

Status: Point in time view as at 31/10/1991.

Changes to legislation: There are currently no known outstanding effects for the Justices of the Peace Act 1979 (repealed 19.6.1997), SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 71.

TRANSITIONAL PROVISIONS AND SAVINGS

Interpretation

1 In this Schedule—

- “the Act of 1949” means the Justices of the ^{M1}Peace Act 1949;
- “the Act of 1964” means the ^{M2}Administration of Justice Act 1964;
- “the Act of 1968” means the Justices of the ^{M3}Peace Act 1968;
- “the Act of 1972” means the ^{M4}Local Government Act 1972;
- “the Act of 1973” means the ^{M5}Administration of Justice Act 1973.

Marginal Citations

- M1** 1949 c. 101.
- M2** 1964 c. 42.
- M3** 1968 c. 69.
- M4** 1972 c. 70.
- M5** 1973 c. 15.

General transitional provisions

- 2 (1) In so far as anything done, or having effect as if done, under or in accordance with an enactment repealed by this Act could have been done under or in accordance with a corresponding provision in this Act, it shall not be invalidated by the repeal but shall have effect as if done under or in accordance with that provision.
- (2) Sub-paragraph (1) above applies, in particular, to any regulation, order, rule, appointment or determination made, commission of the peace issued, meeting or sitting held, notice served or direction or consent given.
- (3) Subject to the provisions of this Schedule, any document made, served or issued before the passing of this Act or at any time thereafter (whether before or after the commencement of this Act) and containing a reference, whether express or implied, to an enactment repealed by this Act, or having effect as if containing such a reference, shall, except in so far as the context otherwise requires, be construed as referring or (as the context requires) as including a reference to the corresponding provision of this Act.

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- (4) Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

Commissions of the peace

- 3 (1) Where a commission of the peace is in force immediately before the commencement of this Act as the commission of the peace for a commission area, the repeal of any enactment by this Act shall not affect its continuance in force as the commission of the peace for that commission area.
- (2) Any order made under subsection (2) of section 217 of the Act of 1972 (which conferred power by order to specify which of two or more existing commissions of the peace should be treated as the sole commission of the peace for a county) which is in force immediately before the commencement of this Act shall continue to have effect notwithstanding the repeal of that subsection by this Act, and may be revoked or varied accordingly.
- (3) Any commission of the peace in force immediately before the commencement of this Act which, by virtue of section 20(3)(a) of the Act of 1973 (which related to commissions of the peace issued before the 1st April 1974), had effect as if addressed generally and not to named persons shall, until superseded by a new commission, continue to have effect as if addressed generally as required by section 5 of this Act.

Justices of the peace in office

- 4 (1) Any person who immediately before the commencement of this Act was a justice of the peace and either—
- (a) held that office by virtue of an appointment made in accordance with section 1(2) of the Act of 1973, or
 - (b) under section 20(3)(b) of that Act (which related to justices of the peace in office on the 1st April 1974 by virtue of a commission of the peace issued before that date) held that office as if appointed in accordance with section 1(2) of that Act,
- shall continue to hold that office as if appointed in accordance with section 6 of this Act; and the provisions of this Act relating to justices appointed in accordance with section 6 shall have effect in relation to him accordingly.
- (2) In sub-paragraph (1)(b) above the reference to section 20(3)(b) of the Act of 1973 shall be construed as including a reference to the provisions (where applicable) of section 217(2)(b) of the Act of 1972 (which provided that, where one out of two or more commissions of the peace was chosen to be treated as the sole commission of the peace for a county, the names of the justices appointed by the other commission or other commissions were to be deemed to be included among the names of the justices specified in the commission so chosen).
- 5 (1) The supplemental list for England and Wales kept under the Act of 1973, as in force immediately before the commencement of this Act, shall have effect as the supplemental list required to be kept under section 8 of this Act; and any name which

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immediately before the commencement of this Act was treated as included in the list by virtue of section 20(4) of the Act of 1973 (which related to justices whose names were entered in a supplemental list immediately before the 1st April 1974) shall continue to be treated as so included until removed from the list in accordance with section 9 of this Act.

