



Justices of the Peace Act 1997

1997 CHAPTER 25

PART III

MAGISTRATES' COURTS COMMITTEES

27 General provisions as to magistrates' courts committees

- (1) There shall be committees (known as “magistrates' courts committees”) set up in accordance with the provisions of this Part of this Act, with such functions as are or may be conferred on them by or under this or any other Act and such other functions relating to matters of an administrative character as they may be authorised by the Lord Chancellor to undertake.
- (2) Subject to section 32 below and to any order made under section 69 of the Police and Magistrates' Courts Act 1994 before the commencement of this Act, there shall in England be a magistrates' courts committee for each of the following areas—
 - (a) every retained county;
 - (b) every metropolitan district;
 - (c) every outer London borough;
 - (d) the inner London area; and
 - (e) the City of London.
- (3) Subject to section 32 below and to any order made under section 69 of the Police and Magistrates' Courts Act 1994 before the commencement of this Act, there shall in Wales be a magistrates' courts committee for every retained county.

28 Constitution of magistrates' courts committees

- (1) A magistrates' courts committee shall, subject to subsections (2) to (4) below, be composed of magistrates for the area to which the committee relates, chosen in accordance with regulations under section 29 below.
- (2) Not more than two other members, who need not be justices of the peace, may be either—

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- (a) co-opted by a magistrates' courts committee to the committee with the approval of the Lord Chancellor; or
 - (b) appointed by the Lord Chancellor to the committee.
- (3) The chief metropolitan stipendiary magistrate shall by virtue of his office be a member of the inner London magistrates' courts committee.
- (4) Until such day as the Lord Chancellor may by order made by statutory instrument appoint, two members of the inner London magistrates' courts committee shall be other metropolitan stipendiary magistrates appointed by the chief metropolitan stipendiary magistrate.
- (5) In subsections (3) and (4) above “the inner London magistrates' courts committee” means the magistrates' courts committee for an area consisting of or including the whole of the inner London area or, if there is no such committee, every magistrates' courts committee for any area which consists of or includes any part of the inner London area.

29 Powers of Lord Chancellor in relation to magistrates' courts committees

- (1) The Lord Chancellor may by statutory instrument make general regulations about the constitution, procedure and quorum of magistrates' courts committees; but any such regulations shall have effect subject to the provisions of section 28 above.
- (2) The regulations shall provide for the members referred to in section 28(1) above to be chosen by a selection panel constituted in accordance with the regulations.
- (3) The regulations may—
- (a) lay down an upper limit for the number of members of a magistrates' courts committee (inclusive of the members referred to in subsections (2), (3) and (4) of section 28 above); and
 - (b) enable the Lord Chancellor to direct that, in relation to any magistrates' courts committee to which the direction is given, any members co-opted or appointed under subsection (2) of that section are to be left out of account in applying the upper limit.
- (4) The regulations may also make different provision in relation to the magistrates' courts committees for areas which consist of or include the whole or any part of the inner London area from that made in relation to other committees.
- (5) The regulations may also make provision with respect to the persons (other than the members, clerks and officers of the committee) who may be entitled to attend the meetings of a magistrates' courts committee and the rights of such persons to make representations to the committee.
- (6) 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.
- (7) The Lord Chancellor may give general or special directions with respect to convening the first meeting of magistrates' courts committees.

30 Supplementary provisions as to magistrates' courts committees

- (1) Subject to subsection (2) below, a magistrates' courts committee shall appoint one of their members to be chairman of the committee.
- (2) Until such day as the Lord Chancellor may by order made by statutory instrument appoint, the chief metropolitan stipendiary magistrate shall by virtue of his office be the chairman of any magistrates' courts committee for an area which consists of or includes the whole of the inner London area.
- (3) Where the magistrates for a petty sessions area are required to meet for the purpose of carrying out any functions under section 29 above, a meeting shall be convened by the magistrates' courts committee or, if there is no such committee or the Lord Chancellor considers it appropriate, by the Lord Chancellor.
- (4) A magistrates' courts committee may act through sub-committees appointed by them which, if they include at least one member of the committee, may also include persons who are not members.
- (5) A magistrates' courts committee may also arrange for the discharge of any of their functions—
 - (a) by the chairman of the committee; or
 - (b) by the justices' chief executive.
- (6) Subject to the provisions of this Act, a magistrates' courts committee shall have power to regulate their own procedure, including quorum.
- (7) The proceedings of a magistrates' courts committee shall not be invalidated by reason of any vacancy among the members or of any defect in the appointment of a member.
- (8) A magistrates' courts committee shall be a body corporate.
- (9) A magistrates' courts committee shall, on at least one occasion in every calendar year, admit members of the public to a meeting of the committee.
- (10) The minutes of proceedings of every meeting of a magistrates' courts committee shall be open to inspection by members of the public at the offices of the committee, except to the extent that the committee determine that the minutes disclose information of a confidential nature.
- (11) Copies of any minutes which are open to inspection under subsection (10) above shall be made available to the public on payment of such reasonable fee as the magistrates' courts committee may in any case determine.
- (12) A magistrates' courts committee making a determination under subsection (10) above shall state their reasons for regarding the information in question as being of a confidential nature.

