



Justices of the Peace Act 1968

CHAPTER 69

ARRANGEMENT OF SECTIONS

Section

1. Appointment of justices, oaths of office, etc.
2. Age for transfer of justice to supplemental list, or for retirement of stipendiary magistrate.
3. Election to chairmanship of bench.
4. Travelling, subsistence and financial loss allowances.
5. Justices' clerks.
6. Provisions applying to Scotland.
7. Commencement, and power to provide for transitional matters.
8. Supplementary.

SCHEDULES:

Schedule 1—Justices not appointed by commission of the peace.

Schedule 2—Justices of the Peace in the City of London.

Schedule 3—Supplementary provisions as to City of London and local Act stipendiaries.

Schedule 4—Section 8(1) to (4) of Justices of the Peace Act 1949, as amended.

Schedule 5—Enactments repealed.

ELIZABETH II



1968 CHAPTER 69

An Act to make further provision for confining the office of justice of the peace to persons selected for it, and terminating the appointment of stipendiary magistrates under local Acts, and for matters arising thereout, and to forward in other respects the proper discharge of the functions of justices by amending the law as to age limits, payment of allowances, powers and qualifications of justices' clerks and their assistants and other matters; and for purposes connected therewith.
[25th October 1968]

BE IT ENACTED by the Queen'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:—

1.—(1) Subject to subsection (2) below, no person shall be justice of the peace for any area unless either—

- Appointment
of justices,
oaths of office,
etc.
- (a) he is appointed by name (and not by office) to be a justice for the area by a commission of the peace for the area; or
 - (b) he is made a justice of the peace for the area by or under any of the enactments mentioned in Schedule 1 to this Act (which relate to the offices specified in column 2 of the Schedule), and the area is one specified in relation to the enactment in column 3 (which excludes county court judges in London from being justices ex officio unless appointed deputy chairmen of quarter sessions for a period, but otherwise reproduces the effect of those enactments).

(2) The Lord Mayor and aldermen of the City of London shall by virtue of the charter granted by His late Majesty King

George II dated the 25th August 1741 continue to be justices of the peace for the City of London ; but notwithstanding anything in the charters of the City or in section 10(1) of the Justices of the Peace Act 1949 a commission of the peace may be issued for the City as a county of itself, and—

1949 c. 101.

- (a) Schedule 2 to this Act shall have effect to regulate the position as justices in the City of those holding the office by virtue of the charter and under the commission respectively ; and
- (b) Parts I and III of Schedule 3 to this Act shall have effect for the adaptation or clarification of the law and other transitional purposes relating to justices of the peace for the City.

(3) A person shall not be required, on becoming a justice of the peace for any area, to take the oath of allegiance and judicial oath in accordance with the Promissory Oaths Act 1868 and the Promissory Oaths Act 1871, if he has at any time done so as justice of the peace for whatever area ; and in the Municipal Corporations Act 1882 there shall cease to have effect so much of section 157(2) or 163(4) as requires a borough justice or recorder of a borough to make a declaration before the mayor or two other members of the council.

1868 c. 72.

1871 c. 48.

1882 c. 50.

(4) A person's appointment as justice of the peace shall not be affected by his promotion to any dignity, nor shall proceedings before justices of the peace or process of justices of the peace be affected by the issue of a new commission of the peace or any alteration of the names of the justices ; and the justices of the peace for the time being named in the commission of the peace for any area may proceed in all respects as if they had at all material times been so named.

(5) There shall continue to be in counties a keeper of the rolls for the county appointed by Her Majesty's letters patent ; but the holder of the office need not be a justice of the peace, and shall not by virtue of the office be a member of a magistrates' courts committee or, in the inner London area, of the committee of magistrates.

(6) Any act which by virtue of section 4(3) of the Justices of the Peace Act 1949 may be done by a person as justice of the peace notwithstanding that his name is entered in the supplemental list, that is—

- (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 ;

may, subject to any express provision made to the contrary by any enactment or instrument relating to that act, be done also

by any person who is mayor of any borough (including a borough included in a rural district), chairman of the Greater London Council or chairman of a county council or district council (within the meaning of the Local Government Act 1933).

1933 c. 51.

(7) It is hereby declared that any court of record having a criminal jurisdiction has, as ancillary to that jurisdiction, the power to bind over to keep the peace, and power to bind over to be of good behaviour, a person who or whose case is before the court, by requiring him to enter into his own recognisances or to find sureties or both, and committing him to prison if he does not comply; but there is hereby abolished any power to commit to prison, or to issue warrants of arrest or search warrants, which may have been exercisable at common law by the Sovereign in person, or by the Privy Council, members of the Privy Council or the Secretary of State, whether on their or his own authority or on the special direction of the Sovereign.

(8) A person who at the coming into force of this section holds any office as a stipendiary magistrate not referred to in Schedule 1 to this Act shall continue in office as if he had, on the appropriate petition, been duly appointed under section 29 of the Justices of the Peace Act 1949, and references to the council or councils on whose petition he was appointed shall be construed accordingly; but—

1949 c. 101.

(a) Parts II and III of Schedule 3 to this Act shall have effect to allow the reduction or adjustment of the area for which a magistrate is to continue in office by virtue of this subsection, and for other transitional purposes in connection with this subsection; and

(b) section 29(8) of the Justices of the Peace Act 1949 shall cease to have effect in so far as it precludes a stipendiary magistrate appointed under that section from acting as a member of a court of quarter sessions.

2.—(1) Subject to subsections (3) and (4) below, rules made under section 4 of the Justices of the Peace Act 1949 shall provide for entering in the supplemental list the names of persons—

Age for transfer of justice to supplemental list, or for retirement of stipendiary magistrate.

