol delivery.

*Saving for Romney Marsh*

- 21 Nothing in this Act shall affect the election, appointment or functions of any member or officer of the reputed corporation of the bailiff, jurats and commonalty of Romney Marsh, or of the reputed corporation of the lords, bailiff and jurats of Romney Marsh, except that no person shall by virtue of any such election or appointment be a justice of the peace for Romney Marsh or exercise any functions attached by charter or otherwise to the office of such a justice and for the purpose of any such functions the liberty of Romney Marsh shall merge in the county of Kent and for the purpose of coroners become part of the Hythe coroner's district.

THIRD SCHEDULE

Sections 10, 12.

NON-COUNTY BOROUGHS RETAINING COMMISSIONS OF PEACE

**PART I**

*Boroughs with a population of 65,000 or over*

Cambridge  
Chesterfield  
Hove  
Luton  
Newcastle-under-Lyme  
Poole  
Stockton-on-Tees  
Swindon

**PART II**

*Boroughs with a population between 35,000 and 65,000*

Accrington  
Ashton-under-Lyne  
Batley

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Bedford  
Chepping Wycombe  
Colchester  
Crewe  
Eccles  
Folkestone  
Gravesend  
Guildford  
Harrogate  
Keighley  
Kidderminster  
Kingston-upon-Thames  
Lancaster  
Leamington  
Leigh  
Lowestoft  
Macclesfield  
Maidstone  
Mansfield  
Margate  
Morecambe and Heysham  
Morley  
Nelson  
Port Talbot  
Ramsgate  
Reigate  
Richmond (Surrey)  
Rochester  
St. Alban  
Scarborough  
Shrewsbury  
Stafford  
Sutton Coldfield  
Torquay  
Tunbridge Wells  
Wallsend  
Wednesbury  
Weymouth and Melcombe Regis

### PART III

*Quarter sessions boroughs with a population between 20,000 and 35,000*

Bridgwater  
Deal  
Dover

Grantham  
Hereford  
King's Lynn  
Newark  
Penzance  
Pontefract  
Salisbury  
Winchester  
Windsor

#### FOURTH SCHEDULE

Section 16.

#### CONSTITUTION ETC, OF MAGISTRATES' COURTS COMMITTEES

##### *Constitution, establishment etc. of committees*

- 1 (1) Subject to the next following sub-paragraph, a magistrates' courts committee shall be composed of magistrates for the county or borough for which the committee acts or, in the case of a committee for a joint committee area, each such county or borough.
- (2) The custos rotulorum of a county shall by virtue of his office be a member of any magistrates' courts committee acting for the county or any division thereof.
- (3) The chairman of the court of quarter sessions for a county or a quarter sessions division of a county shall by virtue of his office be a member of the magistrates' courts committee acting for the county or division:
- Provided that, if the chairman is unwilling to be a member the deputy chairman or, if there are two or more deputy chairmen, one of them nominated by the chairman shall, if willing, be a member in the place of the chairman.
- (4) The magistrates' courts committee for a county divided into petty sessional divisions, or for a joint committee area including such a county, shall consist (in addition to the ex officio members and, in the case of a joint committee area, to the members from other parts of the area) of one magistrate chosen from amongst themselves by the magistrates for each of the petty sessional divisions of the county and one magistrate chosen from amongst themselves by the magistrates for each of the non-county boroughs (if any) in the county which have a separate commission of the peace but no separate magistrates' courts committee.
- (5) The magistrates' courts committee for a county not divided into petty sessional divisions or for a borough shall consist (in addition, in the case of a county, to the ex officio members) of such number of magistrates chosen by the magistrates of the county or borough as they may determine.
- (6) The magistrates' courts committee for a joint committee area which includes a county not divided into petty sessional divisions or a county borough shall consist (in addition to the ex officio members from any such county included in the area and to the members from other parts of the area) of such number of magistrates chosen from amongst themselves by the magistrates for the county or borough as may for

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the time being determined by or in accordance with the order directing that the area shall be a joint committee area.

- (7) The Secretary of State may by statutory instrument make general regulations (subject, except as hereinafter mentioned, to the foregoing provisions of this paragraph) about the constitution and quorum of magistrates' courts committees.
- (8) The regulations may—
- (a) lay down upper and lower limits for the number of members of which the committee for a county not divided into petty sessional divisions or for a borough may be composed; and
  - (b) direct that where, in a county divided into petty sessional divisions, the total number of the divisions and of the boroughs referred to in sub-paragraph (4) of this paragraph is less than that specified in the regulations, there shall from each division or borough be such number of members on any magistrates' courts committee acting for the county as may be so specified (the number being the same for all the divisions and boroughs).
- (9) The Secretary of State may give general or special directions with respect to summoning the first meetings of magistrates' courts committees.
- 2 (1) There shall be a single magistrates' courts committee for a joint committee area if, but only if, the area is for the time being directed by an order of the Secretary of State to be a joint committee area.
- (2) No order directing that an area shall be a joint committee area shall be made except on the application of the magistrates for each county or county borough included in the area.
- 3 (1) There shall be a separate magistrates' courts committee for a non-county borough having a separate commission of the peace and a population at the time of the establishment of the committee of sixty-five thousand or over, if, but only if, it is for the time being so directed by an order of the Secretary of State.
- (2) No order directing that there shall be, or shall cease to be, a separate magistrates' courts committee for such a borough shall be made except on the application of the magistrates for the borough.
- 4 (1) A quarter sessions division of a county shall be treated for the purpose of the establishment and functions of a magistrates' courts committee as a separate county if, but only if, it is for the time being directed to be so treated by an order of the Secretary of State.
- (2) No order directing that a quarter sessions division of a county shall be, or shall cease to be, treated as a separate county shall be made except on the application of the magistrates for each division of the county.
- 5 (1) Subject to the following sub-paragraphs, the magistrates for a county or a quarter sessions division of a county shall act for the purpose of any of the foregoing paragraphs at quarter sessions.
- (2) Where a county is divided into quarter sessions divisions and those divisions are not for the time being directed to be treated as separate counties, the magistrates for the county shall act for the purposes of paragraph 2 of this Schedule at a joint sessions for the whole county held for the purpose.



- (3) The Secretary of State may give such directions as he thinks fit for removing any difficulties as to the summoning of a sessions required by the last foregoing sub-paragraph, and a sessions summoned in accordance with his directions shall be deemed to have been duly summoned.
- 6 Any order of the Secretary of State under paragraph 2, 3 or 4 of this Schedule may, if it relates to an area for which a magistrates' courts committee is already acting, contain such consequential and transitional provisions for the preservation of rights and liabilities of that committee or otherwise as appear to the Secretary of State to be necessary or expedient.

*Proceedings etc., of Committees*

- 7 A magistrates' courts committee shall be a body corporate.
- 8 The proceedings of a magistrates' courts committee shall not be invalidated by reason of any vacancy therein or of any defect in the appointment of a member.
- 9 (1) A magistrates' courts committee shall appoint one of the members to be chairman of the committee and, subject to the following sub-paragraph, shall also appoint a clerk to the committee and may appoint such other officers (if any) as the Secretary of State may approve.
- (2) Where there is a separate magistrates' courts committee for a borough or for a county not divided into petty sessional divisions, the clerk to the borough or county justices shall by virtue of his office be the clerk to the committee.
- 10 A magistrates' courts committee may act through subcommittees appointed by them.
- 11 Subject to the provisions of this Act a magistrates' courts committee shall have power to regulate its own procedure including quorum.

FIFTH SCHEDULE

Section 22.

MODIFICATIONS OF LOCAL GOVERNMENT SUPERANNUATION  
ACT, 1937, IN RELATION TO JUSTICES' CLERKS AND THEIR STAFF

**PART I**

GENERAL MODIFICATIONS

- 1 (1) Paragraph (b) of subsection (2) of section three of the 1937 Act (which relates to the servants and part time officers who are to be contributory employees) shall not apply, but a justices' clerk who is a part time officer shall be a contributory employee if—
- (a) he is a justices' clerk of any such class or description as may be specified for the purposes of this paragraph by order of the Secretary of State; or
  - (b) the magistrates' courts committee appointing him determine, with the prior approval of the council, that he shall be a contributory employee.
- (2) A statutory instrument containing an order made for the purposes of this paragraph shall be subject to annulment by resolution of either House of Parliament.

