



Justices of the Peace Act 1949

1949 CHAPTER 101

PART IV

ADMINISTRATIVE AND FINANCIAL ARRANGEMENTS

25 Duties of county and borough councils

- (1) Subject to the provisions of this Act, the council of each county and of each borough having a separate commission of the peace shall provide the petty sessional court houses and other accommodation, and the furniture, books and other things, proper for the due transaction of the business, and convenient keeping of the records and documents, of the county or borough justices out of sessions or any committee of such justices, or for enabling the justices' clerk for the county or borough or any part thereof to carry out his duties.
- (2) The council of each county and of each borough having a separate commission of the peace shall pay—
 - (a) any expenses of the magistrates' courts committee, or in the case of a committee acting for the area of more than one such council the proper proportion of those expenses; and
 - (b) the sums payable under Part III of this Act on account of a person's salary or expenses as justices' clerk for the county or borough or any part thereof and the remuneration of any staff employed by the magistrates' courts committee to assist him, together with any contributions for which the committee may be liable under the National Insurance Acts, 1946, as employer of the clerk or staff; and
 - (c) so far as they are not otherwise provided for, all other costs incurred with the general or special authority of the magistrates' courts committee by the county or borough justices out of sessions or by any of the county or borough justices in defending any legal proceedings taken against him in respect of any order made or act done out of sessions in the execution of his duty as such a justice; and

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- (d) any costs or damages awarded against any of the county or borough justices in such proceedings as aforesaid in so far as the magistrates' courts committee determine that they ought not to be borne by the justice personally.
- (3) Any accommodation provided under this section for any justices or justices' clerk may be outside the area for which the justices act and, in the case of a petty sessional court house, shall be deemed to be in that area for the purpose of the jurisdiction of the justices when acting in the court house.
- (4) Two or more councils may arrange for accommodation, furniture, books or other things provided for the purposes of this section by one of them to be used also as if provided for those purposes by the other or each of the others.
- (5) Section sixty-six of the Local Government Act, 1888 (which directs certain costs to be paid out of the county fund subject to the sanction of the standing joint committee of the county council and quarter sessions), shall cease to apply to costs incurred by justices out of sessions or by a justice in defending legal proceedings in respect of an order made or act done out of sessions.
- (6) Nothing in this section shall prejudice the power to appoint an occasional court house conferred by section twenty of the Summary Jurisdiction Act, 1879, or the power to appoint a petty sessional court house in the university of Oxford conferred by the Oxford University (Justices) Act, 1886.

26 Supplementary provisions as to powers and duties of councils

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

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

(1) Subject to paragraphs (a), (b) and (c) of subsection (1) of section five of the Criminal Justice Administration Act, 1914 (which relate to the payment or repayment of court and police fees), there shall be paid to the Secretary of State—

- (a) all fines imposed by a court of summary jurisdiction, and all sums which become payable by virtue of an order of such a court and are by any enactment made applicable as fines so imposed or any class or description of such fines ; and
- (b) all other sums received by a justices' clerk by reason of his office except sums to which a person other than the Secretary of State is by law entitled and which are paid to that person ;

and any enactment directing a justices' clerk to pay any sums received by him to the responsible authority or their treasurer shall cease to have effect:

Provided that—

- (i) paragraph (a) of this subsection shall not apply to any such sums as are referred to in subsection (7) of this section; and
- (ii) paragraph (b) of this subsection shall not apply to sums received by a justices' clerk on account of his salary or expenses as such, and any sums paid to the Secretary of State by virtue of the said paragraph (b) shall be paid to him subject to their being repaid to any person establishing his title thereto.