(a) who are of the age of seventy years or over and neither—

(i) on attaining the age of seventy years hold or held office as chairman or deputy chairman of a court of quarter sessions or as recorder of a borough; nor

(ii) hold or have held high judicial office within the meaning of the Appellate Jurisdiction Act 1876; 1876 c. 59.

or

(b) who, after attaining the age of seventy years while holding an office mentioned in paragraph (a)(i) above,

no longer hold any such office and who neither hold nor have held high judicial office ; or

(c) who are of the age of seventy-five years or over.

(2) A stipendiary magistrate, if appointed after the passing of this Act, shall vacate his office at the end of the completed year of service in the course of which he attains the age of seventy ; and accordingly—

(a) in the case of a metropolitan stipendiary magistrate so appointed section 13(4) of the Criminal Justice Administration Act 1956 shall not apply ; and

(b) in the case of any other stipendiary magistrate so appointed, section 33(1) of the Justices of the Peace Act 1949 shall have effect as if in subsection (1)(a) for the words “ the age of seventy-two ” there were substituted the words “ the age of seventy ” and as if subsection (2) (under which a magistrate may be authorised to continue in office after the age of seventy-two but not after the age of seventy-five) were omitted.

(3) Subsection (1) above shall not come into force until the year 1969, and as regards that and the three following years shall apply as if the references in paragraphs (a) and (b) to the age of seventy years were references for 1969 to an age of seventy-four years, for 1970 to an age of seventy-three years, for 1971 to an age of seventy-two years and for 1972 to an age of seventy-one years ; and if at the beginning of any of those years or of the year 1973 a person is of or over the age relevant for that year to those paragraphs, he shall be treated for purposes of those paragraphs as having held since attaining that age any office mentioned in paragraph (a)(i) which he holds at the beginning of that year.

(4) A person who holds office as chairman of the justices in a petty sessions area on the date when his name falls to be entered in the supplemental list in accordance with the foregoing provisions of this section shall have his name so entered on the expiration or sooner determination of the term for which he holds office on that date.

3. In section 13 of the Justices of the Peace Act 1949 after subsection (5) there shall be inserted as subsection (5A)—

“(5A) The right of magistrates to vote at an election of the chairman or a deputy chairman of the justices in a petty sessions area may, by rules made under this section, be restricted with a view to securing that the election is made by magistrates experienced as such in the area.”

4.—(1) Section 8(1) to (4) of the Justices of the Peace Act 1949 shall be amended in accordance with subsections (2) to (4) below, and shall accordingly have effect (subject to the other provisions of that section) as set out in Schedule 4 to this Act

1956 c. 34.

1949 c. 101.

Election to
chairmanship
of bench.

Travelling,
subsistence
and financial
loss
allowances.

with the amendments made by this Act and section 31 of the Administration of Justice Act 1964.

1964 c. 42.

(2) In section 8(1) there shall be added at the end the words “and to receive payments at the prescribed rate by way of financial loss allowance where for that purpose there is incurred by him any other expenditure to which he would not otherwise be subject or there is suffered by him any loss of earnings or of benefit under the National Insurance Acts 1965 to 1967 which he would otherwise have made or received”; and in section 8(3)(b), as amended by section 31 of the Administration of Justice Act 1964, for the words “a travelling or subsistence allowance” there shall be substituted the words “a payment of the like nature”.

(3) There shall be omitted section 8(3)(a) (which, as so amended, excludes payment of subsistence allowances in respect of duties performed not more than three miles from the justice’s usual place of residence).

(4) In section 8(4) there shall be omitted the words “at the time when his salary is determined”, and there shall be added at the end the words “nor in any event to a payment by way of financial loss allowance”.

(5) In section 36 of the Justices of the Peace Act 1949 (which, 1949 c. 101. as amended by section 31 of the Administration of Justice Act 1964, provides for the payment of travelling and subsistence allowances to members of probation and after-care committees or case committees)—

(a) there shall be added at the end of subsection (1) the same words as under subsection (2) above are to be added to section 8(1); and

(b) there shall be omitted subsection (2) (which corresponds to section 8(3)(a)).

(6) There shall be defrayed out of moneys provided by Parliament any increase attributable to this section in the sums which under any other enactment are payable out of moneys so provided.

5.—(1) Rules made in accordance with section 15 of the Justices of the Peace Act 1949 may, except in so far as any enactment passed after this Act directs otherwise, make provision enabling things authorised to be done by, to or before a single justice of the peace, to be done instead by, to or before a justices’ clerk; and any enactment or rule of law regulating the exercise of any jurisdiction or powers of justices of the peace, or relating to things done in the exercise or purported exercise thereof, shall apply in relation to the exercise or purported exercise thereof by virtue of this subsection by the clerk to any justices as if he were one of those justices.

1949 c. 101.

(2) The power conferred by section 15 of the Justices of the Peace Act 1949 to make rules for regulating and prescribing the procedure and practice to be followed by justices' clerks shall, without prejudice to the generality of section 15(1), include power to provide that, subject to any exceptions prescribed by the rules, persons shall not be employed to assist a justices' clerk in any capacity so prescribed, or shall not be permitted to do on behalf of a justices' clerk any such acts as may be so prescribed, unless those persons are qualified (any age limits apart) to be appointed justices' clerk or have such other qualifications as may for any purpose be allowed by the rules.

(3) It is hereby declared that the functions of a justices' clerk include the giving to the justices to whom he is clerk or any of them, at the request of the justices or justice, of advice about law, practice or procedure on questions arising in connection with the discharge out of sessions of their or his functions as justices, including questions arising when the clerk is not personally attending on the justices or justice, and that the clerk may, at any time when he thinks he should do so, bring to the attention of the justices or justice any point of law, practice or procedure that is or may be involved in any question so arising; but the enactment of this subsection shall not be taken as defining or in any respect limiting the powers and duties belonging to a justices' clerk or the matters on which justices may obtain assistance from their clerk.

Provisions
applying to
Scotland.