- 2       The appropriate superannuation fund in relation to any employment shall be that in the benefits of which contributory employees of the council are entitled to participate, and subsections (1) and (2) of section four of the 1937 Act shall not apply.
- 3       (1) There shall be paid by the council—
- (a) the equivalent contributions of the employing authority under subsection (2) of section six of the 1937 Act and any payment required from the employing authority under that subsection by virtue of any scheme under section twenty-two of that Act;
  - (b) the sums required by subsection (4) of section eight of the 1937 Act to be repaid to the appropriate superannuation fund in respect of any resolution of the magistrates' courts committee under subsection (2) of that section increasing a person's superannuation allowance;
  - (c) any gratuity granted by the magistrates' courts committee under section eleven of the 1937 Act;
- and references to the employing authority in those sections and in paragraph (b) of subsection (2) of section twenty-one of the 1937 Act shall be construed accordingly.
- (2) The council may make the same deductions (if any) under subsection (3) of section six of the 1937 Act from a person's remuneration for any employment as if they were the employing authority.
- (3) Subsection (4) of section six of the 1937 Act (which requires an employee to deliver a statement of remuneration received from outside sources) shall not apply.
- (4) Any regulations under subsection (6) of section thirty-six of the 1937 Act with respect to the administrative action to be taken by local authorities may provide for anything to be done by or to the council where apart from this provision they could provide for it to be done by or to the magistrates' courts committee.
- 4       (1) Where a justices' clerk on attaining the age of sixty-five years has not completed forty years' service, then (in relation to his employment as justices' clerk) for any reference to that age in the 1937 Act, except in subsection (1) of section eight (which relates to eligibility for pension whether on voluntary or compulsory retirement), there shall be substituted a reference to the age of seventy or the age at which he completes forty years' service, whichever is the earlier.
- (2) For the purposes of this paragraph, one half only of any non-contributing service shall be taken into account.
- 5       No gratuity shall be granted by a magistrates' courts committee under subsection (1) of section eleven of the 1937 Act to an employee on his ceasing to be employed by them in an employment in respect of which he was not immediately before he ceased to be employed therein a contributory employee.
- 6       A person's remuneration for any employment where he has more than one and does not receive separate remuneration for that employment, shall be taken to be that part of his entire remuneration which is paid by the council or, where the remuneration for more than one employment is paid by the same council, such part of that remuneration as may be agreed between him and the council or as, in default of agreement, may be determined by the Secretary of State.
- 7       (1) Any action taken by a magistrates' courts committee in increasing a person's superannuation allowance under the proviso to paragraph (b) of subsection (2) of section eight of the 1937 Act, or in directing any sum to be paid out of the

appropriate superannuation fund in respect of a person's contributions thereto under subsection (4) of section ten of the 1937 Act, or in granting a gratuity under section eleven of the 1937 Act, shall forthwith be reported by them to the council.

- (2) If the council is dissatisfied with the action they may appeal against it to the Secretary of State whose decision shall be final.

8 Any provisions of a local Act which amend the 1937 Act may be adapted by order of the Minister of Health.

9 In this Part of this Schedule the expression " the council" in relation to any employment means the council paying a person's remuneration for that employment.

## PART II

### TRANSITIONAL PROVISIONS

10 Where under the proviso to subsection (1) of section twenty of the 1937 Act notice was given by a justices' clerk excluding the application of that Act in relation to his clerkship, the notice shall have the same effect to exclude the 1937 Act as applied by this Act.

11 An existing clerk or employee shall be entitled to the benefit of subsection (1) of section thirteen of the 1937 Act on becoming by virtue of subsection (1) of section twenty-three of this Act a contributory employee of a magistrates' courts committee without giving the information required by the proviso to that subsection.

12 (1) In relation to an existing clerk or employee, subsections (2) and (3) of section seven of the 1937 Act (which relate to extensions of service after the retiring age) shall have effect with the substitution for any reference to the appointed day in subsection (2) of a reference to the date of the coming into force of section nineteen of this Act and with the omission of any such reference in subsection (3):

Provided that if, in the case of a justices' clerk who is a part time officer, it is not possible to determine on the said date whether he then becomes a contributory employee of the magistrates' courts committee by virtue of any order of the Secretary of State under paragraph 1 of this Schedule (whether because his salary under section nineteen of this Act has not then been fixed or because the order gives him an option exercisable after that date or for similar reasons), the reference to be substituted in the said subsection (2) shall be a reference to the date on which it becomes possible to determine that question.

(2) In relation to an existing clerk or employee who immediately before the coming into force of section nineteen of this Act has attained the age of sixty-five years and is not a contributory employee by virtue of section twenty of the 1937 Act, subsection (5) of section eight of that Act (which relates to the remuneration to be taken into account in fixing the rate of pension) shall have effect with the following modifications:—

(a) the expression " service " in that subsection shall include any service rendered after attaining the said age which it would have included if rendered before attaining it; and

(b) for any reference to the appointed day in proviso (a) to that subsection there shall be substituted a reference to the date of the coming into force of section nineteen of this Act.

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- 13 (1) In relation to an existing or former clerk or employee, the expression " service " shall include, in addition to any service within the meaning assigned to that expression by Part III of the 1937 Act or which he is otherwise entitled to reckon apart from this paragraph, any service rendered after attaining the age of eighteen years and before attaining the age of sixty-five years, being either—
- (a) service as a justices' clerk; or
  - (b) service in the employment of a justices' clerk or clerks during which he devoted substantially the whole of his time to assisting the justices' clerk or clerks in the performance of the duties appertaining to his or their clerkship or clerkships or partly to that and partly to duties under a local authority; or
  - (c) service as collecting officer or in the employment of a collecting officer or officers during which he devoted substantially the whole of his time to performing or assisting in the performance of the duties of collecting officer or partly to that and partly to duties under a local authority:

Provided that—

- (i) paragraph 4 of this Schedule shall apply to the reference in this sub-paragraph to the age of sixty-five years as it applies to references to that age in the 1937 Act (except subsection (1) of section eight); and
  - (ii) paragraph (c) of this sub-paragraph shall apply only in the case of an existing clerk or employee.
- (2) Where this paragraph has applied to a person, and he is at any time a contributory employee otherwise than in the capacity in which it applied to him, the expression " service " shall include any service which it included in relation to him in that capacity.
- (3) Where a person is entitled to reckon any period as service by virtue only of proviso (i) to sub-paragraph (1) of this paragraph, he shall be entitled to reckon that period as contributing service if—
- (a) he would have been required to pay contributions in respect of that period had he not attained the age of sixty-five years; and
  - (b) within three months after the date of the coming into force of section nineteen of this Act he pays to the council to whom he pays contributions immediately after that date a sum equal to the contributions which he would have been required to pay as aforesaid;

and, where he does so, the sum shall be deemed to be contributions in respect of that period.

- (4) In this and the two next following paragraphs, references to a justices' clerk include a clerk to the justices of a liberty.
- 14 Where an existing or former clerk or employee has been collecting officer of any court, or employed by the collecting officer of any court to assist him in the performance of his duties as such the time devoted by him thereto and his remuneration in respect thereof during any period when he was clerk of that court, or was employed by that clerk to assist him in the duties appertaining to his clerkship, shall be treated in reckoning his service under the last foregoing paragraph and the remuneration in respect of that service as time devoted to and remuneration in respect of the duties of the clerkship or the employment by the clerk in connection with those duties, as the case may be.
- 15 A person's remuneration as justices' clerk for any period for which he is not or was not paid a salary determined in accordance with section twenty-six of this Act, and a person's remuneration as collecting officer for any period, shall be taken to be or

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- have been the salary and other payments paid or made to him as such and retained by him for his own use, after deducting the amount of any salaries or other sums paid by him to persons employed by him in connection with his duties as clerk or collecting officer, and after deducting the amount of his office expenses (if any).
- 16 In relation to an existing clerk or employee, paragraph (A) of Part III of the Second Schedule to the 1937 Act (which confers special rights on persons superannuable before that Act) shall continue to apply if it applied in relation to him immediately before he ceased to be a contributory employee by virtue of section twenty of that Act.
- 17 (1) Every administering authority maintaining a superannuation fund to which employees of any relevant council contribute shall obtain from an actuary a certificate as to the amount necessary to be paid by the council into the fund annually during a period not exceeding twenty years on account of the burden imposed on the fund by this Act in respect of existing clerks or employees who become by virtue of subsection (1), (5) or (6) of section twenty-three thereof contributory employees of the magistrates' courts committee set up to act for the area of the council.
- (2) The certificate shall be obtained as soon as may be after the date on which section nineteen of this Act comes into force and the period of twenty years shall run from that date.
- (3) In certifying the said amount the actuary shall take into account any transfer values payable in respect of any of the existing clerks or employees who were previously liable to contribute to some other fund and make a corresponding allowance in respect of those who were previously liable to contribute to the same fund.
- (4) The amount certified shall be paid to the fund by the council.
- (5) The relevant councils for the purposes of this paragraph are the councils of any county, any county borough and any borough named in the Third Schedule to this Act.
- 18 In this Part of this Schedule the expression " existing or former clerk or employee " means any such person as is mentioned in subsection (8) of section twenty-three of this Act and the expression " existing clerk or employee " means any such person as aforesaid who by virtue of subsection (1), (5) or (6) of that section becomes a contributory employee of a magistrates' courts committee.