31 General powers and duties of magistrates' courts committees

- (1) A magistrates' courts committee shall be responsible for the efficient and effective administration of the magistrates' courts for their area.
- (2) A magistrates' courts committee may, in particular—
 - (a) allocate administrative responsibilities among the justices' chief executive, the justices' clerks and the staff of the committee; and

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- (b) determine the administrative procedures to be followed by any of the persons mentioned in paragraph (a) above.
- (3) It shall be the duty of every magistrates' courts committee to provide training courses for justices' clerks and for staff of the committee.
- (4) The Lord Chancellor may give directions to magistrates' courts committees requiring each of them, in discharging their responsibilities under subsection (1) above, to meet specified standards of performance.
- (5) The Lord Chancellor may also give directions to magistrates' courts committees requiring each of them to take specified steps, at such intervals as may be specified—
 - (a) for the purpose of keeping the magistrates for their area informed as to the activities of the committee; or
 - (b) for the purpose of ascertaining the views of those magistrates on particular matters related to the functions of the committee.
- (6) In discharging their responsibilities under subsection (1) above, a magistrates' courts committee shall have regard to the needs of court users who are disabled; and so long as any direction under subsection (4) above is in force the standards of performance required under that subsection must include standards relating to the provision made for such court users.
- (7) A direction under this section may be given to all magistrates' courts committees or to one or more particular committees.
- (8) The Lord Chancellor shall arrange for any direction given under this section to be published in such manner as he thinks fit.

32 Alteration of magistrates' courts committee areas

- (1) A magistrates' courts committee may at any time submit to the Lord Chancellor written proposals—
 - (a) for the replacement of two or more magistrates' courts committees (including the committee submitting the proposals) with a single magistrates' courts committee or with two or more magistrates' courts committees in relation to areas different from the existing magistrates' courts committee areas; or
 - (b) for the replacement of the committee submitting the proposals with two or more magistrates' courts committees.
- (2) Before submitting such proposals, the magistrates' courts committee shall consult—
 - (a) the magistrates for their area or any other existing magistrates' courts committee area to which the proposal relates;
 - (b) any other magistrates' courts committee to which the proposal relates; and
 - (c) every interested authority.
- (3) Whether or not proposals have been submitted to him under subsection (1) above, the Lord Chancellor may by order made by statutory instrument provide—
 - (a) for the replacement of two or more magistrates' courts committees with a single magistrates' courts committee or with two or more magistrates' courts committees relating to areas which are different from the existing magistrates' courts committee areas; or
 - (b) for the replacement of a magistrates' courts committee with two or more magistrates' courts committees.

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- (4) The Lord Chancellor shall not make an order under subsection (3) above unless he is satisfied that the making of the order is likely to contribute to an overall increase in the efficiency of the administration of the magistrates' courts for the magistrates' courts committee area or areas to which the order relates.
- (5) Before making an order under subsection (3) above, other than an order which implements proposals submitted to him under subsection (1) above, the Lord Chancellor shall consult—
- (a) the magistrates for each of the existing magistrates' courts committee areas to which the order relates;
 - (b) the magistrates' courts committees to which the proposal relates; and
 - (c) every interested authority.
- (6) For the purposes of subsection (5) above, an order shall be taken to implement proposals if it implements them without alteration or any departures from the proposals do not, in the opinion of the Lord Chancellor, effect important alterations in the proposals.
- (7) Where proposals under subsection (1) above or an order under subsection (3) above would (apart from this subsection) divide a petty sessions area between the areas of two or more magistrates' courts committees, the proposals or order shall provide for a consequential alteration of petty sessions areas.
- (8) An order under subsection (3) above may contain such consequential and transitional provisions as appear to the Lord Chancellor to be necessary or expedient, including—
- (a) provision for the transfer of property, rights and liabilities;
 - (b) provision for the management or custody of transferred property (whether real or personal); and
 - (c) provision for any magistrates' courts committee coming into existence by virtue of the order to be constituted under section 30 above as a body corporate, and to incur liabilities, before the date on which the functions of any existing magistrates' courts committee are transferred to it.
- (9) A statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this section—
- “existing magistrates' courts committee area” means a magistrates' courts committee area existing by virtue of—
- (a) section 27(2) or (3) above;
 - (b) an order made under section 69 of the Police and Magistrates' Courts Act 1994 before the commencement of this Act; or
 - (c) a previous order under subsection (3) above;
- “interested authority”, in relation to a proposal or order, means any relevant authority whose area includes all or any part of any of the existing magistrates' courts committee areas to which the proposal or order relates; and
- “relevant authority” means—
- (a) a county council;
 - (b) a county borough council;
 - (c) the council of a unitary district;
 - (d) a London borough council; or

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(e) the Common Council of the City of London.