6.—(1) Section 4 of this Act, except subsection (5), shall have effect in relation to Scotland as well as in relation to England and Wales; but otherwise the foregoing sections of this Act shall not extend to Scotland.

(2) In relation to Scotland section 4 (supplemental list) of the Justices of the Peace Act 1949 shall have effect with the substitution in subsection (4)(a) of a reference to seventy years of age for the reference to seventy-five years of age:

Provided that this subsection shall not come into force until the year 1969, and as regards that and the three following years shall apply as if the reference to an age of seventy years were a reference for 1969 to an age of seventy-four years, for 1970 to an age of seventy-three years, for 1971 to an age of seventy-two years and for 1972 to an age of seventy-one years.

(3) The following enactments are hereby repealed in relation to Scotland to the extent mentioned (but only from the coming into force of section 4 above), that is to say—

(a) the Justices of the Peace Act 1949, section 8(3)(a) and in section 8(4) the words "at the time his salary is determined";

(b) the Public Authorities (Allowances) Act 1961, section 7.

1961 c. 43.

7.—(1) The provisions of section 1 of this Act and Schedules 1 to 3 shall not come into force until such day as Her Majesty may by Order in Council appoint, and a different day may be appointed for different provisions or for different purposes of the same provision.

Commence-
ment, and
power to
provide for
transitional
matters.

(2) An Order in Council under subsection (1) above may include such provision as appears to Her Majesty to be expedient for supplementing, as regards transitional matters, the provisions of this Act and in particular for avoiding interruption or inconvenience in the administration of justice or the discharge of other functions of justices in consequence of any change made by section 1 in the persons who are to be justices or the area for which any justice is to act; and any provision included in an Order in Council by virtue of this subsection may be varied or revoked by a further Order in Council.

(3) Without prejudice to the generality of subsection (2) above, an Order in Council may by virtue of that subsection include—

- (a) provision as to the effect of process issued, orders made, appeals brought, cases stated, licences granted and other things done before the time when a provision of this Act comes into force for any purpose, and as to the preservation and custody of writs, processes, records and documents; and
- (b) provision for enabling any justice to continue for such period as may be specified in the order to act in the exercise of a particular jurisdiction or in relation to particular cases as if section 1 of this Act had not been passed, and for any purpose incidental or supplementary thereto.

(4) The provisions of section 4 of this Act shall not come into force until such day as the Secretary of State may by order (to be made by statutory instrument) appoint, and a different day may be appointed for Scotland from the day appointed for England and Wales.

(5) Any statutory instrument containing an Order in Council or order under this section shall be laid before Parliament after being made.

8.—(1) This Act may be cited as the Justices of the Peace Act 1968.

Supplement-
ary.

(2) The enactments specified in Schedule 5 to this Act (which include in Part I certain enactments which are obsolete or redundant apart from this Act) are hereby repealed to the extent specified in column 3 of that Schedule:

Provided that the repeals made by Part II of the Schedule shall extend only to England and Wales and, except as otherwise

specified in Part II, shall have effect from such day as may be appointed by Order in Council under section 7(1) above.

(3) This Act does not extend to Northern Ireland, except as regards any repeal made by Part I of Schedule 5 of an enactment which does extend to Northern Ireland and except that there is hereby abolished for Northern Ireland any power to commit to prison or to issue warrants of arrest or search warrants, corresponding to the powers abolished for England and Wales by section 1(7) above.

SCHEDULES

SCHEDULE 1

Sections 1 and 7.

JUSTICES NOT APPOINTED BY COMMISSION OF THE PEACE

Enactments providing for appointment	Other Office	Area
The Municipal Corporations Act 1882 (c. 50) section 163(3).	Recorder of borough.	The borough.
The Criminal Justice Administration Act 1956 (c. 34) section 4(2).	Recorder of Liverpool or Manchester, while judge of Crown Courts at Liverpool and Manchester.	Lancashire.
The Administration of Justice (Miscellaneous Provisions) Act 1938 (c. 63) section 1(3).	Legally qualified chairman or deputy chairman of county quarter sessions appointed under the section.	The county in which the court of quarter sessions has jurisdiction.
The Administration of Justice Act 1964 (c. 42)— section 4(3)(a).	Whole-time chairman or deputy chairman of quarter sessions in London.	Any London commission area.
section 5(3).	County court judge in London.	Any London commission area for which he has been appointed for a period to act as deputy chairman of quarter sessions.
section 10(4)(a).	Metropolitan stipendiary magistrate.	Any London commission area, Essex, Hertfordshire, Kent and Surrey.
The Justices of the Peace Act 1949 (c. 101) section 29(2).	Stipendiary magistrate outside London.	Any county, or borough having a separate commission of the peace, which includes the magistrate's area or any part of it.
The Metropolitan Police Act 1829 (c. 44) section 1, the Metropolitan Police Act 1839 (c. 47) section 4, and the Metropolitan Police Act 1856 (c. 2) section 2, as amended.	The Commissioner and Assistant Commissioners of Police of the Metropolis.	Any London commission area, Surrey, Hertfordshire, Essex, Kent, Berkshire and Buckinghamshire.

Sections 1 and 7.

SCHEDULE 2

JUSTICES OF THE PEACE IN THE CITY OF LONDON

1. The persons holding office as justice of the peace for the City of London shall constitute a single body of justices, without distinction between those holding office by virtue of the charter and those appointed by the commission of the peace, and the powers and jurisdiction of the Lord Mayor and aldermen as justices by virtue of the charter shall be the same in all respects as those of justices appointed by the commission.

1949 c. 101.

2.—(1) Subject to paragraph 4 below, the Lord Mayor for the time being shall be chairman of the justices, with the style of Chief Magistrate, instead of a chairman being elected under section 13(2) of the Justices of the Peace Act 1949; and the aldermen who have been Lord Mayor and are not disqualified for the office of deputy chairman (or, if there are more than eight such aldermen, the eight who were last Lord Mayor) shall be deputy chairmen in addition to any deputy chairmen elected under section 13(2).