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

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

- (3) The last foregoing subsection shall not require the Secretary of State to pay in respect of the aggregate cost to responsible authorities in any year an amount exceeding the balance of the sums received by him in respect of that year under subsection (1) of this section after deducting from those sums any Exchequer moneys included therein.
- (4) Where in any year the balance referred to in the last foregoing subsection is less than the aggregate cost so referred to, the Secretary of State may with the approval of the Treasury pay to the responsible authorities an additional amount not exceeding two-thirds of the deficiency, and the aggregate amount payable by him under this section shall be divided between the responsible authorities in proportion to their shares of that aggregate cost.
- (5) The Secretary of State, with the concurrence of the Treasury, may by statutory instrument make regulations as to the manner in which income and expenditure of responsible authorities are to be taken into account in determining the net cost to them in any year of the matters mentioned in subsection (2) of this section, and for the purposes of this section any question as to that cost shall (subject to any such regulations) be determined by the Secretary of State and any question whether expenditure was properly incurred shall also be so determined.

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- (6) The sums payable by the Secretary of State under this section shall be paid at such times, in such manner and subject to such conditions as the Secretary of State may with the approval of the Treasury determine.
- (7) The sums payable to the Secretary of State by virtue of paragraph (a) of subsection (1) of this section shall not include—
- (a) any sums which by or in pursuance of any provision in the enactments relating to those sums are directed to be paid to the Commissioners of Customs and Excise or to any officer of theirs or person appointed by them ; or
 - (b) any sums which by or in pursuance of any such provision are directed to be paid to or for the benefit of the party aggrieved, party injured or a person described in similar terms or to or for the benefit of the family or relatives of a person described in any such terms or of a person dying in consequence of an act or event which constituted or was the occasion of an offence ; or
 - (c) any sums which by or in pursuance of any such provision are directed to be applied in making good any default or repairing any damage or paying or reimbursing any expenses (other than those of the prosecution) ; or
 - (d) any sums which are directed to be paid to any person by or in pursuance of any such provision referring in terms to awarding or reimbursing a loss, or to damages, compensation or satisfaction for loss, damage, injury or wrong.
- (8) The sums payable to the Secretary of State by virtue of paragraph (b) of subsection (1) of this section (notwithstanding proviso (ii) to that subsection) shall include any sums paid to a justices' clerk, not being a clerk to county justices, out of the compensation fund under the Licensing (Consolidation) Act, 1910, in respect of work done by him as clerk to the compensation authority under that Act.
- (9) The Secretary of State, with the concurrence of the Treasury, may by statutory instrument make regulations as to the times at which and manner in which justices' clerks shall account for and pay the sums payable to him under subsection (1) of this section, and as to the keeping, inspection and audit of accounts of justices' clerks whether for the purposes of this section or otherwise.
- (10) In this section the following expressions have the following meanings respectively:—
- (a) " Exchequer moneys" means moneys which, if this section had not been passed, would be paid into the Exchequer or to any Government department or person on behalf of His Majesty by virtue of a specific provision to that effect made by or under any Act or would be so paid but for any local or other special right or privilege of whatever origin;
 - (b) " fine" has the same meaning as in the Summary Jurisdiction Act, 1879, but any reference to a fine imposed by a court of summary jurisdiction includes also any non-pecuniary forfeiture on conviction by, or under an order of, such a court so far as the forfeiture is converted into or consists of money;
 - (c) " justices' clerk" includes a clerk to a stipendiary magistrate, a clerk to a metropolitan stipendiary court, a clerk at either of the justice rooms of the City of London and a clerk of special sessions;
 - (d) " responsible authority " means any of the following authorities, namely, the corporation of the City of London, the council of any county or any borough having a separate commission of the peace, the receiver of the metropolitan police district and the commissioners under any of the Staffordshire Stipendiary Acts ;

(e) " the Staffordshire Stipendiary Acts" means the Staffordshire Potteries Stipendiary Justice Acts, 1839 to 1895, and the South Staffordshire Stipendiary Justice Act, 1899.

- (11) For the avoidance of doubt it is hereby declared that sums paid to a county court registrar which section one hundred and seventy of the County Courts Act, 1934, directs to be dealt with as directed by the Lord Chancellor are to be treated for the purposes of this section as paid to the registrar on behalf of His Majesty.
- (12) For the purposes of subsection (1) of this section, anything done by a court of quarter sessions on appeal from a court of summary jurisdiction shall be treated as done by the court of summary jurisdiction.

28 Making good defaults of justices' clerks

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