## SIXTH SCHEDULE

Section 30.

### CONSEQUENTIAL PROVISIONS AS TO LOCAL ACT STIPENDIARIES

#### PART I

##### *Staffordshire stipendiaries*

- 1 (1) A magistrate appointed under the Staffordshire Potteries Stipendiary Justice Acts, 1839 to 1895, shall be by virtue of his office a justice of the peace for the county borough of Stoke-upon-Trent and for any non-county borough having for the time being a separate commission of the peace and magistrates' courts committee which is situated wholly or partly within the area for which he acts.

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- (2) The place of the magistrate as a justice for any such borough shall not be supplied by another justice for the county of Stafford (as provided by section twenty of the Staffordshire Potteries Stipendiary Justice Act, 1871) but may when requisite be supplied by another justice for the borough.
- 2       The place of a magistrate appointed under the South Staffordshire Stipendiary Justice Act, 1899, when acting as a justice for the county borough of West Bromwich or for any non-county borough having for the time being a separate commission of the peace and magistrates' courts committee shall not be supplied by justices for the county of Stafford (as provided by section one hundred and one of the Wolverhampton Corporation Act, 1936) but, subject to section thirteen of this Act, may when requisite be supplied by two or more (but not exceeding five) justices for the borough.
- 3       (1) A magistrate appointed under the Staffordshire Potteries Stipendiary Justice Acts, 1839 to 1895, or under the South Staffordshire Stipendiary Justice Act, 1899, may exercise his jurisdiction as a county justice though sitting in a county borough or a borough having a separate commission of the peace and magistrates' courts committee, and may exercise his jurisdiction as justice for any such borough though not sitting in that borough.
- (2) The foregoing sub-paragraph shall apply to a county or borough justice taking the place of either of the said magistrates as it applies to the magistrate.
- 4       (1) Any provision of the Staffordshire Potteries Stipendiary Justice Acts, 1839 to 1895, or of the South Staffordshire Stipendiary Justice Act, 1899, as to a clerk of accounts appointed by the commissioners thereunder shall cease to have effect, and any functions which would apart from this provision be discharged by such a clerk shall be discharged instead by the clerk to the stipendiary magistrate.
- (2) The amount of the salary to be paid to the clerk to the stipendiary magistrate under any of the said Acts shall, notwithstanding anything in those Acts, be such as may from time to time be determined by the commissioners with the approval of the Secretary of State:
- Provided that, until otherwise determined under this sub-paragraph, a clerk in office at the coming into force thereof shall continue to receive the salary to which he is then entitled.
- (3) The clerk to the stipendiary magistrate under any of the said Acts shall be deemed, for the purposes of the Local Government Superannuation Act, 1937, to be employed in that office by the commissioners paying his salary, and in the case of a clerk in office at the coming into force of this sub-paragraph to have been so employed since his appointment to that office, and paragraph 4 of the Fifth Schedule to this Act shall apply to the clerk to any such magistrate as it applies to a justices' clerk.
- 5       (1) If at any time the area in which the stipendiary magistrate under the Staffordshire Potteries Stipendiary Justice Acts, 1839 to 1895, or the South Staffordshire Stipendiary Justice Act, 1899, has jurisdiction (so far as not included in a county borough or borough having a separate commission of the peace and magistrates' courts committee) consists of one or more petty sessional divisions of the county of Stafford, and the commissioners agree to the making of an order under this sub-paragraph, the Secretary of State may by statutory instrument make an order directing that the provisions of the said Acts or Act, as the case may be, so far as they relate to a clerk to the stipendiary magistrate shall cease to have effect, and the order may

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include provision for the payment to any person of compensation for loss of office or employment or loss or diminution of emoluments in consequence of the order and for any other consequential or transitional matters and any such provision may be varied or revoked by a subsequent order made in the same manner.

- (2) If it appears to the Secretary of State that the area within which either of the magistrates referred to in the foregoing sub-paragraph has jurisdiction can conveniently be adjusted so as to enable an order to be made under that sub-paragraph, and the commissioners agree to the making of an order under this sub-paragraph, the Secretary of State may by statutory instrument make an order adjusting the boundaries of that area accordingly.
  - (3) If after the making of an order under sub-paragraph (1) of this paragraph with respect to the clerk to either of the said magistrates any alteration is made under the Acts referred to in that sub-paragraph in the area in which the magistrate has jurisdiction, and as the result of the alteration that area (so far as not included in a county borough or borough having a separate commission of the peace and magistrates' courts committee) does not consist of one or more petty sessional divisions of the county of Stafford, the Secretary of State shall by statutory instrument make an order constituting the area (so far as not included as aforesaid) a petty sessional division or divisions of that county and making consequential provisions as to the remainder of the county, and subsections (4), (6) and (7) of section eighteen of this Act shall apply as if the order were an order under that section.
- 6 (1) If the commissioners under the South Staffordshire Stipendiary Justice Act, 1899, pass a statutory resolution under the Local Government Superannuation Act, 1937, specifying as a contributory employee a person holding at the coming into force of this paragraph any of the posts designated or purporting to have been designated by or under the admission agreement with Wolverhampton, then with the consent of that person and of the Wolverhampton borough council the resolution may direct that as respects that person it shall be deemed to have had effect at all times since the appointed day within the meaning of the said Act of 1937 at which he held any such post.
- (2) The reference in the foregoing sub-paragraph to the admission agreement with Wolverhampton refers to the admission agreement between the said commissioners and the said council dated the seventh day of July, nineteen hundred and thirty-seven (being an agreement which was entered into under the Local Government and other Officers' Superannuation Act, 1922, and became inoperative under the Local Government Superannuation Act, 1937).
- 7 Nothing in this Act shall be taken as imposing on any county or borough council any duties in relation to the provision of accommodation or other things for magistrates appointed under the Acts mentioned in this Part of this Schedule, or as affecting any power or duty in that behalf of the respective commissioners under those Acts.

## PART II

### *South Wales stipendiaries*

- 8 (1) The Merthyr Tydfil Stipendiary Justice Acts, 1843 to 1907, so far as they relate to clerks shall cease to have effect, and any clerk previously appointed thereunder shall be treated for the purposes of this Act as clerk to the justices for the petty sessional divisions of Caerphilly Higher and Miskin Higher of the county of Glamorgan and

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as clerk to the justices of the county borough of Merthyr Tydfil and any assistant or deputy clerk so appointed shall be treated for those purposes as a person employed by the clerk to assist him in the duties appertaining to his clerkships.

- (2) The Glamorgan county council and the Merthyr Tydfil county borough council shall provide any accommodation and other things required for the stipendiary magistrate under the said Acts and for the said clerk under the powers of this Act and any provision in that behalf of the said Acts shall cease to have effect.
  - (3) The stipendiary magistrate under the said Acts shall be by virtue of his office a justice of the peace for any non-county borough having for the time being a separate commission of the peace and magistrates' courts committee which is situated wholly or partly within the area for which he acts.
  - (4) If under section three of the Merthyr Tydfil Stipendiary Justice Act, 1907, any alteration is made in the area for which the stipendiary magistrate acts, and as the result of the alteration that area (exclusive of any county borough and any such non-county borough as aforesaid) does not consist of one or more petty sessional divisions of the county of Glamorgan, the Secretary of State shall by statutory instrument make an order constituting the area (exclusive of any such borough) a petty sessional division or divisions of that county and making consequential provisions as to the remainder of the county, and subsections (4), (6) and (7) of section eighteen of this Act shall apply as if the order were an order under that section.
- 9
- (1) The provisions of the Pontypridd Stipendiary Magistrate Act, 1920, so far as they relate to clerks shall cease to have effect, and any clerk previously appointed thereunder shall be treated for the purposes of this Act as clerk to the justices for the Lower Miskin petty sessional division of the county of Glamorgan, and any assistant clerk so appointed shall be treated for this purpose as a person employed by the clerk to assist him in the duties appertaining to his clerkship.
  - (2) The Glamorgan county council shall provide any accommodation and other things required for the magistrate under the said Act of 1920 or for the said clerk under the powers of this Act, and any provision in that behalf of the said Act of 1920 shall cease to have effect.