(2) Section 13(3) and (4) of the Justices of the Peace Act 1949 shall apply to any Lord Mayor or alderman as chairman or deputy chairman of the justices as they apply to a chairman or deputy chairman elected under section 13(2).

3. Section 4 of the Justices of the Peace Act 1949 (which provides for the entry in the supplemental list kept in connection with a commission of the peace of the names of certain persons appointed justices by the commission) shall in the City of London apply to persons holding office by virtue of the charter as it is to apply to those appointed by the commission of the peace; and accordingly paragraph 2(1) above shall not apply to any Lord Mayor or alderman whose name is entered in the supplemental list.

4. In the event of a Lord Mayor being disqualified for the chairmanship of the justices, then during his mayoralty the senior of the aldermen designated as deputy chairmen in paragraph 2(1) above shall, instead of being a deputy chairman, be chairman of the justices as acting Chief Magistrate; but section 2(4) of this Act shall apply in relation to the Lord Mayor as Chief Magistrate and to any acting Chief Magistrate as it applies to chairmen elected under section 13 of the Justices of the Peace Act 1949.

Sections 1 and 7.

SCHEDULE 3

SUPPLEMENTARY PROVISIONS AS TO CITY OF LONDON
AND LOCAL ACT STIPENDIARIES

PART I

PRINCIPAL PROVISIONS AS TO CITY OF LONDON

General

1. In this Part of this Schedule and in Part III—
 - (a) “the City” means the City of London; and

(b) "the Corporation" means the Corporation of the City, and except in so far as the context otherwise requires references to the Corporation are references to the Corporation acting through the Common Council.

SCH. 3

2.—(1) Section 1 of this Act shall not be taken as constituting new courts for the City, and the jurisdiction and powers of the justices of the peace holding office as provided by that section shall be in continuation of those belonging to the justices appointed by the charters of the City; and section 1(4) of this Act shall apply in relation to the first commission of the peace issued for the City as it applies where a new commission of the peace supersedes an existing commission.

(2) Accordingly the justices for the City shall continue as heretofore to have power, notwithstanding anything in any enactment, to commit a person for trial at the Central Criminal Court for an offence triable at quarter sessions.

3. Subject to the provisions of this Part of this Schedule, in any enactment relating to justices of the peace, quarter sessions, magistrates' courts, the clerk of the peace, justices' clerks or matters connected therewith,—

- (a) any reference to a county or to county justices shall be taken to include the City or justices for the City, notwithstanding that the reference was heretofore a reference to an administrative county or to justices for an administrative county; and
- (b) any reference to a county council shall be taken to include the Corporation, and references to a county fund shall be taken to include the general rate fund of the City.

Savings and amendments for particular matters

4.—(1) Paragraph 3 above shall not affect—

- (a) the appointment of the clerk of the peace (which shall in the City continue to belong to the Corporation); or
- (b) the fund required to bear payments made under or in accordance with the Costs in Criminal Cases Act 1952 1952 c. 48. or payments to which sections 8(1) and 11(1) of that Act are applied by any enactment (which fund, except as provided by any such enactment, shall in relation to the City continue to be the general fund of the Greater London Council).

(2) As regards the clerk of the peace in the City, the following provisions of the Local Government (Clerks) Act 1931, namely, 1931 c. 45. sections 3, 4(5) and (7) and 5(2) and (3) shall apply in accordance with paragraph 3 above, as they apply in relation to a clerk of the peace who is not clerk of the county council, but the remaining provisions of that Act shall not be taken as applying; and section 83(4) of the Local Government Act 1888 shall apply in relation 1888 c. 41. to a deputy clerk of the peace as it applies in the case of an administrative county (any appointment thereunder being made

SCH. 3
1931 c. 45.

by the Corporation) and in relation to a deputy clerk of the peace appointed thereunder section 7(2) of the Local Government (Clerks) Act 1931 shall apply in accordance with paragraph 3 above:

1907 c. cxl.

Provided that the salary of the clerk of the peace, and that of any deputy clerk of the peace so appointed, may be paid out of the poor rates as provided by section 18(2) of the City of London (Union of Parishes) Act 1907 for the expenses of the office of the clerk of the peace, and accordingly any such fees and costs payable to the clerk of the peace as in accordance with paragraph 3 above would be required by section 3(3) of the Local Government (Clerks) Act 1931 to be paid to the general rate fund shall be applicable instead in aid of the poor rates.

1962 c. 15.

(3) As regards costs in criminal proceedings, section 18 of the Criminal Justice Administration Act 1962 shall be amended by the insertion after subsection (5) of a new subsection (5A)—

“(5A) In subsections (2) and (5) of this section references to a county, and to justices for a county or the council of a county, shall have effect as if Greater London were a county, the Greater London Council a county council and justices for any part of Greater London justices for the whole of it”;

1967 c. 80.

and in section 81(1)(b) of the Criminal Justice Act 1967 for the words “a London commission area” there shall be substituted the words “any part of Greater London”.

1949 c. 101.

(4) In section 16 of the Justices of the Peace Act 1949, as it has effect in relation to the City by virtue of paragraph 3 above, the proviso to subsection (2) (which provides for the establishment of a single magistrates’ courts committee for a joint committee area extending beyond a single county or county borough) shall not apply in relation to the City; nor shall paragraph 3 above authorise the making of an order under section 18 of that Act for the division of the City into petty sessional divisions.

1839 c. xciv.

5. In the City of London Police Act 1839 for the definition of “justice” in section 2 (by which the word is defined to mean the Lord Mayor or any alderman or the recorder of the City) there shall be substituted—

“‘justice’ means a justice of the peace for the City of London”.

