



Justices of the Peace Act 1997

1997 CHAPTER 25

PART II

JUSTICES OF THE PEACE

Justices other than stipendiary magistrates

5 Appointment and removal of justices of the peace

- (1) Subject to the following provisions of this Act, justices of the peace for any commission area shall be appointed by the Lord Chancellor by instrument on behalf and in the name of Her Majesty and a justice so appointed may be removed from office in like manner.
- (2) Subsection (1) above—
 - (a) does not apply to stipendiary magistrates; and
 - (b) is without prejudice to the position of the Lord Mayor and aldermen as justices for the City of London by virtue of the charters of the City.

6 Residence qualification

- (1) Subject to the provisions of this section, a person shall not be appointed as a justice of the peace for a commission area in accordance with section 5 above, nor act as a justice of the peace by virtue of any such appointment, unless he resides in or within 15 miles of that area.
- (2) If the Lord Chancellor is of the opinion that it is in the public interest for a person to act as a justice of the peace for a particular area though not qualified to do so under subsection (1) above, he may direct that, so long as any conditions specified in the direction are satisfied, that subsection shall not apply in relation to that person's appointment as a justice of the peace for the area so specified.
- (3) Where a person appointed as a justice of the peace for a commission area in accordance with section 5 above is not qualified under the preceding provisions of this section to

act by virtue of the appointment, he shall be removed from office as a justice of the peace in accordance with that section if the Lord Chancellor is of the opinion that the appointment ought not to continue having regard to the probable duration and other circumstances of the lack of qualification.

- (4) No act or appointment shall be invalidated by reason only of the disqualification or lack of qualification under this section of the person acting or appointed.

7 Supplemental list for England and Wales

- (1) There shall be kept in the office of the Clerk of the Crown in Chancery a supplemental list for England and Wales as provided for by this Act (in this Act referred to as “the supplemental list”).
- (2) Subject to the following provisions of this section, there shall be entered in the supplemental list—
- (a) the name of any justice of the peace who has attained the age of 70 and neither holds nor has held high judicial office within the meaning of the Appellate Jurisdiction Act 1876; and
 - (b) the name of any justice of the peace who holds or has held such office and has attained the age of 75.
- (3) A person who, on the date when his name falls to be entered in the supplemental list in accordance with subsection (2) above, holds office as chairman of the justices for a petty sessions area (whether by an election under section 22 below, or, in the City of London, as Chief Magistrate or acting Chief Magistrate) shall have his name so entered on the expiry or earlier determination of the term for which he holds office on that date.
- (4) The Lord Chancellor may direct that the name of a justice of the peace for any area shall be entered in the supplemental list if the Lord Chancellor is satisfied either—
- (a) that by reason of the justice’s age or infirmity or other similar cause it is expedient that he should cease to exercise judicial functions as a justice for that area; or
 - (b) that the justice declines or neglects to take a proper part in the exercise of those functions.
- (5) On a person’s appointment as a justice of the peace for any area the Lord Chancellor may direct that his name shall be entered in the supplemental list if that person is appointed a justice for that area on ceasing to be a justice for some other area.
- (6) The name of a justice of the peace shall be entered in the supplemental list if he applies for it to be so entered and the application is approved by the Lord Chancellor.
- (7) Nothing in this section applies to a person holding office as stipendiary magistrate.

8 Removal of name from supplemental list

- (1) A person’s name shall be removed from the supplemental list if—
- (a) he ceases to be a justice of the peace; or
 - (b) the Lord Chancellor so directs.
- (2) Subsection (1)(b) above does not apply where the person’s name is required to be entered in the supplemental list by section 7(2) or (3) above.

9 Effect of entry of name in supplemental list

- (1) Subject to the provisions of this section, a justice of the peace for any area, while his name is entered in the supplemental list, shall not by reason of being a justice for that area be qualified as a justice to do any act or to be a member of any committee or other body.
- (2) Subsection (1) above does not preclude a justice from doing all or any of the following acts as a justice, namely—
 - (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.
- (3) The entry of a person's name in the supplemental list does not preclude him, if so authorised by the Lord Chancellor, from acting as a judge of the Crown Court so long as he has not attained the age of 72.
- (4) No act or appointment shall be invalidated by reason of the disqualification under this section of the person acting or appointed.

10 Travelling, subsistence and financial loss allowances

- (1) Subject to the provisions of this section, a justice of the peace shall be entitled—
 - (a) to receive payments 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
 - (b) to receive payments by way of financial loss allowance where for that performance he incurs any other expenditure to which he would not otherwise be subject or he suffers any loss of earnings or of benefit under the enactments relating to social security which he would otherwise have made or received.
- (2) For the purposes of this section a justice following a training course under a scheme made in accordance with arrangements approved by the Lord Chancellor, or a training course provided by the Lord Chancellor, shall be treated as 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 if—
 - (a) in respect of those duties a payment of the like nature may be paid to him under arrangements made apart from this section; or
 - (b) regulations provide that this section shall not apply.
- (4) A stipendiary magistrate shall not be entitled to any payment under this section in respect of his duties as such.
- (5) Allowances payable under this section shall be paid at rates determined by the Lord Chancellor with the consent of the Treasury.
- (6) An allowance payable under this section shall be paid—

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

- (a) in the case of an allowance payable in respect of duties as a justice in the Crown Court, by the Lord Chancellor; and
 - (b) in the case of an allowance otherwise payable to a justice for any commission area in respect of his duties as such, by the appropriate authority.
- (7) In subsection (6)(b) above, “the appropriate authority” means—
- (a) in relation to a justice for the City of London, the Common Council;
 - (b) in relation to a justice for any of the outer London areas, the council of the outer London borough which is or includes the petty sessions area for which he acts;
 - (c) in relation to a justice for a metropolitan county, the council of the metropolitan district which is or includes the petty sessions area for which he acts;
 - (d) in relation to a justice for any other commission area—
 - (i) the council of the local government area which is or includes the petty sessions area for which he acts; or
 - (ii) where he acts for a petty sessions area which is partly included in two or more local government areas, the councils of those local government areas.
- (8) In subsection (7)(d) above, “local government area” means—
- (a) in relation to the inner London area, an inner London borough;
 - (b) in relation to Wales, a county or a county borough; and
 - (c) otherwise, a county for which there is a council or a unitary district.
- (9) Where by virtue of subsection (7)(d)(ii) above an allowance under this section is payable jointly by two or more councils the manner in which it is to be borne by each of them shall be determined by agreement between them or, in default of agreement, by the Lord Chancellor.
- (10) Regulations may make provision as to the manner in which this section is to be administered, and in particular—
- (a) for prescribing the forms to be used and the particulars to be provided for the purpose of claiming payment of allowances; 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.
- (11) Regulations for the purposes of this section shall be made by the Lord Chancellor by statutory instrument.
- (12) A statutory instrument containing (whether alone or with other provisions) regulations made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.