### PART III

#### *Salford stipendiary*

- 10
- Part II of the Manchester Division and Borough of Salford (Stipendiary Justices) Act, 1878, so far as it relates to the clerk for borough business shall cease to have effect, and any such clerk previously appointed shall be treated for the purposes of this Act as clerk to the justices for the county borough of Salford, notwithstanding that in that Act he is described as clerk to the stipendiary magistrate.



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## SEVENTH SCHEDULE

Sections 15, 46.

### REPEALS

#### PART I

##### REPEALS CONSEQUENTIAL ON PART I OF ACT

| Session and Chapter          | Short Title or Subject                                       | Extent of Repeal  |
|------------------------------|--|---|
| 2 Hen. 5. st. 2. c. 1.       | Justices of the peace shall be appointed from the residents. | The whole Act.  |
| 25 & 26 Vict. c. 61.         | The Highways Act, 1862                                       | Section thirty-eight,   |
| 38 & 39 Vict. c. 55.         | The Public Health Act, 1875.                                 | In section two hundred and fifty-eight the words " by reason of his being a member of any local authority or".  |
| 45 & 46 Vict. c. 50.         | The Municipal Corporations Act, 1882.                        | Subsection (3) of section one hundred and fifty-seven.  |
| 6 Edw. 7. c. 16              | The Justices of the Peace Act, 1906.                         | Sections two and five and paragraph (a) of subsection (1) of section six.   |
| 13 & 14 Geo. 5. c. 16.       | The Salmon and Fresh- water Fisheries Act, 1923.             | In section seventy-six, the words " a member of a fishery board or".  |
| 22 & 23 Geo. 5. c. 37.       | The Solicitors Act, 1932                                     | Section fifty-four.   |
| 23 & 24 Geo. 5. c. 51.       | The Local Government Act, 1933.                              | In section eighteen, in sub-section (7) the words, from the first " and " to " ceases to be mayor" and in subsection (8) the words " in addition ".   |
| 26 Geo. 5 & 1 Edw. 8. c. 50. | The Public Health (London) Act, 1936.                        | In subsection (1) of section two hundred and eighty-three the words " by reason of his being a member of a sanitary authority or" as respects justices of the peace being members of an authority referred to in section three of this Act. |
| 4 & 5 Geo. 6. c. 27.         | The Justices (Supplemental List) Act, 1941.                  | The whole Act.  |

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## PART II

### REPEALS OF PROCEDURAL PROVISIONS

| Session and Chapter    | Short Title  | Extent of Repeal  |
|------------------------|--|---|
| 2 & 3 Vict. c. 71.     | The Metropolitan Police Courts Act, 1839.                      | Section sixteen.  |
| 32 & 33 Vict. c. 62.   | The Debtors Act, 1869.   | Section ten as respects courts of summary jurisdiction.   |
| 36 & 37 Vict. c. 9.    | The Bastardy Laws Amendment Act, 1873.                         | Section six.  |
| 38 & 39 Vict. c. 90.   | The Employers and Workmen Act, 1875.                           | The concluding paragraph of section eight as respects courts of summary jurisdiction; and the concluding paragraph of section nine. |
| 42 & 43 Vict. c. 49.   | The Summary Jurisdiction Act, 1879.                            | Section twenty-nine.  |
| 47 & 48 Vict. c. 43.   | The Summary Jurisdiction Act, 1884.                            | Section twelve.   |
| 7 Edw. 7. c. 32        | The Dogs Act, 1906.  | In subsection (1), of section five, the words "in England by rules made by the Lord Chancellor and "                                |
| 3 & 4 Geo. 5. c. 28.   | The Mental Deficiency Act, 1913.                               | Subsection (5) of section forty-four.   |
| 4 & 5 Geo. 5. c. 6.    | The Affiliation Orders Act, 1914.                              | Section six.  |
| 4 & 5 Geo. 5. c. 58.   | The Criminal Justice Administration Act, 1914.                 | Subsection (2) of section three; subsection (1) of section forty.   |
| 10 & 11 Geo. 5. c. 33. | The Maintenance Orders (Facilities for Enforcement) Act, 1920. | Section seven from " and" onwards.  |
| 15 & 16 Geo. 5. c. 45. | The Guardianship of Infants Act, 1925.                         | Subsection (2) of section seven.  |
| 15 & 16 Geo. 5. c. 86. | The Criminal Justice Act, 1925.                                | In subsections (4) and (7) of section twelve, the words "made under this Act"; section seventeen.                                   |
| 16 & 17 Geo. 5. c. 29. | The Adoption of Children Act, 1926.                            | Subsection (2) of section eight as respects courts of summary jurisdiction.   |
| 17 & 18 Geo. 5. c. 21. | The Moneylenders Act, 1927.                                    | Subsection (5) of section two.  |

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| Session and Chapter           | Short Title   | Extent of Repeal   |
|-------------------------------|---|--|
| 23 & 24 Geo. 5. c. 12.        | The Children and Young Persons Act, 1933.               | Subsection (3) of section thirty-four; subsection (3) of section forty-six; subsection (3) of section forty-seven; in section one hundred and one subsection (1) from " and the power" onwards and subsection (2); subparagraph (4) of paragraph 1 of the Second Schedule. |
| 23 & 24 Geo. 5. c. 42.        | The Service of Process (Justices) Act, 1933.            | In subsection (2) of section three the definition of " prescribed ".   |
| 25 & 26 Geo. 5. c. 46.        | The Money Payments (Justices Procedure) Act, 1935.      | Section fourteen.  |
| 26 Geo. 5. & 1 Edw. 8. c. 50. | The Public Health (London) Act, 1936.                   | Section two hundred and seventy from " and the power " onwards.  |
| 1 Edw. 8. & 1 Geo. 6. c. 58.  | The Summary Procedure (Domestic Proceedings) Act, 1937. | In subsection (1) of section four the words "by rules made by the Lord Chancellor under this section ".  |
| 11 & 12 Geo. 6. c. 29.        | The National Assistance Act, 1948.                      | Subsection (9) of section forty-four.  |
| 11 & 12 Geo. 6. c. 43.        | The Children Act, 1948                                  | Subsection (7) of section twenty-six.  |
| 11 & 12 Geo. 6. c. 58.        | The Criminal Justice Act, 1948.                         | Subsection (6) of section nineteen.  |

### PART III

#### MISCELLANEOUS REPEALS

| Session and Chapter    | Title or Short Title                     | Extent of Repeal  |
|------------------------|--|---|
| 27 Hen. 8. c. 24       | The Jurisdiction in Liberties Act, 1535. | Sections two, four, five and, so far as they relate to justices of the peace, fourteen and fifteen.         |
| 34 & 35 Hen. 8. c. 26. | The Laws in Wales Act, 1542.             | In section twenty-one the words "There shall be justices of peace and also one custos rotulorum in every of |

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| Session and Chapter | Title or Short Title   | Extent of Repeal  |
|---------------------|--|---|
| 14 Eliz. c. 13.     | An Act for the annexing of Hexam and Hexamshire to the county of Northumberland. | the said twelve shires " and the word " said ".<br>The words " justices of peace ".   |
| 1 Car. 1. c. 1      | The Sunday Observance Act, 1625.   | The words " the same to be employed and converted to the use of the poor of the parish where such offence shall be committed ". |
| 3 Car. 1. c. 2      | The Sunday Observance Act, 1627.   | The words from " All which forfeitures " to " forfeiture ".   |
| 29 Car. 2. c. 7     | The Sunday Observance Act, 1677.   | Section two from " and all and singular " onwards.  |
| 11 Geo. 2. c. 19.   | The Distress for Rent Act, 1737.   | In section four, the words " to such landlord or landlords, his, her, or their bailiffs, servant or agent".                     |
| 15 Geo. 2. c. 33.   | The Starr and Bent Act, 1741.  | In sections six and seven, the words from " one moiety " onwards.   |
| 19 Geo. 2. c. 21.   | The Profane Oaths Act, 1745.   | In section seven, the words from " to be disposed of" to " committed "; sections nine and ten.                                  |
| 17 Geo. 3. c. 56.   | The Frauds by Workmen Act, 1777.   | In section three the words from " every such pecuniary penalty " to " and then " and from " and afterwards " to " appoint".     |
| 32 Geo. 3. c. 56.   | The Servants' Characters Act, 1792.  | In section six the words from " one moiety" to " committed ".   |
| 33 Geo. 3. c. 55.   | The Parish Officers Act, 1793.   | Section one from the words " and such fine " where they first occur to the words " imposing the same ".                         |
| 35 Geo. 3. c. 113.  | The Sale of Beer Act, 1795.  | Section five to the word " appoint "; section ten from " and such penalty" onwards.   |
| 39 Geo. 3. c. 79.   | The Unlawful Societies Act, 1799.  | In section thirty-six, the words " or the informer before any justice ".  |