33 Powers and duties of committee as to petty sessional divisions

- (1) Subject to the provisions of this section and section 34 below, a magistrates' courts committee may at any time submit to the Lord Chancellor a draft order making such provision about the division of their area or any part of their area into petty sessional divisions as the committee think fit.
- (2) It shall be the duty of a magistrates' courts committee, if directed to do so by the Lord Chancellor, to review the division of their area or any part of their area into petty sessional divisions and, on completion of the review, to submit to the Lord Chancellor either a draft order under subsection (1) above or a report giving reasons for making no change.
- (3) Subject to the provisions of this section and section 34 below—
 - (a) where a magistrates' courts committee submit a draft order to the Lord Chancellor 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 a magistrates' courts committee fail to comply within six months with a direction of the Lord Chancellor under subsection (2) above, or the Lord Chancellor 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) An order under this section may provide for an area ceasing to be divided into petty sessional divisions, and a direction under subsection (2) above may be given with respect to the division of an area which is not for the time being so divided.
- (5) No order may be made under this section for the division of the City of London into petty sessional divisions.
- (6) Any order under this section may contain transitional and other consequential provisions.

34 Procedure relating to s. 33

- (1) Before submitting to the Lord Chancellor a draft order or a report under section 33 above about any area, a magistrates' courts committee—
 - (a) shall consult—
 - (i) every relevant council; and
 - (ii) the magistrates for any existing petty sessional division in the area; and
 - (b) in the case of a draft order which relates to any district which is not a unitary district, after complying with paragraph (a) above, shall send a copy of their proposals to every relevant district council and take into consideration any objections made in the prescribed manner and within the prescribed time.
- (2) A magistrates' courts committee submitting to the Lord Chancellor a draft order or a report under section 33 above shall comply with such requirements (if any) as to notice as may be prescribed.

- (3) Before making an order under section 33 above about any area otherwise than in accordance with a draft submitted to him by the magistrates' courts committee, the Lord Chancellor shall send a copy of his proposals to—
 - (a) the magistrates' courts committee;
 - (b) every relevant council;
 - (c) the magistrates for any existing petty sessional division in the area; and
 - (d) if the proposals relate to any district which is not a unitary district, every relevant district council.
- (4) Before making any order under section 33 above the Lord Chancellor 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.
- (5) For the purposes of this section—
 - (a) “relevant council”, in relation to an order, a draft order or a report, means any council of—
 - (i) a county;
 - (ii) a county borough;
 - (iii) a unitary district; or
 - (iv) a London borough,which includes all or part of the area to which the order, draft order or report relates;
 - (b) “relevant district council”, in relation to an order or draft order about any area, means any council of a district, other than a unitary district, which includes all or part of the area;
 - (c) “prescribed” means prescribed by regulations made by the Lord Chancellor by statutory instrument; and
 - (d) an order shall be taken to be made in accordance with a draft order if it is made in terms of the draft order or any departures from the draft order do not, in the opinion of the Lord Chancellor, effect important alterations in the draft order.

35 Alteration of names of petty sessions areas outside the City of London

- (1) Subject to the provisions of this section and section 36 below, a magistrates' courts committee may at any time submit to the Lord Chancellor a draft order altering the name of the petty sessions area for which they are the committee or, if they are the committee for more than one petty sessions area, the name of any of those areas.
- (2) Subject to the provisions of this section and section 36 below, where a magistrates' courts committee submit a draft order to the Lord Chancellor 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.
- (3) Nothing in this section authorises the name of the petty sessions area consisting of the City of London to be altered.
- (4) Any order under this section may contain transitional and other consequential provisions.

