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STATUTORY INSTRUMENTS

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**1986 No. 399**

**The Local Government (Magistrates' Courts etc.) Order 1986**

**PART II**

**DISSOLUTION OF EXISTING MAGISTRATES' COURTS COMMITTEES**

**Dissolution of existing magistrates' courts committees**

3. The existing magistrates' courts committees for each of the outer London areas are hereby dissolved.

**Transfer of staff**

4.—(1) Section 52 of the 1985 Act shall have effect as if—

- (a) an existing magistrates' court committee were an employing council within the meaning of subsection (1) of that section;
- (b) the references in that section to the abolition of such a council were references to the dissolution of such a committee; and
- (c) a magistrates' courts committee for an outer London borough were a successor authority within the meaning of subsection (6) of that section and, accordingly, in relation to a person who, immediately before 1st April 1986, is in the service of an existing magistrates' courts committee under a contract of employment which would have continued but for the dissolution of the committee under Article 3 above, “the new employer” of that person for the purposes of subsection (2) of that section.

(2) For the purposes of section 52 of the 1985 Act as it has effect under paragraph (1) above, a person who immediately before 1st April 1986 is a justices' clerk or an officer of an existing magistrates' courts committee, having been appointed by an existing magistrates' courts committee to the clerkship or office, is to be regarded as then being in the service of that committee under a contract of employment and, in relation to such a person, references in that section to a contract of employment and to the rights, powers, duties and liabilities under or in connection with such a contract shall be taken to be references to the terms and conditions of his appointment and to the rights, powers, duties and liabilities under or in connection with such terms and conditions.

(3) The persons described or named in column (1) of Schedule 1 to this Order are designated persons for the purposes of section 52 of the 1985 Act as it has effect under paragraph (1) above in respect of whom the magistrates' courts committee specified opposite thereto in column (2) of that Schedule is the new employer for those purposes.

(4) A person is a designated person under paragraph (3) above, notwithstanding that at the date this Order is made, immediately before 1st April 1986 or at any time between those two dates he has been temporarily seconded by the existing magistrates' courts committee by whom he was employed or, in the case of a person appointed by such a committee to a clerkship or office, appointed or he is temporarily absent from his post—

- (a) for training or any other purpose connected with his usual duties; or

- (b) pursuant to any statutory or contractual provision applicable to his employment or appointment.

### **Compensation for loss of office or diminution of emoluments**

5.—(1) Section 53 of the 1985 Act shall have effect in relation to a person who, at any time after the passing of that Act, is in the service of an existing magistrates' courts committee and suffers loss of employment or loss or diminution of emoluments which is attributable to any provision made by or under the 1985 Act as it does in relation to a person who at such time is in the service of the Greater London Council and suffers such loss of employment or such loss or diminution of emoluments, as if the reference in subsection (3) of that section to 2nd March 1984 and the reference in subsection (4) of that section to 1st March 1984 were a reference to 1st January 1986.

(2) In paragraph (1) above, the reference to a person in the service of an existing magistrates' courts committee includes a person appointed by such a committee and, in relation to such a person, in that paragraph and in the said section 53 the reference to loss of employment shall be taken to be a reference to the cessation of his appointment and in that section—

- (a) references to a contract (other than a new contract) and a previous contract shall be taken to be references to the terms and conditions of his appointment;
- (b) the reference to contractual rights shall be taken to be a reference to his rights under those terms and conditions;
- (c) the reference to employment in subsection (4) of that section shall be taken to be a reference to his holding that appointment;
- (d) the reference to a person being employed in subsection (5) of that section shall be taken to be a reference to his appointment by the existing magistrates' courts committee; and
- (e) the reference in the said subsection (5) to a new contract and to a person's employment under such a contract shall be taken to include a reference to the person's appointment by a committee described in paragraph 12 or 13 of Schedule 1 to the 1983 Order.

(3) For the purposes of the said section 53 as it has effect under paragraph (1) above, the Local Government Reorganisation (Compensation) Regulations 1986 (“the 1986 Regulations”) shall have effect with the modifications set out in paragraphs (4) to (10) below.

(4) In regulation 1(2) of the 1986 Regulations:—

- (a) after the definition of “the 1982 Regulations” there shall be inserted ““the 1983 Order” means the Redundancy Payments (Local Government) (Modification) Order 1983;”;
- (b) for sub-paragraphs (a) and (b) of the definition of “compensating authority” there shall be substituted the words “the London residuary body”;
- (c) after the definition of “emoluments” there shall be inserted the following:—

““existing magistrates' courts committee” means a magistrates' courts committee under section 19(2)(c) of the Justices of the Peace Act 1979 as in force immediately before 1st April 1986;”;

- (d) in the definition of “relevant local government service”, after “1983” there shall be inserted the following:—

“taking, in the case of a person appointed by an existing magistrates' courts committee, references to employment to be references to holding the appointment and construing references to “employer” and to “employed” accordingly”.

(5) For regulation 2 of the 1986 Regulations there shall be substituted the following regulation:—

“(1) These regulations are made for the purposes of section 53 of the 1985 Act and apply to any person who at any time after 15th July 1985 is in the service of an existing magistrates' courts committee who suffers loss of employment or loss or diminution of emoluments

which is attributable to any provision made by or under that Act, and who either did not have or has released any entitlement to any such payment as is mentioned in section 53(3) of the 1985 Act as that section has effect under Article 5(1) of the Local Government (Magistrates' Courts etc.) Order 1986 (compensation payments to which a person is entitled by virtue of contractual rights acquired by him before 1st January 1986).

(2) In paragraph (1), the reference to a person in the service of an existing magistrates' courts committee includes a reference to a person appointed by such a committee and, in relation to such a person, the reference to loss of employment shall be taken to be a reference to the cessation of his appointment.

(3) References in these regulations to a person being employed shall in relation to a person appointed by an existing magistrates' courts committee be taken to be references to him holding the appointment and references to a contract of employment shall be taken to be references to the terms and conditions of his appointment.

(4) Notwithstanding regulation 1(2) of these regulations, references in these regulations to a person's new employment shall, in relation to a person appointed by a committee described in paragraph 12 or 13 of Schedule 1 to the 1983 Order, be taken to be references to his appointment by that committee and references to a person's new employer shall, in relation to such a person, be taken to be references to that committee.”

(6) The following paragraphs shall be inserted after paragraph (4) of regulation 3 of the 1986 Regulations:—

“(5) In paragraph 2(b)(ii) above the reference to a person who is entitled to a redundancy payment includes, in relation to a person who was appointed by an existing magistrates' courts committee and who was not an employee of that committee for purposes of the 1978 Act, a reference to a person who would be entitled to such a payment if, instead of having been appointed, he had been an employee of the committee for the period during which he held the appointment under a contract of employment whose terms and conditions were identical to the terms and conditions of his appointment.

(6) Paragraph (3) above shall have effect in relation to a woman who was appointed by an existing magistrates' courts committee and who was not an employee of that committee for purposes of the 1978 Act as if she had been such an employee for the period during which she held that appointment under a contract of employment whose terms and conditions were identical to the terms and conditions of her appointment.”

(7) The following paragraphs shall be inserted after paragraph (5) of regulation 4 of the 1986 Regulations:—

“(6) This regulation shall have effect in relation to a person who was appointed by an existing magistrates' courts committee as if the references in this regulation to a person who is entitled to a redundancy payment or, in the case of a woman, would have been entitled to such a payment but for section 82(1)(b) of the 1978 Act, were, in relation to a person who is not so entitled by reason of him not having been an employee of the committee for purposes of the 1978 Act, a reference to a person who would be entitled to such a payment or, in the case of a woman, would have been so entitled but for the said section 82(1)(b) if, instead of having been appointed, he had been an employee of the committee for the period during which he held the appointment under a contract of employment whose terms and conditions were identical to the terms and conditions of his appointment.