*Status: This is the original version (as it was originally enacted).*

| Session and Chapter                               | Title or Short Title                                       | Extent of Repeal  |
|---|--|---|
| <a href="#">51 Geo. 3. c. 36</a>                  | The Cinque Ports Act, 1811.                                | Sections one to five and section eight.   |
| <a href="#">57 Geo. 3. c. 19.</a>                 | The Seditious Meetings Act, 1817.                          | In section thirty-one, the words " or to the informer before any justice " .  |
| <a href="#">9 Geo. 4. c. 43</a>                   | The Division of Counties Act, 1828.                        | The whole Act.  |
| <a href="#">10 Geo. 4. c. 44.</a>                 | The Metropolitan Police Act, 1829.                         | Section thirty-seven.   |
| <a href="#">11 Geo. 4 &amp; 1 Will. 4. c. 64.</a> | The Beerhouse Act, 1830                                    | Section twenty-four from the words " or either " onwards.   |
| <a href="#">1 &amp; 2 Will. 4. c. 32.</a>         | The Game Act, 1831.  | Section thirty-seven.   |
| <a href="#">1 &amp; 2 Will. 4. c. 41.</a>         | The Special Constables Act, 1831.                          | Section fifteen from "and every " onwards.  |
| <a href="#">5 &amp; 6 Will. 4. c. 50.</a>         | The Highways Act, 1835                                     | Section one hundred and three, from "and the penalties" onwards.  |
| <a href="#">6 &amp; 7 Will. 4. c. 12.</a>         | The Petty Sessional Divisions Act, 1836.                   | The whole Act.  |
| <a href="#">6 &amp; 7 Will. 4. c. 87.</a>         | The Liberties Act, 1836                                    | Section two so far as it provides for any place to be a liberty for the purpose of justices and sections three, six, seven and nine to eleven.  |
| <a href="#">2 &amp; 3 Vict. c. 15.</a>            | The Staffordshire Potteries Stipendiary Justice Act, 1839. | In section six, the words from " at the rate " to " year "; in section seven, the words from " or sum " where first occurring to " or sum " where next occurring; section nine from "and the said clerk" onwards. |
| <a href="#">2 &amp; 3 Vict. c. 47.</a>            | The Metropolitan Police Act, 1839.                         | In section seventy-seven, the words from " and so much " to " conviction " where first occurring and from " and the residue " onwards.  |
| <a href="#">2 &amp; 3 Vict. c. 71.</a>            | The Metropolitan Police Courts Act, 1839.                  | In section three the words from " each " to " bar "; section thirty-four; section forty-two <sup>5</sup> section forty-six; section forty-seven.  |
| <a href="#">2 &amp; 3 Vict. c. 82.</a>            | The Counties (Detached Parts) Act, 1839.                   | Section three.  |

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| Session and Chapter  | Title or Short Title   | Extent of Repeal   |
|----------------------|--|--|
| 2 & 3 Vict. c. xciv. | An Act for regulating the police in the City of London.  | In section thirty-two the words from " and upon conviction " to " of this Act " as respects convictions before a court of summary jurisdiction; and as respects penalties imposed by such a court, in section ninety-seven the words from " all which penalties " to " of this Act". |
| 5 & 6 Vict. c. 44.   | The Licensing Act, 1842  | Section five from "and such penalty " onwards.   |
| 5 & 6 Vict. c. 110.  | An Act to annex the " county of the City of Coventry to Warwickshire, and to define the boundary of the City of Coventry.                                      | The first proviso to section one; section seven; in section ten the words " and no recorder".  |
| 6 & 7 Vict. c. 30.   | The Pound-breach Act, 1843.  | Section one from " and it" onwards.  |
| 6 & 7 Vict. c. 40.   | The Hosiery Act, 1843  | In section twenty the words from "to be applied" to " if any ".  |
| 6 & 7 Vict. c. 68.   | The Theatres Act, 1843   | In section five the words from "and every" onwards; in section twenty-one the words from the first " shall " to " if any " as respects penalties imposed by courts of summary jurisdiction.  |
| 6 & 7 Vict. c. xliv. | An Act to provide for the more effectual execution of the office of a justice of the peace within the parish of Merthyr Tydfil and certain adjoining parishes. | Sections eight, thirteen and fourteen.   |
| 7 & 8 Vict. c. 61.   | The Counties (Detached Parts) Act, 1844.   | Section three.   |
| 8 & 9 Vict. c. 16.   | The Companies Clauses Act, 1845.   | Section one hundred and fifty-two.   |
| 8 & 9 Vict. c. 20.   | The Railways Clauses Consolidation Act, 1845.  | Section twenty-three from " and " onwards; in section fifty-seven, the words from " to the trustees " to " thereof "; in section fifty-eight, the words from " and such penalty " to " owner thereof"; in section sixty-   |

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| Session and Chapter  | Title or Short Title                             | Extent of Repeal  |
|----------------------|--|---|
| 8 & 9 Vict. c. 118.  | The Inclosure Act, 1845                          | four the words " to the said commissioners, or trustees, or surveyor "; in sections eighty-four, ninety-nine, one hundred and three, one hundred and five, one hundred and sixteen and one hundred and nineteen, the words " to the company "; section one hundred and fifty; in section one hundred and fifty-nine the words from " and except" to " be applied" and the words " naid and anolied ". |
| 10 & 11 Vict c. 14.  | The Markets and Fairs Clauses Act, 1847.         | Section one hundred and fifty-nine from " all which " onwards.  |
| 10 & 11 Vict. c. 16. | The Commissioners Clauses Act, 1847.             | In section twenty-six the words " to the person requiring such cart to be weighed"; in section fifty-six the words from " and except" to " be applied " and the words "paid and applied ".  |
| 10 & 11 Vict. c. 27. | The Harbours, Docks and Piers Clauses Act, 1847. | In section one hundred and six the words from " and except" to " be applied" and the words " paid and applied ".  |
| 10 & 11 Vict. c. 34. | The Towns Improvement Clauses Act, 1847.         | In section ninety-five the words from "and except" to "be applied " and the words "paid and applied ".  |
| 10 & 11 Vict. c. 65. | The Cemeteries Clauses Act, 1847.                | In section thirty the words " to the commissioners ".   |
| 11 & 12 Vict. c. 43. | The Summary Jurisdiction Act, 1848.              | In sections fifty-eight and fifty-nine the words " to the company ".  |
| 11 & 12 Vict. c. 99. | The Inclosure Act, 1848.                         | In section thirty-one the words from " according to the " to " every such clerk " and the words from " and the said clerk" onwards.   |
|                      |  | Section ten from "and such sum " onwards.   |

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| Session and Chapter   | Title or Short Title                           | Extent of Repeal  |
|-----------------------|--|---|
| 12 & 13 Vict. c. 18.  | The Petty Sessions Act, 1849.                  | Sections two and three.   |
| 12 & 13 Vict. c. 83.  | The Inclosure Act, 1849.                       | Section ten from the words " and such sum " to the word " direct " where next occurring.  |
| 13 & 14 Vict. c. 105. | The Liberties Act, 1850                        | In section one, the words " to the justices of any liberty, or"; in section two, the words from " and shall also " to " advertised and given", the words " or liberty " in both places, the words "custos rotulorum" and the words "clerk of the peace" where last occurring; in section three, the words from " as well" to " therein "; section four from " and shall" onwards; sections six and seven. |
| 14 & 15 Vict. c. 55.  | The Criminal Justice Administration Act, 1851. | In their application to justices' clerks, sections ten and eleven and in section twelve the words "by virtue of any order made under this Act ", the words " under this Act " where next occurring and the words from " and in every such case " onwards.   |
| 15 & 16 Vict. c. 79.  | The Inclosure Act, 1852                        | Section thirty-three from the words " and such sum " to the words "regulated pastures " .   |
| 16 & 17 Vict. c. 119. | The Betting Act, 1853.                         | Section nine.   |
| 17 & 18 Vict. c. 38.  | The Gaming Houses Act, 1854.                   | Section eight.  |
| 18 & 19 Vict. c. 48.  | The Cinque Ports Act, 1855.                    | Sections three to eight.  |
| 20 & 21 Vict. c. 1.   | The Cinque Ports Act, 1857.                    | The whole Act.  |
| 21 & 22 Vict. c. 73.  | The Stipendiary Magistrates Act. 1858.         | Section fourteen.   |
| 22 & 23 Vict. c. 65.  | The Petty Sessional Divisions Act, 1859.       | The whole Act.  |
| 24 & 25 Vict. c. 110. | The Old Metal Dealers Act, 1861.               | Section ten from " or to be applied " onwards.  |
| 26 & 27 Vict. c. 97.  | The Stipendiary Magistrates Act, 1863.         | The whole Act.  |