6. In the City of London (Union of Parishes) Act 1907, in section 26 (under which the jury list prepared by the Secondary is to be examined and certified by justices of the City in special sessions) for the words “justices of the said City in special sessions” there shall be substituted the words “the court of the mayor and aldermen in the inner chamber or a committee of that court”.

1948 c. 58.

7. In the Criminal Justice Act 1948, in section 37(5) (which provides for the exercise by the persons mentioned in paragraphs (a) to (c) of the power of quarter sessions under subsection (1)(b) to release an appellant from custody), there shall be substituted for paragraphs (a) to (c):—

“(a) in the case of quarter sessions for a borough, by the recorder or any deputy recorder;

(b) in the case of quarter sessions for a London commission area, by any person who is a legally qualified chairman of the court for the purposes of section 7 of the Administration of Justice Act 1964; SCH. 3
1964 c. 42.

(c) in the case of any other quarter sessions by the chairman or a deputy chairman of the quarter sessions”.

8. In the Magistrates’ Courts Act 1952 for section 118(4) there shall be substituted— 1952 c. 55.

“(4) Subsections (1) and (2) of this section shall apply to the justices’ clerks for the inner London area as if the reference in subsection (2) to the magistrates’ courts committee were a reference to the committee of magistrates, but subsection (3) shall not apply in relation to that area.”.

Transitional

9.—(1) Without prejudice to the operation of section 37 of the Interpretation Act 1889, if Her Majesty is pleased, before the time when by virtue of section 1 of this Act persons appointed by a commission of the peace are to take office as justices of the peace for the City, to issue a commission of the peace appointing persons to be justices for the City from that time, then the persons designated as justices by the commission shall be deemed to be justices of the peace for the City for all purposes connected with the establishment of a magistrates’ courts committee for the City and the making of arrangements (by that committee or otherwise) for the exercise from that time of the jurisdiction and powers of justices for the City. 1889 c. 63.

(2) If a commission of the peace is so issued, then the justices for the City shall proceed with all convenient speed to the establishment in accordance with this paragraph of a magistrates’ courts committee for the City, and for that purpose anything required in accordance with Schedule 4 to the Justices of the Peace Act 1949 to be done in quarter sessions may be done at any meeting of those justices summoned in accordance with such general or special directions (if any) as may be given by the Secretary of State. 1949 c. 101.

(3) A person may act by virtue of this paragraph before he has taken the oaths required by law as a justice of the peace.

10.—(1) At the time from which persons are first appointed justices of the peace for the City by a commission of the peace in accordance with section 1 of this Act,—

(a) any person then holding office as clerk at either of the justice rooms of the City shall become clerk to the justices for the City as if he had been duly appointed by the magistrates’ courts committee; and

(b) any person then employed whole-time to assist either or both of the clerks in the performance of the duties of his clerkship shall be transferred to the employment of the magistrates’ courts committee for the City.

(2) Part I of Schedule 3 to the Local Government Superannuation Act 1953 shall apply to a person becoming justices’ clerk in the City by virtue of sub-paragraph (1) above as if he had been duly 1953 c. 25.

SCH. 3 appointed by the magistrates' courts committee; and any regulations made in relation to the City under paragraph 6 of that Schedule (which provides for the modification of local Act schemes in their application to justices' clerks and their staffs) may include transitional provisions for the benefit of the persons mentioned in sub-paragraph (1)(a) and (b) above.

PART II

PRINCIPAL PROVISIONS AS TO LOCAL ACT STIPENDIARIES

1949 c. 101.

11.—(1) Where under section 1(8) of this Act a person holding office as stipendiary magistrate of any area is to continue in office as if appointed under section 29 of the Justices of the Peace Act 1949, the Secretary of State may by order made by statutory instrument direct that he shall continue in office for such reduced area as may be specified in the order (being an area for which a new appointment could be made on petition under section 29) or may, for the purpose of adjusting any magistrate's area to the requirements of section 29, make such other transitional provision as appears to the Secretary of State expedient.

(2) Where there is a reduction under this paragraph in the duties of a stipendiary magistrate, section 32(3) of the Justices of the Peace Act 1949 shall not apply to prevent a reduction in the salary of the magistrate if it appears to the Lord Chancellor that the magistrate's consent to the reduction in his salary is unreasonably withheld, having regard to the reduction in his duties and any payment to be made to him by way of compensation for the reduction in salary.

12.—(1) Where under section 1(8) of this Act a person holding office as stipendiary magistrate continues in office as if appointed on the joint petition of two or more councils, his salary shall be borne by those councils in the proportions, until otherwise agreed between them, in which his salary would have been borne by them or their areas if he had continued to hold office under the enactments applying to him immediately before the appointed day (that is to say, the day appointed under section 7(1) of this Act).

(2) If in the case of any magistrate the councils referred to in sub-paragraph (1) above include both a borough council and the council of a county comprising the borough, the borough shall be treated for purposes of that sub-paragraph as not forming part of the county.

1899 c. xc.

13.—(1) The person holding office at the appointed day as clerk to the magistrate under the South Staffordshire Stipendiary Justice Act 1899, or as clerk to the magistrate under the Staffordshire Potteries Stipendiary Justice Acts 1839 to 1895, and any person then employed whole-time to assist either of the clerks in the performance of the duties of his clerkship, shall be transferred to the employment of the magistrates' courts committee in such capacity and on such terms as the committee, with the approval of the Secretary of State, may determine.

(2) In sub-paragraph (1) above "the magistrates' courts committee" means the committee for the relevant county or county borough, and for this purpose the relevant county or county borough is that of which the council becomes liable under section 29 of the Justices of the Peace Act 1949 for the magistrate's salary or, if there is more than one, such one of them as the Secretary of State may determine. SCH. 3 1949 c. 101.

(3) A person transferred by sub-paragraph (1) above to the employment of a magistrates' courts committee may at any time within six months from the appointed day be transferred by that committee, with the agreement of any other magistrates' courts committee and of that person, to the employment of the other magistrates' courts committee.

(4) For purposes of the Local Government Superannuation Act 1937 on a person's transfer by virtue of this paragraph to the employment of a magistrates' courts committee the employment from which he is transferred shall be treated as having been employment by that committee; but this shall not affect the operation of section 29 of that Act (payment of transfer values). 1937 c. 68.

14. The Secretary of State may by statutory instrument make regulations containing such provision as appears to him to be necessary or expedient for winding-up the affairs of the South Staffordshire Stipendiary Justice Commissioners or of the Staffordshire Potteries Stipendiary Justice Commissioners, and for the transfer and (if need be) apportionment of their property and liabilities, and with respect to the making and revision of any equitable adjustment between county and county borough councils in connection therewith.

PART III

PROTECTION OF OFFICERS AND EMPLOYEES

15.—(1) Every transferred officer or employee, so long as he continues in the employment of the magistrates' courts committee by virtue of the transfer, shall enjoy terms and conditions of employment not less favourable than those he enjoyed immediately before the appointed day (that is to say, the day appointed under section 7(1) of this Act), except as regards the scale of his salary or remuneration if on the transfer or afterwards he ceases to be engaged in duties reasonably comparable to those in which he was engaged immediately before the appointed day; and in the event of his ceasing to be so engaged, this sub-paragraph shall nevertheless apply to the scale of his salary or remuneration equally with the other terms and conditions of his employment so long as he has not been served with a statement in writing of new terms and conditions of employment.

(2) A written statement given in accordance with section 4 of the Contracts of Employment Act 1963 shall not be regarded as a statement of new terms and conditions of employment for the purposes of sub-paragraph (1) above unless the statement indicates that it is to be. 1963 c. 49.

SCH. 3

(3) In this paragraph "transferred officer or employee" means a person transferred to the employment of a magistrates' courts committee by virtue of paragraph 10(1) or of paragraph 13(1) or (3) above, and this paragraph shall apply to a person becoming justices' clerk in the City by virtue of paragraph 10(1)(a) as if in that capacity he were employed by the magistrates' courts committee.

1899 c. xc.

16.—(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 individuals suffering any loss of office or employment, or loss or diminution of emoluments, which is attributable to the operation of section 1 of this Act in relation to the City or in relation to the South Staffordshire Stipendiary Justice Act 1899 or the Staffordshire Potteries Stipendiary Justice Acts 1839 to 1895.

(2) The regulations shall not apply to any person unless at the appointed day—

- (a) he is the holder of an office or employment in respect of which he is paid a salary by the Corporation or by the South Staffordshire Stipendiary Justice Commissioners or the Staffordshire Potteries Stipendiary Justice Commissioners; 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.

(3) The compensation payable under the regulations shall be paid by such county or borough council or councils and, if by more than one council, in such shares as may be prescribed by the regulations or, as regards the City, by the Corporation.

(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.

Section 4.

SCHEDULE 4

SECTION 8(1) TO (4) OF JUSTICES OF THE PEACE
ACT 1949, AS AMENDED

8.—(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 subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him to perform any of his duties as a justice, and to receive payments at the prescribed rate by way of financial loss allowance where for that purpose there is incurred by him any other expenditure to which he would not otherwise be subject or there is suffered by him any loss of earnings or of benefit under the National Insurance Acts 1965 to 1967 which he would otherwise have made or received.

(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—

(b) if in respect of those duties a payment of the like nature 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, nor in any event to a payment by way of financial loss allowance.

SCHEDULE 5

Section 8.

ENACTMENTS REPEALED

PART I

Repeals of unnecessary enactments

Chapter	Short Title	Extent of Repeal
27 Hen. 8. c. 24.	The Jurisdiction in Liberties Act 1535.	The whole Act, so far as not otherwise repealed, but so that the repeal of section 3 shall not affect the form to be taken by the process of any court.
16 Chas. 1. c. 10.	The Habeas Corpus Act 1640.	The whole Act, so far as not otherwise repealed.
1 Will. & Mary c. 21.	The Great Seal Act 1688.	Section 2.
1 Anne c. 2.	The Demise of the Crown Act 1702.	Section 5, so far as unrepealed.
17 Geo. 2. c. 40.	The Universities (Wine Licences) Act 1743.	The whole Act, so far as unrepealed, except, in section 11, the words— “ Within the university of Cambridge and the precincts thereof no person shall sell wine by retail unless such person shall be duly licensed so to do by the university ”.
10 Geo. 4. c. 44.	The Metropolitan Police Act 1829.	In section 1 the words “ and of all liberties therein ” in both places, the words “ and the liberties therein ” and the words “ and for all liberties therein ”.

SCH. 5

Chapter	Short Title	Extent of Repeal
2 & 3 Vict. c. 47.	The Metropolitan Police Act 1839.	In section 4 the words "although they may not be qualified by estate".
19 & 20 Vict. c. 2.	The Metropolitan Police Act 1856.	In section 2 the words "and of all liberties therein", and the words from "and for all liberties" to "for counties".
32 & 33 Vict. c. 47.	The High Constables Act 1869.	The whole Act so far as unrepealed.
39 & 40 Vict. c. 59.	The Appellate Jurisdiction Act 1876.	In section 25, in the definition of "high judicial office" the words "or of paid Judge of the Judicial Committee of the Privy Council".
51 & 52 Vict. c. 41.	The Local Government Act 1888.	Section 41(1), (2) and (8). Section 42(13). Section 67.
6 Edw. 7. c. 16.	The Justices of the Peace Act 1906.	Section 1. Section 3, but only in relation to England and Wales.
21 & 22 Geo. 5. c. 45.	The Local Government (Clerks) Act 1931.	Section 1 from "but" onwards. Section 3(1) proviso and section 3(4). Section 4(5) from "as respects" onwards, and section 4(7) from the beginning to the word "and".
10 & 11 Geo. 6. c. xxix.	The Cheshire and Lancashire County Councils (Runcorn-Widnes Bridge etc.) Act 1947.	Section 82.
12, 13 & 14 Geo. 6. c. 101.	The Justices of the Peace Act 1949.	Section 4(6), and in relation to England and Wales section 4(7) and (10). Section 25(5).
12, 13 & 14 Geo. 6. c. xliv.	The Bradford Corporation Act 1949.	Section 83.
4 & 5 Eliz. 2. c. 34.	The Criminal Justice Administration Act 1956.	In Schedule 2, paragraph 7.