- (2) Any person whose name immediately before the commencement of this Act was omitted from the supplemental list by virtue of the proviso to paragraph 4(1) of Schedule 1 to the Act of 1973 (which made provision corresponding to section 8(3) of this Act) shall have his name entered in the supplemental list on the expiry or sooner determination of the term of office by reason of which his name was omitted from the list.
- 6 The repeal by this Act of paragraph 9(1) of Schedule 1 to the Act of 1973 (which made provision corresponding to section 71(3) of this Act) shall not affect the operation of the said paragraph 9(1) in relation to the period beginning on the 1st April 1974 and ending with the commencement of this Act.

Stipendiary magistrates (other than metropolitan stipendiary magistrates)

- 7 Any person who immediately before the commencement of this Act was a stipendiary magistrate in a commission area or commission areas and held that office either—
- (a) by virtue of an appointment made under section 2 of the Act of 1973, or
 - (b) as if appointed under that section, being treated as if so appointed by virtue of section 20(5) of that Act (which related to any person who immediately before 1st April 1974 held office as a stipendiary magistrate for any area under section 29 of the Act of 1949),
- shall continue to hold office as stipendiary magistrate in that commission area or those commission areas (as the case may be) and (subject to paragraphs 8 and 17 below) shall be treated for all purposes as if he had been appointed under section 13 of this Act; and the provisions of this Act relating to stipendiary magistrates appointed under section 13 shall have effect in relation to him accordingly.
- 8 The following provisions of this paragraph shall have effect in relation to any stipendiary magistrate who immediately before the commencement of this Act held office as mentioned in paragraph 7(b) above, that is to say—
- (a) his salary shall not be less than that payable to him immediately before the beginning of April 1974; and
 - (b) for the purposes of section 14 of this Act the date of his appointment shall be taken to have been that of his appointment to the office held by him immediately before the beginning of that month.

Petty sessional divisions

- 9 Without prejudice to any power exercisable by virtue of this Act to create or alter petty sessional divisions, the repeal of any enactment by this Act shall not

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affect the division of any commission area into petty sessional divisions as existing immediately before the commencement of this Act.

Justices' clerks and their staffs

- 10 (1) This paragraph applies to any person who immediately before the 1st April 1953 was a justices' clerk and by virtue of section 23 of the Act of 1949 was deemed for the purposes of that Act to have been appointed as such by a magistrates' courts committee.
- (2) In so far as, immediately before the commencement of this Act, the salary of any person to whom this paragraph applies was affected by subsection (2) of the said section 23 (which required the salary to be fixed with due regard to any additional duties imposed on him by that Act), the provisions of that subsection shall continue to have effect in relation to him notwithstanding the repeal of that section by this Act.
- 11 (1) This paragraph applies to any person who on the 1st April 1953 was transferred to the employment of a magistrates' courts committee by section 23 of the Act of 1949 (which made provision as to persons who immediately before that date were employed by or employed to assist justices' clerks or collecting officers).
- (2) In so far as, immediately before the commencement of this Act, the terms and conditions of employment of a person to whom this paragraph applies was affected by subsection (7) of the said section 23 (under which the terms and conditions of the previous employment of persons transferred by that section were made relevant to the terms and conditions of their employment after the transfer), the provisions of that subsection shall continue to have effect in relation to him notwithstanding the repeal of that section by this Act.
- (3) In sub-paragraph (2) above any reference to subsection (7) of the said section 23 includes a reference to that subsection as read with subsection (11) of that section (which relates to persons previously employed to assist a justices' clerk).
- 12 (1) In this paragraph "transferred officer or employee to whom this paragraph applies" means any person who—
- (a) by virtue of paragraph 10 of Schedule 3 to the Act to 1968 (which related to persons holding office as clerk at either of the justice rooms of the City of London and to their staffs) became a justices' clerk in the City as if appointed by the magistrates' courts committee or was transferred to the employment of the magistrates' courts committee for the City, or
- (b) by virtue of paragraph 13(1) or paragraph 13(3) of that Schedule (which related to persons holding office as clerk to the magistrate under the ^{M6}South Staffordshire Stipendiary Justice Act 1889 or as clerk to the magistrate under the Staffordshire Potteries Stipendiary Justice Acts 1839 to 1895 and to their staffs) was transferred to the employment of a magistrates' courts committee.
- (2) In so far as, immediately before the commencement of this Act, the terms and conditions of employment of a transferred officer or employee to whom this paragraph applies were affected by paragraph 15 of Schedule 3 to the Act of 1968 (which made provision for securing that the terms and conditions of employment

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of any such person after the transfer would be no less favourable than those which he enjoyed immediately before the 10th November 1969), the provisions of that paragraph shall continue to have effect in relation to him notwithstanding the repeal of that paragraph by this Act.