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| Session and Chapter     | Title or Short Title  | Extent of Repeal   |
|-------------------------|---|--|
| 28 & 29 Vict. c. 37.    | The County of Sussex Act, 1865.   | Sections four to eight and section eleven.   |
| 28 & 29 Vict. c. 103.   | The Falmouth Gaol Discontinuance Act, 1865.   | The whole Act.   |
| 30 & 31 Vict. c. 63.    | The Chatham and Sheerness Stipendiary Magistrate Act, 1867.   | The whole Act.   |
| 30 & 31 Vict. c. 115.   | The Justices of the Peace Act, 1867.  | In section two the words "petty or special or".  |
| 30 & 31 Vict. c. 124.   | The Merchant Shipping Act, 1867.  | The whole Act.   |
| 31 & 32 Vict. c. 22.    | The Petty Sessions and Lock-up House Act, 1868.   | In section three, the definitions of "petty sessions" and "quarter sessions"; sections four and five; section eight to "respectively; and"; paragraph 2 in section ten.  |
| 31 & 32 Vict. c. 119.   | The Regulation of Railways Act, 1868.   | In section twenty-one the words from "one half" to "rate".   |
| 31 & 32 Vict. c. xxxvi. | An Act to extend the limits of the Act for appointing a stipendiary justice of the peace for the parish of Merthyr Tydfil and adjoining places; and for other purposes. | Section six.   |
| 32 & 33 Vict. c. 34.    | The Stipendiary Magistrates Act, 1869.  | In section two, the words from "who" to "years" and the words "qualified as aforesaid".  |
| 32 & 33 Vict. c. 49.    | The Local Stamp Act, 1869.  | The whole Act.   |
| 32 & 33 Vict. c. 53.    | The Cinque Ports Act, 1869.   | The whole Act.   |
| 34 & 35 Vict. c. xc.    | The Staffordshire Potteries Stipendiary Justice Act, 1871.  | Section fifteen; section twenty to "Provided always that" and from "Provided also" onwards, except as respects the magistrate holding office at the coming into force of this repeal; section twenty-one from the beginning to the words "pounds and"; section thirty. |
| 35 & 36 Vict. c. 93.    | The Pawnbrokers Act, 1872.  | The second paragraph of section thirty-three, except   |

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| Session and Chapter  | Title or Short Title   | Extent of Repeal   |
|----------------------|--|--|
| 37 & 38 Vict. c. 45. | The County of Hertford and Liberty of St. Alban Act, 1874.                       | so far as it enables the court to direct any sum to be applied in making satisfaction to the party injured; in section thirty-five the words from " which forfeiture " to "thereof"; section forty-six, so far as it enables a court of summary jurisdiction to direct payment to a complainant who is not the party aggrieved.<br>Section six.  |
| 38 & 39 Vict. c. 55. | The Public Health Act, 1875.   | In section twenty-six the words " to the urban authority "; section two hundred and fifty-four.  |
| 39 & 40 Vict. c. 20. | The Statute Law Revision (Substituted Enactments) Act, 1876.                     | Section one from the first " that" to " and " where next occurring.  |
| 40 & 41 Vict. c. 43. | The Justices Clerks Act, 1877.   | Sections two to four; section five from "Provided that" onwards; and sections six, seven and nine.   |
| 41 & 42 Vict. c. 15. | The Customs and Inland Revenue Act, 1878.  | In paragraph (2) of section twenty-three the words from "the benefit" to the last " and " .  |
| 41 & 42 Vict. c. 49. | The Weights and Measures Act, 1878.  | In section fifty-seven, paragraph 4 and paragraph 5 from " and the proceeds" onwards.  |
| 41 & 42 Vict. c. lv. | The Manchester Division and Borough of Salford (Stipendiary Justices) Act, 1878. | Section thirty-seven except as respects the magistrate holding office at the coming into force of this repeal; sections thirty-nine to forty-one; section forty-two from the word " not", where first occurring, onwards; section forty-three except as respects a magistrate to whom subsection (1) of section thirty-three of this Act does not apply; sections forty-four and forty-five. |

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| Session and Chapter      | Title or Short Title                       | Extent of Repeal  |
|--------------------------|--|---|
| 41 & 42 Vict. c. cxciii. | The Ramsgate Improvement Act, 1878.        | Sections eighteen and nineteen.   |
| 42 & 43 Vict. c. cxix.   | The Stratford upon Avon Borough Act, 1879. | Section seventy-eight as respects justices of the peace.  |
| 42 & 43 Vict. c. 49.     | The Summary Jurisdiction Act, 1879.        | In section eight the words from "the court may also" onwards; paragraph (e) of subsection (1) of section twenty-nine; section thirty; in section forty-eight the words "the justices of a borough or " and the words " and the principal Act therein mentioned ".   |
| 44 & 45 Vict. c. 58.     | The Army Act.                              | In section one hundred and sixty-six, subsection (3) and subsection (6) to the word " informer ".   |
| 45 & 46 Vict. c. 50.     | The Municipal Corporations Act, 1882.      | Subsections (1), (2) and (6) of section one hundred and fifty-nine; section one hundred and sixty; section one hundred and sixty-one; section two hundred and twenty-one; in section two hundred and forty-eight, subsection (2) except in its application to the coroners of Hastings and Dover and subsections (3), (4), (6) and (7). |
| 46 & 47 Vict. c. 18.     | The Municipal Corporations Act, 1883.      | Subsection (2) of section seventeen from "and to have" onwards.   |
| 47 & 48 Vict. c. 43.     | The Summary Jurisdiction Act, 1884.        | In section eight, the first paragraph, and in the second the words " petty sessional courthouse or" and the words "provided or".  |
| 51 & 52 Vict. c. 41.     | The Local Government Act, 1888.            | In paragraph (iv) of section three the words "justices rooms " and " and the justices "; in section thirty, in subsection (1) the words " and of clerks of the justices " and in subsection (3) the words " or to clerks of the justices ", the words " or  |

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| Session and Chapter      | Title or Short Title   | Extent of Repeal   |
|--------------------------|--|--|
| 52 & 53 Vict. c. clxvii. | The Local Government Board's Provisional Order Confirmation (No. 2) Act, 1889. | <p>justices out of session ", the words " or the said clerks " and the words from "or to the application of " to" by clerks to justices"; in section thirty-eight, paragraph (7) and in paragraph (8) the words from " and if" to "justices "; in subsection (12) of section forty-two the words "petty sessional or"; subsection (3) of section forty-eight; in subsection (3) of section sixty-four the words " and justices out of sessions " and the words " or justices "; in section sixty-six the words " or justices out of session "; paragraph (a) of proviso (16) to section seventy-five; paragraphs (7) and (8) of section eighty-three; section eighty-four; subsection (1) of section one hundred and seventeen from " but " onwards.</p> <p>In the Schedule, in Article VI, the words " custos rotulorum ", the words " quarter sessions, justices " and the words " and clerk of the peace"; paragraph (1) of Article VII; in paragraph (2) of Article VII the words " or quarter sessions "; paragraph (2) of Article VIII; Articles IX, XI and XH; in Article XV the words from the beginning to " Southampton and" where first occurring and the words " and quarter sessions "; in Articles XVI and XVII the words " and quarter sessions" wherever occurring, and in paragraph (2) of Article XVII the words from " and all" to " order ".</p> |
| 53 & 54 Vict. c. 5.      | The Lunacy Act, 1890.  | In subsections (4) and (6) of section ten, the words " or  |

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| Session and Chapter                         | Title or Short Title                                       | Extent of Repeal   |
|---|--|--|
| <a href="#">57 &amp; 58 Vict. c. 57.</a>    | The Diseases of Animals Act, 1894.                         | place" wherever occurring; section three hundred and twenty-six from " and " onwards.<br>Subsection (5) of section fifty-seven.  |
| <a href="#">57 &amp; 58 Vict. c. 60.</a>    | The Merchant Shipping Act, 1894.                           | Subsection (6) of section two hundred and fourteen from "and fines" onwards; subsection (3) of section two hundred and thirty-two; subsection (4) of section two hundred and eighty-seven from "and the fine" onwards; in subsection (3) of section three hundred and seventy-six, the words " the person by whom the wages are payable or of "; in subsection (1) of section six hundred and ninety-nine in its application to courts of summary jurisdiction, the words from " or to be applied " onwards. |
| <a href="#">57 &amp; 58 Vict. c. xxvii.</a> | The Merthyr Tydfil Stipendiary Justice Act, 1894.          | In section four the words from the first "shall" to "he", except as respects the magistrate holding office at the coming into force of this repeal; in section five, the words from " at " to " state "; sections seven to ten.  |
| <a href="#">58 &amp; 59 Vict. c. cvii.</a>  | The Staffordshire Potteries Stipendiary Justice Act, 1895. | Section eight; in section eleven, the words from "by the" to " or " where next occurring and the word " other ".   |
| <a href="#">60 &amp; 61 Vict. c. 26.</a>    | The Metropolitan Police Courts Act, 1897.                  | Section one from the last " and " onwards; section six; in section seven in subsection (1) the words from "or" onwards and subsection (2).   |
| <a href="#">61 &amp; 62 Vict. c. 31.</a>    | The Metropolitan Police Courts Act, 1898.                  | The whole Act.   |