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36 Procedure relating to s. 35

- (1) Before submitting to the Lord Chancellor a draft order under section 35 above, a magistrates' courts committee—
 - (a) shall consult—
 - (i) every relevant council; and
 - (ii) the magistrates for the petty sessions area to which their proposals relate; and
 - (b) if the order relates to any district which is not a unitary district, after complying with paragraph (a) above, shall send a copy of their proposals to every relevant district council and take into consideration any objections made in the prescribed manner and within the prescribed time.
- (2) A magistrates' courts committee submitting to the Lord Chancellor a draft order under section 35 above shall comply with such requirements (if any) as to notice as may be prescribed.
- (3) Before making an order under section 35 above otherwise than in accordance with a draft submitted to him by the magistrates' courts committee, the Lord Chancellor shall send a copy of his proposals to—
 - (a) the magistrates' courts committee;
 - (b) every relevant council; and
 - (c) if the proposals relate to any district which is not a unitary district, every relevant district council.
- (4) Before making any order under section 35 above the Lord Chancellor 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.
- (5) For the purposes of this section—
 - (a) “relevant council”, in relation to an order or a draft order, means any council of—
 - (i) a county;
 - (ii) a county borough;
 - (iii) a unitary district; or
 - (iv) a London borough,which includes all or part of the petty sessions area to which the order or draft order relates;
 - (b) “relevant district council”, in relation to an order or draft order, means any council of a district, other than a unitary district, which includes all or part of the petty sessions area to which the order or draft order relates;
 - (c) “prescribed” means prescribed by regulations made by the Lord Chancellor by statutory instrument; and
 - (d) an order shall be taken to be made in accordance with a draft order if it is made in terms of the draft order or any departures from the draft order do not, in the opinion of the Lord Chancellor, effect important alterations in the draft order.

37 Reports and plans

- (1) The Lord Chancellor may by regulations made by statutory instrument require magistrates' courts committees to submit to him such reports and plans, in relation to matters for which they are responsible, as may be prescribed.

- (2) Any report or plan required by regulations under this section—
 - (a) shall be prepared in the prescribed manner, after such consultation as may be prescribed, and within such time as may be prescribed;
 - (b) shall be in the prescribed form;
 - (c) shall be sent to such persons as may be prescribed; and
 - (d) shall be made available to the public on payment of such reasonable fee as the magistrates' courts committee may in any case determine.
- (3) The Lord Chancellor may direct any one or more magistrates' courts committees to produce such additional reports or plans in relation to matters for which they are responsible as may be specified in the direction.
- (4) In this section “prescribed” means prescribed by regulations made by the Lord Chancellor by statutory instrument; and 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.

38 Default powers

- (1) The Lord Chancellor may make an order under subsection (3) below if he is of the opinion that, without reasonable excuse, a magistrates' courts committee—
 - (a) are failing properly to discharge any duty imposed on them by or under any enactment; or
 - (b) have so failed and are likely to do so again.
- (2) Before making an order under subsection (3) below, the Lord Chancellor shall give a written warning to the magistrates' courts committee specifying the default or defaults to which the order relates.
- (3) An order under this subsection shall—
 - (a) state that the Lord Chancellor is of the opinion mentioned in subsection (1) above; and
 - (b) provide either or both of the following—
 - (i) that, on the making of the order, the chairman of the committee is to vacate his office as chairman; or
 - (ii) that, on the making of the order, one or more specified members of the committee (who may include the chairman but may not consist of all the members of the committee) are to vacate their office.
- (4) If, after making an order under subsection (3) above, the Lord Chancellor remains of the opinion mentioned in subsection (1) above, he may make an order—
 - (a) stating that he remains of that opinion; and
 - (b) providing—
 - (i) that all the members of the committee are to vacate their office on the making of the order; and
 - (ii) that for a specified period, not exceeding three months, beginning with the making of the order the committee is to consist of persons nominated by the Lord Chancellor (who need not be justices of the peace).

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- (5) An order under subsection (4) above shall provide for new members of the committee to be chosen, in accordance with regulations under section 29 above, to take office at the end of the specified period.
- (6) In relation to the magistrates' courts committee for an area which consists of or includes the whole or any part of the inner London area, the reference in subsection (3)(b)(ii) above to members of the committee does not include the chief metropolitan stipendiary magistrate; and where an order under subsection (4) above is made in relation to any such committee, section 28(3) and (4) above shall not apply in relation to the committee during the period specified in the order.

39 Studies by Audit Commission

- (1) The Audit Commission may, at the request of a magistrates' courts committee, undertake or promote comparative and other studies—
 - (a) designed to enable the Commission to make recommendations for improving economy, efficiency and effectiveness in the performance of the committee's functions; and
 - (b) for improving the financial or other management of the committee.
- (2) Any magistrates' courts committee which has requested a study in accordance with subsection (1) above, and any officer or member of such a committee, shall provide the Audit Commission, or any person authorised by it, with such information as it or he may reasonably require for the carrying out of the study.
- (3) The Audit Commission shall charge the magistrates' courts committee concerned such fees for any study carried out under subsection (1) above as will cover the full cost of carrying it out.
- (4) In this section “the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales.