



Justices of the Peace Act 1949

1949 CHAPTER 101

PART VI

MISCELLANEOUS AND GENERAL

36 Travelling and lodging allowances of members of probation committees and case committees

- (1) Subject to the provisions of this section, a member of a probation committee or case committee constituted under the Criminal Justice Act, 1948, shall be entitled to receive payments at the prescribed rates by way of travelling allowance or lodging allowance where expenditure on travelling or, as the case may be, on accommodation for the night is necessarily incurred by him for the purpose of enabling him to perform any of his duties as a member of the committee.
- (2) A member of a committee shall not be entitled to any payment under this section in respect of any duties if the duties are performed not more than three miles from his usual place of residence.
- (3) Allowances under this section to a member of a committee shall be defrayed as part of the expenses of the committee.
- (4) Rules made under the Fifth Schedule to the Criminal Justice Act, 1948, may make provision as to the manner in which this section is to be administered, and in particular—
 - (a) for prescribing the rates of allowances and the forms to be used and the particulars to be provided for the purpose of claiming payment thereof; 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.
- (5) This section shall apply to committees constituted for the metropolitan stipendiary court area or any part thereof under paragraph 7 of the said Fifth Schedule as it applies to probation committees and case committees.

37 Incorporation of probation committees

- (1) A probation committee constituted under the Criminal Justice Act, 1948, shall be a body corporate and shall have power to hold land without licence in mortmain.
- (2) Any contract made or other thing done by or on behalf of a probation committee before the coming into force of this section shall have effect as if made or done by or on behalf of the body corporate constituted by this section.
- (3) Notwithstanding this section any provision applying to employees of justices shall, unless the contrary intention appears, apply to employees of a probation committee.

38 Place for holding county quarter sessions

Courts of quarter sessions for a county may be held in any borough forming part of, surrounded by or adjoining the county, notwithstanding that the borough is not part of the area for which the courts are held.

39 Transfer to Lord Chancellor of certain functions of Secretary of State

- (1) Any appointment of a recorder under section one hundred and sixty-three of the Municipal Corporations Act, 1882, and any appointment of a paid chairman or deputy chairman of the quarter sessions for the county of London under section forty-two of the Local Government Act, 1888, shall be made by His Majesty on the recommendation of the Lord Chancellor.
- (2) The Lord Chancellor, instead of the Secretary of State, shall give the approval required by subsection (6) of section one hundred and sixty-eight of the Municipal Corporations Act, 1882, in the case of a barrister to be appointed assistant recorder under that section, but any such approval given by the Secretary of State before the coming into force of this subsection shall have effect as if given by the Lord Chancellor.
- (3) The Lord Chancellor shall take the place of the Secretary of State—
 - (a) as the authority to approve a resolution increasing a recorder's salary under section one hundred and sixty-three of the Municipal Corporations Act, 1882, to give any direction under section one hundred and sixty-five of that Act for holding borough quarter sessions oftener than once a quarter, and to sanction a resolution increasing the number of days for which an assistant recorder may receive remuneration under the Fourth Schedule to that Act; and
 - (b) as the authority having power to appoint to the office of recorder within the meaning of the Recorders, Stipendiary Magistrates and Clerks of the Peace Act, 1906 (which provides for the appointment and removal of a deputy when it cannot be done by the recorder).
- (4) In section two of the Quarter Sessions (London) Act, 1896 (which relates to the appointment of persons to act temporarily in the office of paid chairman or deputy chairman of the quarter sessions for the county of London), references to the Lord Chancellor shall be substituted for the references to the Secretary of State.

40 Appointment of interim clerk of the peace in Scotland

In the event of the clerk of the peace for any county or county of a city in Scotland being by reason of ill-health or other cause temporarily unable to discharge the duties of his office or in the event of a vacancy in the office of any such clerk of the peace, it

shall be lawful for the Secretary of State on the recommendation of the Lord Advocate to appoint a person to act ad interim in the place of such clerk during his incapacity or until such vacancy be filled.

41 Authentication of certain licences

- (1) A billiard licence or music and dancing licence granted at the general annual licensing meeting, transfer sessions or other special sessions for any area may, instead of being signed or signed and sealed by the majority of the justices, be authenticated in accordance with the next following subsection by means of any seal or stamp used in that area to authenticate justices' licences under the Licensing (Consolidation) Act, 1910.
- (2) The seal or stamp shall be affixed under the authority, given at the meeting or sessions at which the licence is granted, of the justices attending that meeting or sessions and shall be verified by the signature of their clerk, and any seal or stamp purporting to be so affixed and verified shall be received in evidence without further proof.
- (3) Where a billiard licence is authenticated by means of a seal or stamp, the necessary adaptations shall be made in the form of licence as set out in the Third Schedule to the Gaming Act, 1845.
- (4) In this section, the expression " billiard licence " means a licence under section ten of the Gaming Act, 1845, and the expression " music and dancing licence " means a licence under subsection (2) of section fifty-one of the Public Health Acts Amendment Act, 1890, or any similar provision in a local Act.
- (5) It is hereby declared—
 - (a) that licences granted by justices at petty sessions under subsection (11) of section fifty-one of the Public Health Acts Amendment Act, 1890 (which relates to fourteen-day licences for music, dancing, etc.) do not require to be authenticated in the way directed by subsection (2) of that section for licences granted under the said subsection (2); and
 - (b) that licences granted by justices at petty sessions under section five of the Theatres Act, 1843, by virtue of powers delegated to them by a county council under section twenty-eight of the Local Government Act, 1888, do not require to be authenticated or publicly read as originally provided by the said section five for licences granted at a special sessions held thereunder.

42 Compensation for loss of office

- (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 persons suffering any loss of office or employment, or loss or diminution of emoluments, which is attributable to the coming into force of any of the provisions of Parts II and III of this Act or to anything done under any of those provisions.
- (2) The regulations shall not apply to any person unless at the date of the passing of this Act—
 - (a) he is the holder of an office or employment in respect of which he is paid a salary by a county or borough council; or

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- (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; or
 - (c) he would be within one of the foregoing paragraphs but for any national service (as defined by the regulations) in which he has been engaged.
- (3) The compensation payable under the regulations shall be paid by such county or borough council as may be prescribed by the regulations.
- (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.
- (5) In relation to any such person as is referred to in paragraph (c) of subsection (2) of this section, any reference in this section to loss of office or employment shall include loss of the prospect of re-appointment or re-employment.

43 Expenses and payments into Exchequer

- (1) There shall be paid out of moneys provided by Parliament any expenses of the Lord Chancellor or the Secretary of State under this Act and any increase resulting from the provisions of this Act in the sums which under Part I or Part II of the Local Government Act, 1948, or under section seventy-seven of the Criminal Justice Act, 1948, fall to be paid out of moneys so provided.
- (2) There shall be paid out of the Consolidated Fund or the growing produce thereof—
- (a) any increase resulting from the provisions of this Act in any superannuation allowance payable under the Police Magistrates (Superannuation) Acts, 1915 and 1929;
 - (b) any contributions towards the pension under this Act of a stipendiary magistrate which are payable in respect of any service as a metropolitan stipendiary magistrate.
- (3) There shall be paid into the Exchequer—
- (a) all sums received by the Secretary of State under subsection (1) of section twenty-seven of this Act; and
 - (b) any contributions under this Act towards the pension of a metropolitan stipendiary magistrate.

44 Interpretation

- (1) In this Act, except in so far as the context otherwise requires, the following expressions have the following meanings respectively:—
- " county " has the meaning assigned to it by section ten of this Act or that assigned to it by section sixteen thereof according to the context;
 - " county justice " does not include a justice for the City of London or, in relation to the county of London, a metropolitan stipendiary magistrate;
 - " court of quarter sessions " includes any committee by which the powers and duties of such a court are exercisable by virtue of any Act;
 - " justices' clerk " means a clerk to the justices for a petty sessions area and in relation to a time before the coming into force of section ten of this Act includes a clerk to any of the justices for a riding or division of a county, for the Isle of Ely or for the Soke of Peterborough;

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" magistrate " means in relation to a county or a borough having a separate commission of the peace a justice of the peace for the county or borough, but does not include a justice whose name is entered in the supplemental list kept in connection with the county or borough commission, and in relation to a part of a county (other than a borough having a separate commission of the peace) means a magistrate for the county who ordinarily acts in and for that part;

" magistrates' court " means a court of summary jurisdiction or examining justices, and includes a single examining justice;

" metropolitan stipendiary magistrate " means a metropolitan police magistrate;

" metropolitan stipendiary court " means a metropolitan police court;

" metropolitan stipendiary court area " means the metropolitan police court area;

" petty sessions area " means any of the following areas, that is to say, a borough having a separate commission of the peace, a county not divided into petty sessional divisions and a petty sessional division of a county;

" prescribed " in Part III of this Act means prescribed by regulations made by the Secretary of State by statutory instrument;

" stipendiary magistrate " includes a metropolitan stipendiary magistrate.

- (2) Any Order in Council under this Act may be varied or revoked by a subsequent Order in Council thereunder.
- (3) References in this Act to any enactment shall, except in so far as the context otherwise requires, include a reference to that enactment as amended, extended or applied by any other enactment, including this Act.
- (4) Save as expressly provided by this Act, it shall have effect notwithstanding any local or other special right or privilege of whatever origin.
- (5) The inclusion in this Act of any express saving or amendment shall not be taken as prejudicing the operation of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals).

45 Commencement

- (1) This Act shall come into force on such day as His Majesty may by Order in Council appoint.
- (2) Except in so far as this Act provides to the contrary, different days may be appointed under this section for the purpose of different provisions of this Act and for different purposes of the same provision.
- (3) Any Order in Council under this section may make such transitional provision as appears to His Majesty to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions or of any provisions of this Act then in force as appear to His Majesty necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the Order).
- (4) Provision shall be made by Order in Council under this section for securing that so far as practicable questions as to the salaries under section nineteen of this Act of justices' clerks holding office immediately before the date when that section comes into force, and other questions arising under that section on its coming into force, shall

be determined before it comes into force and, so far as it is not practicable for any such clerk's salary to be determined as aforesaid, for securing either that the subsequent determination thereof shall have effect from the coming into force of section nineteen of this Act or that pending the determination thereof subsections (2) to (6) of section nineteen and subsection (8) of section twenty-one of this Act shall apply to him only to such extent and subject to such modifications as may be determined by or in accordance with the Order.

46 Citation, repeal and extent

- (1) This Act may be cited as the Justices of the Peace Act, 1949.
- (2) The enactments mentioned in the Seventh Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that the repeal by this subsection of any enactment relating to petty sessional divisions shall not affect the division of a county into petty sessional divisions as it exists at the coming into force of the repeal.

- (3) This Act extends to England and Wales only except that the following provisions shall extend to Scotland, videlicet:—
 - (a) sections one, three to six, eight, nine, fourteen, forty, forty-three to forty-five, and subsection (1) of this section;
 - (b) the First Schedule ;
 - (c) subsection (2) of this section and Part I of the Seventh Schedule, so far as relating to the Justices of the Peace Act, 1906, and the Justices (Supplemental List) Act, 1941 ; and
 - (d) any other provision so far as it affects section thirty-eight of the Local Government Superannuation Act, 1937 (which relates to reciprocal arrangements between England and Scotland).