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| Session and Chapter     | Title or Short Title                                   | Extent of Repeal  |
|-------------------------|--|---|
| 62 & 63 Vict. c. xc.    | The South Staffordshire Stipendiary Justice Act, 1899. | In subsection (5) of section fifteen, the words from " of one " to " be paid "; in subsection (3) of section seventeen the words from " of four " to " be paid "; sections nineteen and twenty; in section twenty-two the words " and clerk of" accounts "; in section twenty-three the words " or the clerk of accounts "; in section twenty-four the words "clerk of accounts"; section twenty-seven. |
| 63 & 64 Vict. c. clvii. | The Ramsgate Corporation Act, 1900.                    | Section eighteen from the words " and from " onwards, so far as relates to the court of quarter sessions for the county of Kent or any division thereof; sections nineteen and twenty.  |
| 4 Edw. 7. c. 28.        | The Weights and Measures Act. 1904.                    | Subsection (2) of section thirteen.   |
| 4 Edw. 7. c. clvii.     | The County of Suffolk Act, 1904.                       | Sections four, five and six; in section seven the words "either at courts of sessions of the peace or"; section eight; in section sixteen the words " or custos rotulorum " and the words " custos rotulorum" in the second place where they occur; section seventeen to the words " respectively and "; section nineteen.  |
| 7 Edw. 7. c. 9          | The Territorial and Reserve Forces Act, 1907.          | Subsection (3) of section twenty-four from " subject" onwards.  |
| 7 Edw. 7. c. cxxviii.   | The Merthyr Tydfil Stipendiary Justice Act, 1907.      | In section three, in subsection (4) the words from " and such " to " magistrate " except as respects the magistrate holding office at the coming into force of this repeal, and paragraph (B) of subsection (5); section four; in section five, subsections   |

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| Session and Chapter            | Title or Short Title                           | Extent of Repeal   |
|--------------------------------|--|--|
| 8 Edw. 7. c. 44                | The Commons Act, 1908                          | (3) to (8); sections six and seven.<br>Subsection (2) of section one from the second "and" onwards.  |
| 10 Edw. 7 and 1 Geo. 5. c. 24. | The Licensing (Consolidation) Act, 1910.       | In section two, subsection (3) except the words " (3) For the purposes of this Act as respects a licensing district being a borough the licensing justices are the borough licensing committee ", and subsection (5); in section three, subsection (1) from " during " onwards and subsection (2); the concluding paragraph of subsection (1) of section twenty-nine; section one hundred and four; section one hundred and five from "but" onwards; in section one hundred and ten in the definition of "county", the first paragraph and in the second paragraph the words from " and " onwards. |
| 2 & 3 Geo. 5. c. 3.            | The Shops Act, 1912                            | The proviso to subsection (1) of section fourteen from the last " and " onwards.   |
| 3 & 4 Geo. 5. c. 27.           | The Forgery Act, 1913                          | Subsection (5) of section five and subsection (3) of section eight.  |
| 4 & 5 Geo. 5. c. 6.            | The Affiliation Orders Act, 1914.              | Subsection (1) of section one and subsection (3) of that section from " and where " onwards.   |
| 4 & 5 Geo. 5. c. 58.           | The Criminal Justice Administration Act, 1914. | Paragraph (d) of subsection (1) of section five from the word " offence " onwards, except the word " fine "; subsection (4) of section thirty; section thirty-four.  |
| 8 & 9 Geo. 5.                  | The Air Force Act                              | In section one hundred and sixty-six subsection (3) and subsection (6) to the word " informer ".   |

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| Session and Chapter          | Title or Short Title                                   | Extent of Repeal   |
|------------------------------|--|--|
| 10 & 11 Geo. 5. c. lxxxvi.   | The Pontypridd Stipendiary Magistrate Act, 1920.       | Section six from the first "attend" to the last "shall", except as respects the magistrate holding office at the coming into force of this repeal; in section seven the words from "at" to "state"; sections eight to sixteen. |
| 11 & 12 Geo. 5. c. 31.       | The Police Pensions Act, 1921.                         | In the Second Schedule, paragraphs 1 and 3 and as respects fines imposed by a court of summary jurisdiction paragraph 2.   |
| 12 & 13 Geo. 5. c. lxxvi.    | The Birmingham Corporation Act, 1922.                  | Section eighty-one.  |
| 13 & 14 Geo. 5. c. 8.        | The Industrial Assurance Act, 1923.                    | In its application to courts of summary jurisdiction subsection (6) of section thirty-nine to the second "and".  |
| 13 & 14 Geo. 5. c. 16.       | The Salmon and Freshwater Fisheries Act, 1923.         | Subsection (2) of section seventy-three.   |
| 20 & 21 Geo. 5. c. clxxiv.   | The Cardiff Corporation Act, 1930.                     | Section one hundred and twenty-seven except as respects a magistrate to whom subsection (1) of section thirty-three of this Act does not apply.  |
| 20 & 21 Geo. 5. c. clxxviii. | The Manchester Corporation (General Powers) Act, 1930. | Section thirty-nine as respects any person who after the coming into force of section twenty-two of this Act is or serves the clerk to the justices.   |
| 21 & 22 Geo. 5. c. 42.       | The Agricultural Marketing Act, 1931.                  | In its application to courts of summary jurisdiction, subsection (4) of section six.   |
| 23 & 24 Geo. 5. c. 12.       | The Children and Young Persons Act, 1933.              | The proviso to subsection (2) of section forty-seven; subsection (6) of section forty-eight; paragraph (d) of subsection (2) of section eighty-eight from "to order" onwards; paragraph 3 of the Second Schedule.              |



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| Session and Chapter           | Title or Short Title                                    | Extent of Repeal  |
|-------------------------------|---|---|
| 23 & 24 Geo. 5. c. 25.        | The Pharmacy and Poisons Act, 1933.                     | Subsection (4) of section twenty-four.  |
| 23 & 24 Geo. 5. c. 31.        | The Agricultural Marketing Act, 1933.                   | The second paragraph of subsection (5) of section six.  |
| 23 & 24 Geo. 5. c. 51.        | The Local Government Act, 1933.                         | In section eighteen, subsection (9).  |
| 25 & 26 Geo. 5. c. 9.         | The Herring Industry Act, 1935.                         | The second paragraph of subsection (2) of section six.  |
| 26 Geo. 5 & 1 Edw. 8. c. 5    | The Public Health (London) Act, 1936.                   | Subsection (3) of section forty-five; subsection (4) of section sixty-two; subsection (4) of section sixty-four; subsection (1) of section seventy-three; subsection (1) of section one hundred and seventy-eight; in section two hundred and sixty-five, subsection (2) as respects fines imposed by a court of summary jurisdiction; in section two hundred and eighty-one, subsection (1) and in subsection (3) the words " fines or other sums recoverable or "; Part IV of the First Schedule. |
| 26 Geo. 5 & 1 Edw. 8. c. cxi. | The Wolverhampton Corporation Act, 1936.                | Except as respects the magistrate holding office at the coming into force of this repeal, section one hundred and one, except paragraph (b), and in that paragraph the words " under this section ".  |
| 1 Edw. 8 & 1 Geo. 6. c. 58.   | The Summary Procedure (Domestic Proceedings) Act, 1937. | In section nine in subsection (1) the words " the City of London or " and subsection (e)  |
| 1 Edw. 8 & 1 Geo. 6. c. 67.   | The Factories Act, 1937                                 | In section one hundred and thirty-three the words " or otherwise ".   |
| 1 Edw. 8 & 1 Geo. 6. c. 68.   | The Local Government Superannuation Act, 1937.          | In section twenty, subsections (1) to (3) and in subsection (4) the words " In this section and"; in Part III of the Second Schedule,   |