PART II

Consequential Repeals

Chapter	Title or Short Title	Extent of Repeal
11 Hen. 6. c. 6.	—	The whole chapter.
27 Hen. 8. c. 24.	The Jurisdiction in Liberties Act 1535.	Section 19, so far as unrepealed.
37 Hen. 8. c. 1.	The Custos Rotulorum Act 1545.	The whole Act, so far as unrepealed.

Chapter	Title or Short Title	Extent of Repeal
1 Edw. 6. c. 7.	The Justices of the Peace Act 1547.	The whole Act, so far as unrepealed.
3 Chas. 1. c. 1.	The Petition of Right.	Sections 3 to 5 and in section 8 the words from "And that no" to "detained".
16 Chas. 1. c. 16.	The Habeas Corpus Act 1640.	Section 6.
1 Will. & Mary c. 21.	The Great Seal Act 1688.	Section 3.
6 & 7 Will. 4. c. 19.	The Durham (County Palatine) Act 1836.	Section 3.
2 & 3 Vict. c. 15.	The Staffordshire Potteries Stipendiary Justice Act 1839.	The whole Act, so far as unrepealed.
2 & 3 Vict. c. xciv.	The City of London Police Act 1839.	Section 6.
6 & 7 Vict. c. xliv.	An Act to provide for the more effectual execution of the office of the justice of the peace within the parish of Merthyr Tydfil and certain adjoining parishes.	The whole Act, so far as unrepealed.
11 & 12 Vict. c. 42.	The Indictable Offences Act 1848.	Section 30.
24 & 25 Vict. c. 96.	The Larceny Act 1861.	Section 117.
24 & 25 Vict. c. 97.	The Malicious Damage Act 1861.	Section 73.
24 & 25 Vict. c. 98.	The Forgery Act 1861.	Section 51.
24 & 25 Vict. c. 100.	The Offences against the Person Act 1861.	Section 71.
28 & 29 Vict. c. 124.	The Admiralty Powers, &c. Act 1865.	Section 5.
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.	The whole Act, so far as unrepealed.
34 & 35 Vict. c. xc.	The Staffordshire Potteries Stipendiary Justice Act 1871.	The whole Act, so far as unrepealed.
37 & 38 Vict. c. 45.	The County of Hertford and Liberty of St. Albans Act 1874.	In section 5 the words "and custos rotulorum", and the words "or the office of custos rotulorum".
41 & 42 Vict. c. lv.	The Manchester Division and Borough of Salford (Stipendiary Justices) Act 1878.	The whole Act, so far as unrepealed.

SCH. 5

Chapter	Title or Short Title	Extent of Repeal
45 & 46 Vict. c. 50.	The Municipal Corporations Act 1882.	Section 157(2) from "and made" onwards. Section 163(4) from "and made" onwards. In section 168(2) the words "the making of a declaration as in the Eighth Schedule". Sections 239, 240 and 249. Schedule 8, so far as unrepealed.
49 & 50 Vict. c. 31.	The Oxford University (Justices) Act 1886.	The whole Act.
51 & 52 Vict. c. 41.	The Local Government Act 1888.	Section 78(2) from "but" onwards. In section 100, the definition of "quarter sessions" from "or for" onwards.
52 & 53 Vict. c. 63.	The Interpretation Act 1889.	In section 13(12) the words from "the Lord Mayor" to "that city, and". In section 13(13) the words from "the Lord Mayor" to "that city, or".
57 & 58 Vict. c. xxvii.	The Merthyr Tydfil Stipendiary Justice Act 1894.	The whole Act, so far as unrepealed.
58 & 59 Vict. c. cvii.	The Staffordshire Potteries Stipendiary Justice Act 1895.	The whole Act so far as unrepealed.
62 & 63 Vict. c. xc.	The South Staffordshire Stipendiary Justice Act 1899.	The whole Act, so far as unrepealed.
6 Edw. 7. c. 16.	The Justices of the Peace Act 1906.	Section 4 except in relation to the City of London.
7 Edw. 7. c. cxxviii.	The Merthyr Tydfil Stipendiary Justice Act 1907.	The whole Act, so far as unrepealed.
3 & 4 Geo. 5. c. 27.	The Forgery Act 1913.	Section 12, so far as unrepealed.
6 & 7 Geo. 5. c. 50.	The Larceny Act 1916.	Section 37(5), so far as unrepealed.
10 & 11 Geo. 5. c. lxxxvi.	The Pontypridd Stipendiary Magistrate Act 1920.	The whole Act, so far as unrepealed.
11 & 12 Geo. 5. c. ciii.	The Ministry of Health Provisional Order Confirmation (Stoke-on-Trent Extension) Act 1921.	In the Schedule, Article 16.
16 & 17 Geo. 5. c. cvi.	The Wolverhampton Corporation Act 1926.	Section 19.
17 & 18 Geo. 5. c. lxxxvi.	The West Bromwich Corporation Act 1927.	Section 18.
20 & 21 Geo. 5. c. cxx.	The West Bromwich Corporation Act 1930.	Section 20.
20 & 21 Geo. 5. c. cxxv.	The Wednesbury Corporation Act 1930.	Section 23.