(7) Where under paragraph (6) of this regulation a person is entitled to compensation under paragraph (1)(b) he shall for purposes of computing the compensation due to him be treated as if he were an employee of the committee.

(8) Where under paragraph (6) of this regulation a woman is entitled to compensation under paragraph (4), she shall for purposes of computing the redundancy payment referred to in paragraph (5) of this regulation be treated as if she were an employee of the committee and references in the 1978 Act as modified by Part II of the Schedule to these regulations to a person being employed or to employment shall be construed accordingly.”

(8) In regulation 5 of the 1986 Regulations for the words, “the Greater London Council or a metropolitan county council” there shall be substituted the words “an existing magistrates' courts committee (including a person who was appointed by such a committee)”.

(9) For regulation 7(2)(d) of the 1986 Regulations there shall be substituted, “he had on the relevant date been employed from 16th July 1985 by an existing magistrates' courts committee, and”.

(10) The following paragraph shall be inserted after paragraph (2) of regulation 9 of the 1986 Regulations:—

“(3) The references in paragraph (1)(a) and (2) to a person who is or, in the case of paragraph (1)(a), would have been precluded by virtue of any of the provisions of the 1978 Act there mentioned from receiving a redundancy payment include, in relation to a person who was appointed by a committee described in paragraph 12 or 13 of Schedule 1 to the 1983 Order and who was not an employee of that committee for purposes of that Act, a reference to a person who would be or would have been so precluded if he had been an employee of the committee for the period during which he held the appointment.”

### **Continuity of employment**

6.—(1) Section 54 of the 1985 Act shall have effect as if the existing magistrates' courts committees were relevant authorities within subsection (4) of that section.

(2) Section 54 of the 1985 Act as it has effect under paragraph (1) above shall apply to a person who was appointed by an existing magistrates' courts committee and whose appointment ceases by reason of the dissolution of the committee under Article 3 above as if for the period he was so appointed he had been employed by that committee and where such a person subsequently takes up an appointment with a committee described in paragraph 12 or 13 of Schedule 1 to the 1983 Order he shall, for the purposes of the said section 54 as it has effect under paragraph (1) above, be treated as if he had been employed by that committee which shall, for those purposes and for purposes of the of the 1978 Act if that committee would not otherwise be so regarded, be treated as his new employer.

(3) Where a person described in paragraph (2) above who is appointed by a committee described in paragraph 12 or 13 of Schedule 1 to the 1983 Order was not an employee of the existing magistrates' courts committee for purposes of the 1978 Act, he shall be treated as if he had been an employee of that committee for those purposes for the period during which he held the appointment.

### **Redundancy and compensation payments**

7.—(1) Section 59 of the 1985 Act shall have effect in relation to a person who, immediately before 1st April 1986, is in the service of an existing magistrates' courts committee under a contract of employment which would have continued but for the dissolution of that committee under Article 3 above and who is not designated under section 52 of that Act as it has effect under Article 4 above as it does in relation to a person who immediately before that date is in the service of the Greater London Council under a contract of employment which would have continued but for the abolition of the council and who is not designated under section 52 of the 1985 Act as if the reference in subsection (4) of the said section 59 to 2nd March 1984 were a reference to 1st January 1986.

(2) In paragraph (1) above, the reference to a person in the service of an existing magistrates' courts committee under a contract of employment includes a person appointed by such a committee and, in relation to such a person, in section 59 of the 1985 Act as it has effect under paragraph (1) above—

- (a) references to a contract of employment shall be taken to be references to the terms and conditions of his appointment;
- (b) the reference to a person's employment in subsection (4) of that section shall be taken to be a reference to his holding the appointment;
- (c) references in subsections (4) and (5) of that section to compensation for loss of employment shall be taken to be compensation for the cessation of his appointment,

and such a person who, immediately before 1st April 1986, is not an employee of the committee for purposes of the 1978 Act shall be treated for those purposes as if he were then such an employee under a contract of employment whose terms and conditions were identical to the terms and conditions of his appointment.