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| Session and Chapter        | Title or Short Title                                       | Extent of Repeal  |
|----------------------------|--|---|
| 7 & 8 Geo. 6. c. xxi.      | The Middlesex County Council Act, 1944.                    | paragraphs (a) to (f) and in paragraph (g) the words " a clerk or an employee of a clerk or ".  |
| 8 & 9 Geo. 6. c. 38.       | The Local Government (Boundary Commission) Act, 1945.      | Sections three hundred and ninety-seven, three hundred and ninety-eight and four hundred and eighteen, the Fifth Schedule except paragraph (f) and in that paragraph the words " any officer to whom this Schedule applies or". |
| 8 & 9 Geo. 6. c. iv.       | The Staffordshire Potteries Stipendiary Justice Act, 1945. | Subsection (2) of section two.  |
| 8 & 9 Geo. 6. c. iv.       | The Staffordshire Potteries Stipendiary Justice Act, 1945. | The whole Act.  |
| 9 & 10 Geo. 6. c. 20.      | The Building Materials and Housing Act, 1945.              | Paragraph (a) of subsection (7) of section seven.   |
| 9 & 10 Geo. 6. c. 81.      | The National Health Service Act, 1946.                     | In the Ninth Schedule, the paragraph amending section three hundred and twenty-six of the Lunacy Act, 1890.   |
| 9 & 10 Geo. 6. c. xxxviii. | The Manchester Corporation Act, 1946.                      | Section fifty-nine.   |
| 11 & 12 Geo. 6. c. 10.     | The Emergency Laws (Miscellaneous Provisions) Act, 1947.   | Sub-paragraph (2) of paragraph 5 of the Second Schedule.  |
| 11 & 12 Geo. 6. c. 38.     | The Companies Act, 1948                                    | In its application to courts of summary jurisdiction section four hundred and forty-four to the word " all".  |
| 11 & 12 Geo. 6. c. liii.   | The London County Council (General Powers) Act, 1948.      | Section forty-eight.  |
| 12 & 13 Geo. 6. c. 27.     | The Juries Act, 1949.                                      | In subsection (4) of section six the words " or at a court of quarter sessions held for that county in section nine the words " and quarter sessions " in both places.  |

*Status: This is the original version (as it was originally enacted).*

## TABLE OF STATUTES REFERRED TO IN THIS ACT

| Short Title   | Session and Chapter      |
|---|--------------------------|
| Metropolitan Police Courts Act, 1839  | 2 & 3 Vict. c. 71.       |
| Theatres Act, 1843  | 6 & 7 Vict. c. 68.       |
| Coroners Act, 1844.   | 7 & 8 Vict. c. 92.       |
| Gaming Act, 1845  | 8 & 9 Vict. c. 109.      |
| Vestries Act, 1850  | 13 & 14 Vict. c. 57.     |
| Justices (Scotland) Act, 1856   | 19 & 20 Vict. c. 48.     |
| Chatham and Sheerness Stipendiary Magistrates Act, 1867                     | 30 & 31 Vict. c. 63.     |
| Salmon Fisheries (Scotland) Act, 1868                                       | 31 & 32 Vict. c. 123.    |
| Stipendiary Magistrates Act, 1869   | 32 & 33 Vict. c. 34.     |
| Staffordshire Potteries Stipendiary Justices Act, 1871                      | 34 & 35 Vict. c. xc.     |
| Borough and Local Courts of Record Act, 1872                                | 35 & 36 Vict. c. 86      |
| Appellate Jurisdiction Act, 1876  | 39 & 40 Vict. c. 59.     |
| Justices Clerks Act, 1877   | 40 & 41 Vict. c. 43.     |
| Manchester Division and Borough of Salford (Stipendiary Justices) Act, 1878 | 41 & 42 Vict. c. lv.     |
| Summary Jurisdiction Act, 1879  | 42 & 43 Vict. c. 49.     |
| Municipal Corporations Act, 1882  | 45 & 46 Vict. c. 50.     |
| Oxford University (Justices) Act, 1886                                      | 49 & 50 Vict. c. 31.     |
| Sheriffs Act, 1887  | 50 & 51 Vict. c. 55.     |
| Local Government Act, 1888  | 51 & 52 Vict. c. 41.     |
| Interpretation Act, 1889  | 52 & 53 Vict. c. 63.     |
| Local Government Board's Provisional Order Confirmation (No. 2) Act, 1889   | 52 & 53 Vict. c. clxvii. |
| Public Health Acts Amendment Act, 1890                                      | 53 & 54 Vict. c. 59.     |
| Lunacy Act, 1890  | 53 & 54 Vict. c. 5.      |
| Summary Jurisdiction (Married Women) Act, 1895                              | 58 & 59 Vict. c. 39.     |
| Quarter Sessions (London) Act, 1896   | 59 & 60 Vict. c. 55.     |
| South Staffordshire Stipendiary Justices Act, 1899                          | 62 & 63 Vict. c. xc.     |
| Licensing Act, 1902   | 2 Edw. 7. c. 28.         |
| Justices of the Peace Act, 1906   | 6 Edw. 7. c. 16.         |

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| Short Title   | Session and Chapter              |
|---|----------------------------------|
| Dogs Act, 1906  | 7 Edw. 7. c. 32.                 |
| Recorders, Stipendiary Magistrates, and Clerks of the Peace Act, 1906 | 6 Edw. 7. c. 46.                 |
| Merthyr Tydfil Stipendiary Justices Act, 1907                         | 7 Edw. 7. c. cxxviii.            |
| Licensing (Consolidation) Act, 1910                                   | 10 Edw. 7. & 1 Geo. 5. c. 24.    |
| Affiliation Orders Act, 1914  | 4 & 5 Geo. 5. c. 6.              |
| Criminal Justice Administration Act, 1914                             | 4 & 5 Geo. 5. c. 58.             |
| Mayor's and City of London Court Act, 1920                            | 10 & 11 Geo. 5. c. cxxxiv.       |
| Pontypridd Stipendiary Magistrates Act, 1920                          | 10 & 11 Geo. 5. c.lxxxvi.        |
| Local Government and other Officers' Superannuation Act, 1922         | 12 & 13 Geo. 5. c. 59.           |
| Salmon and Freshwater Fisheries Act, 1923                             | 13 & 14 Geo. 5. c. 16.           |
| Criminal Justice Act, 1925  | 15 & 16 Geo. 5. c. 86.           |
| Coroners (Amendment) Act, 1926  | 16 & 17 Geo. 5. c. 59.           |
| Solicitors Act, 1932  | 22 & 23 Geo. 5. c. 37.           |
| Children and Young Persons Act, 1933                                  | 23 & 24 Geo. 5. c. 12.           |
| Local Government Act, 1933  | 23 & 24 Geo. 5. c. 51.           |
| County Courts Act, 1934   | 24 & 25 Geo. 5. c. 53.           |
| Money Payments (Justices Procedure) Act, 1935                         | 25 & 26 Geo. 5. c. 46.           |
| London and Middlesex (Improvements, etc.) Act, 1936                   | 26 Geo. 5. & 1 Edw. 8. c. cviii. |
| Wolverhampton Corporation Act, 1936                                   | 26 Geo. 5. & 1 Edw. 8. c. cxi.   |
| Children and Young Persons (Scotland) Act, 1937                       | 1 Edw. 8. & 1 Geo. 6. c. 37.     |
| Summary Procedure (Domestic Proceedings) Act, 1937                    | 1 Edw. 8. & 1 Geo. 6. c. 58.     |
| Local Government Superannuation Act, 1937                             | 1 Edw. 8. & 1 Geo. 6. c. 68.     |
| Administration of Justice (Miscellaneous Provisions) Act, 1938        | 1 & 2 Geo. 6. c. 63.             |
| London Government Act, 1939   | 2 & 3 Geo. 6. c. 40.             |
| Justices (Supplemental List) Act, 1941                                | 4 & 5 Geo. 6. c. 27.             |
| Middlesex County Council Act, 1944                                    | 7 & 8 Geo. 6. c. xxi.            |
| Family Allowances Act, 1945   | 8 & 9 Geo. 6. c. 41.             |
| Local Government (Scotland) Act, 1947                                 | 10 & 11 Geo. 6. c. 43.           |

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| Short Title   | Session and Chapter                            |
|---|--|
| Local Government Act, 1948                          | <a href="#">11 &amp; 12 Geo. 6. c. 26.</a>     |
| Superannuation (Miscellaneous Provisions) Act, 1948 | <a href="#">11 &amp; 12 Geo. 6. c. 33.</a>     |
| Criminal Justice Act, 1948                          | <a href="#">11 &amp; 12 Geo. 6. c. 58.</a>     |
| Licensing Act, 1949                                 | <a href="#">12 &amp; 13 Geo. 6. c. 59.</a>     |
| Married Women (Maintenance) Act, 1949               | <a href="#">12, 13 &amp; 14 Geo. 6. c. 99.</a> |