Chapter	Title or Short Title	Extent of Repeal
20 & 21 Geo. 5. c. clxx.	The Walsall Corporation Act 1930.	Section 14.
22 & 23 Geo. 5. c. xc.	The Wolverhampton Corporation Act 1932.	Section 15.
23 & 24 Geo. 5. c. 51.	The Local Government Act 1933.	Section 3(5). Section 5(3) from "except" onwards. Section 18(7), (8) and (10). Section 20(3) from "and" onwards. Section 33(5). Section 34(2) from "except" onwards.
26 Geo. 5 & 1 Edw. 8. c. 16.	The Coinage Offences Act 1936.	Section 12(2) and (3).
26 Geo. 5 & 1 Edw. 8. c. cxi.	The Wolverhampton Corporation Act 1936.	Section 101, so far as unrepealed.
11 & 12 Geo. 6. c. 58.	The Criminal Justice Act 1948.	Section 45(2)(c) and (3).
12, 13 & 14 Geo. 6. c. 101.	The Justices of the Peace Act 1949.	In section 1(3) the words "Subject to the next following subsection", and section 1(4). Section 2. In section 4, subsection (4)(a) (from the beginning of the year 1969), and subsection (8). In section 8, subsection (3)(a) and in subsection (4) the words "at the time his salary is determined" (from the coming into force of section 4 of this Act). Section 8(5)(a). Section 11, so far as unrepealed. Section 13(3) from "and" onwards. Section 15(10). In section 20(4), in paragraph (a) the words from "clerk to a stipendiary magistrate" to "aforesaid and" and the last "or", and paragraph (b), but not as respects qualification by service before the coming into force of this repeal. Section 21(7). Section 25(6).

SCH. 5

Chapter	Title or Short Title	Extent of Repeal
12, 13 & 14 Geo. 6. c. 101— <i>cont.</i>	The Justices of the Peace Act 1949— <i>cont.</i>	<p>In section 27(10), in paragraph (c) the words from “to a stipendiary magistrate” to “and a clerk”, in paragraph (d) the words “the Corporation of the City of London” and the words from “and” onwards, and paragraph (e).</p> <p>In section 29(8) the words from “act as” to “nor”.</p> <p>Section 30.</p> <p>Section 31(1) and (4).</p> <p>Section 33(2), from the passing of this Act (but not as respects a magistrate appointed before that time).</p> <p>Section 36(2) (from the coming into force of section 4 of this Act).</p> <p>In section 44(1), in the definition of “county justice”, the words “a justice for the City of London or”.</p> <p>Schedule 1.</p> <p>In Schedule 2, paragraph 19.</p> <p>In Schedule 4, in paragraph 1(1) the words “Subject to the next following subparagraph”, and paragraph 1(2).</p> <p>Schedule 6.</p>
15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.	The Magistrates’ Courts Act 1952.	<p>In section 118(3) the words from “appointed” to “1949”.</p> <p>Section 120(1).</p> <p>Section 121(1)(a) and (3).</p> <p>In section 126(1), in the definition of “county” (as amended) the words “the City of London and”.</p>
2 & 3 Eliz. 2. c. xxvii.	The City of London (Various Powers) Act 1954.	Section 19.
4 & 5 Eliz. 2. c. 34.	The Criminal Justice Ad- ministration Act 1956.	<p>Section 13(4) from the passing of this Act (but not as respects a magistrate appointed before that time).</p>
5 & 6 Eliz. 2. c. 27.	The Solicitors Act 1957.	<p>In Schedule 2, paragraph 6.</p> <p>In section 33, subsection (2)(b) except in relation to the City of London and subsection (3).</p>
7 & 8 Eliz. 2. c. 22.	The County Courts Act 1959.	Section 11.

SCH. 5

Chapter	Title or Short Title	Extent of Repeal
9 & 10 Eliz. 2. c. 43.	The Public Authorities (Allowances) Act 1961.	Section 7 (from the coming into force of section 4 of this Act).
10 & 11 Eliz. 2. c.15.	The Criminal Justice Administration Act 1962.	Section 10(1) from "and" onwards, and in section 10(2) the words "or, as the case may be, the court".
1963 c. 33.	The London Government Act 1963.	Section 11(2).
1964 c. 26.	The Licensing Act 1964.	In Schedule 4, paragraph 5.
1964 c. 42.	The Administration of Justice Act 1964.	Section 21(3) from "In this" onwards. In section 57(1) the words "Subject to the following provisions of this section", and section 57(3).
1964 c. 42.	The Administration of Justice Act 1964.	Section 5(3) from "and section 11" onwards.
1964 c. 42.	The Administration of Justice Act 1964.	In section 13(2) the words "The custos rotulorum for the inner London area" and the words "for that area".
1964 c. 42.	The Administration of Justice Act 1964.	In section 27(5) the words "a clerk to a stipendiary magistrate".
1964 c. 42.	The Administration of Justice Act 1964.	Section 30(3) and (4).
1964 c. 42.	The Administration of Justice Act 1964.	Section 33.
1964 c. 42.	The Administration of Justice Act 1964.	In Schedule 3, in paragraph 11 the word "and"; paragraph 12(2); in paragraph 14(1) the words "3(1), 4 and"; paragraph 15; paragraph 19(1); in paragraph 22, in sub-paragraph (3) the words from "or" to "City", sub-paragraph (4) and in sub-paragraph (5) the words "the City of London and"; paragraph 24; and paragraph 28(3).
1965 c. 28.	The Justices of the Peace Act 1965.	Section 1(2), but not as respects qualification by service before the coming into force of this repeal.
1967 c. 58.	The Criminal Law Act 1967.	Section 7(4).

PRINTED IN ENGLAND BY HARRY PITCHFORTH

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