### **Custody of residuary property etc**

**8.—(1)** Section 62 of the 1985 Act shall apply in relation to the residuary property, rights and liabilities of an existing magistrates' courts committee as it applies to the residuary property, rights and liabilities of the Greater London Council.

(2) In paragraph (1) above, “residuary property, rights and liabilities of an existing magistrates' courts committee” means the residuary property, rights and liabilities as defined in section 62(2) and (3) of the 1985 Act of such a committee taking the reference in paragraph (a) of the said subsection (3) to the Greater London Council or a metropolitan county council to be a reference to an existing magistrates' courts committee.

### **Reimbursement of residuary body**

**9.—(1)** Paragraphs 2 to 6 below apply where the residuary body:—

- (a) pays compensation under the Local Government Reorganisation (Compensation) Regulations 1986, as those Regulations have effect under Article 5 of this Order;
- (b) makes a redundancy payment to a person under section 59 of the 1985 Act, as that section has effect under Article 7 of this Order;
- (c) discharges any liability of an existing magistrates' courts committee which is vested in it under section 62 of the 1985 Act as that section has effect under Article 8 of this Order;
- (d) defrays the cost of an increase in pension in relation to a pension specified in paragraph 64B of Schedule 2 to the Pensions (Increase) Act 1971(1) in respect of which the residuary body is the pension authority where the pension is payable in respect of service described in paragraph 47 of that Schedule;
- (e) discharges any liability of the Greater London Council under Part VI of the 1979 Act which is vested in it under section 62 of the 1985 Act; or
- (f) incurs any costs reasonably attributable to paying any such compensation, making any such payment, discharging any such liability or defraying any such cost of increase as is referred to in sub-paragraphs (a) to (e) above.

(2) The residuary body may in respect of any financial year beginning after 31st March 1986 make levies on the outer London borough councils in respect of any compensation, payment, liability, cost of increase or costs in paragraph (1) above which the residuary body pays, makes, discharges, defrays or incurs.

(3) Section 74(2) and (3) of the 1985 Act shall apply for the purposes of determining the amount to be levied in respect of each financial year from each of the outer London borough councils under

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(1) paragraph 64B of Schedule 2 was inserted by section 61(2) of the Local Government Act 1985 (c. 51).

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paragraph (2) above and how such levy is to be made as those subsections apply to a levy made under subsection (1) of that section.

(4) Section 74(4) of the 1985 Act shall apply in relation to a levy under this article and the residuary body as it applies to a levy issued by a residuary body under subsection (1) of that section and to such a body and for those purposes references in sections 11, 12(8) and 15 of the General Rate Act 1967(2) and in section 14 of the Rates Act 1984(3) to a rating authority shall be taken to be references to an outer London borough council.

(5) Section 74(5) of the 1985 Act shall apply to a sum levied under paragraph (2) of this article as it applies to a sum levied under section 74.

(6) Section 59 of the Justices of the Peace Act 1979 shall apply in relation to the payment by an outer London borough council of a levy made under paragraph (2) above as it applies to payments by such a council as a responsible authority under section 12 of that Act.

(7) The following provisions of paragraph 1 of Schedule 3 to the Pensions (Increase) Act 1971(4) shall not apply in relation to the cost of an increase of a pension specified in paragraph 64B of Schedule 2 to that Act where the pension is payable in respect of service described in paragraph 47 of the said Schedule 2:—

- (a) so much of sub-paragraph (1) as follows the first reference in that sub-paragraph to the pension authority; and
- (b) sub-paragraphs (2) and (3).

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(2) sections 11, 12(8) and 15 were applied by section 74(4) of the Local Government Act 1985.

(3) section 14 was applied by section 74 of the Local Government Act 1985.

(4) Schedule 3 was amended by section 61(3) of the Local Government Act 1985 (c. 51).