Marginal Citations

M6 1889 c. xc.

- 13 (1) Any regulations made by the Secretary of State under section 42 of the Act of 1949 (which required the Secretary of State to provide for compensation for loss of office or employment, or loss or diminution of emoluments, attributable to Parts II and III of that Act) which were in force immediately before the commencement of this Act (including any such regulations made under that section as extended by section 32 of the Act of 1964) shall continue to have effect notwithstanding the repeal of those sections by this Act and may be revoked or varied accordingly.
- (2) Any regulations made by the Secretary of State under paragraph 16 of Schedule 3 to the Act of 1968 (which required the Secretary of State to provide for compensation for loss of office or employment, or loss or diminution of emoluments, attributable to the operation of section 1 of that Act in relation to the City of London and in relation to the Acts relating to Staffordshire mentioned in paragraph 12(1)(b) above) which were in force immediately before the commencement of this Act shall continue to have effect notwithstanding the repeal of the said paragraph 16 by this Act and may be revoked or varied accordingly.
- 14 (1) This paragraph applies to any order made before the 1st April 1953 in pursuance of the powers exercisable under section 30 of the ^{M7}Criminal Justice Administration Act 1914 or under section 1 of the ^{M8}Affiliation Orders Act 1914 which directed payments to be made and continues to be in force immediately before the commencement of this Act.
- (2) Any such order which by virtue of section 21(4) of the Act of 1949 had effect immediately before the commencement of this Act as if it required those payments to be made to a justices' clerk in his capacity as collecting officer of a magistrates' court shall, so long as the order remains in force, continue to have the like effect by virtue of this paragraph.

Marginal Citations

M7 1914 c. 58.

M8 1914 c. 6.

Justices of the Peace Act 1949, Schedule 2

- 15 Where in the preceding paragraphs of this Schedule reference is made to a person's office or employment (whether as justice of the peace, justices' clerk or otherwise) and to any provisions of the enactments repealed by this Act under which he

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held or was treated as holding that office or employment, the reference to those provisions shall be construed as including a reference to Schedule 2 to the Act of 1949 (provisions consequential on changes in commission of the peace) in so far as any provisions of that Schedule—

- (a) were relevant to that person's office or employment, and
- (b) notwithstanding the repeal of that Schedule by Part I of Schedule 5 to the Act of 1973, continued to have effect in accordance with the saving contained in that repeal.

Provisions relating to Part V of Act

- 16 The provisions of Part V of this Act shall have effect in relation to any act done or omitted to be done, conviction or order made or warrant issued before the commencement of this Act, and in relation to any proceedings brought before the commencement of this Act, as those provisions would have effect in relation to the like act done or omitted, the like conviction, order or warrant made or issued or the like proceedings brought, as the case may be, after the commencement of this Act.

Saving for superannuation provisions

- 17 Except as provided by sections 55 to 58 of this Act, nothing in this Act shall affect any pension rights or other superannuation benefits or the person by whom or the manner in which any pension or other superannuation benefit is to be paid or borne.

Savings for Local Government Act 1972, ss. 67, 252, 254

- 18 The provisions of this Act shall have effect without prejudice to the exercise of any power conferred by section 67 of the Act of 1972 (consequential and transitional arrangements relating to Part IV), section 252 of that Act (general power to adapt Acts and instruments) or section 254 of that Act (consequential and supplementary provision); and any such power which, if this Act had not been passed, would have been exercisable in relation to an enactment repealed by this Act shall be exercisable in the like manner and to the like extent in relation to the corresponding provision (if any) of this Act.

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