

1986 No. 923 (L. 5)**JUSTICES OF THE PEACE,
ENGLAND AND WALES****The Justices of the Peace (Size and Chairmanship of Bench)
Rules 1986**

<i>Made - - - -</i>	<i>29th May 1986</i>
<i>Laid before Parliament</i>	<i>10th June 1986</i>
<i>Coming into Operation</i>	<i>1st July 1986</i>

Arrangement of Rules

1. Citation, operation and revocations.
2. Interpretation.
3. Size of bench.
4. Election of chairman and deputy chairman.
5. Conduct of ballot.
6. Period of office and eligibility for re-election.
7. Vacancy in office.
8. Absence of chairman or deputy chairman.
9. Requests to a justice to preside.

The Lord Chancellor, in exercise of the powers conferred on him by section 18 of the Justices of the Peace Act 1979^(a), after consultation with the Rule Committee appointed under section 144 of the Magistrates' Courts Act 1980^(b), hereby makes the following Rules:—

Citation, operation and revocations

1.—(1) These Rules may be cited as the Justices of the Peace (Size and Chairmanship of Bench) Rules 1986 and shall come into operation on 1st July 1986.

(2) The Rules mentioned in the Schedule to these Rules are hereby revoked without prejudice to the continued operation of anything previously done thereunder.

^(a) 1979 c. 55.

^(b) 1980 c. 43.

*Interpretation***2. In these Rules—**

“a justice” means a justice of the peace whose name has not been entered in the supplemental list and, in relation to a petty sessions area, a justice who ordinarily acts in and for that area;

“justices’ clerk” includes any person acting as such.

Size of bench

3. The number of justices sitting to deal with a case as a magistrates’ court, other than such a court sitting as a juvenile court or hearing domestic proceedings within the meaning of section 65 of the Magistrates’ Courts Act 1980(a), shall not be greater than seven.

Election of chairman and deputy chairman

4.—(1) Subject to paragraph (3) below, the justices for each petty sessions area shall, in accordance with the following provisions of these Rules, elect from among their number a chairman and one or more deputy chairmen, and the justices for the City of London shall so elect from among their number one or more deputy chairmen, at a meeting (hereinafter referred to as an “election meeting”) to be held in the month of October every year of which at least seven days’ notice shall be given to each justice for the petty sessions area.

(2) Notice of a meeting under paragraph (1) above shall include notice of the result of any ballot held under paragraph (3) of Rule 6 of these rules.

(3) Subject to paragraph (4) below, a justice shall not vote at any election for the chairman or a deputy chairman at any election meeting held within 12 months of his assignment to the petty sessions area in respect of which the election meeting is held.

(4) Where a new petty sessions area is constituted by an order under section 23 of the Justices of the Peace Act 1979 or otherwise, a justice for that petty sessions area may vote at any election at the first election meeting for that area if he could, in accordance with the provisions of paragraph (3) of this Rule, at that time have voted at any election held at an election meeting in respect of any petty sessions area which, or part of which, is included in the new petty sessions area.

(5) No justice shall be nominated for election before the election takes place.

(6) The justices present shall not proceed to elect a deputy chairman before—

(a) the result of the ballot for the election of the chairman has been announced, and

(b) they have decided how many deputy chairmen are to be elected.

(a) Section 65 was amended by section 44 of the Matrimonial and Family Proceedings Act 1984 (c. 42).

Conduct of ballot

5.—(1) Subject to Rule 4(6) of these Rules and to any directions given by the chairman for the time being as to which is to be followed, one or other of the following procedures for the conduct of the ballot for the election of the chairman and one or more deputy chairman shall be adopted—

- (a) the justices' clerk shall prepare ballot papers containing the names in alphabetical order of all the justices in the petty sessions area and shall hand to each justice present at the election meeting one list for the election of the chairman and one list for the election of the deputy chairman or deputy chairmen, and each justice shall place a mark on one list against the name of the justice he wishes to be chairman and on the other list against the name of the justice or justices he wishes to be deputy chairman or deputy chairmen (as the case may be); or
- (b) the justices' clerk shall—
 - (i) prepare a list containing the names in alphabetical order of all the justices in the petty sessions area, a copy of which shall be sent by him to each such justice along with the notice of the election meeting and a copy of which shall be displayed at the election meeting,
 - (ii) prepare two sets of ballot papers containing respectively the words "Chairman", and "Deputy Chairman" or "Deputy Chairmen" (as the circumstances require),
 - (iii) hand to each justice present at the election meeting one of each set of ballot papers on which each justice who votes shall write the name of the justice he wishes to be chairman and the name or names of the justice or justices he wishes to be deputy chairman or deputy chairmen (as the case may be), opposite the appropriate words.

(2) Immediately after each ballot has been closed the justices' clerk, assisted if need be by members of his staff, shall collect the ballot papers and count the votes; if, in accordance with paragraph (3) or (4) below the ballot has been conclusive, the justices' clerk shall announce the result thereof but if, in accordance with the said paragraph (3), either of the first two ballots has been inconclusive, the justices' clerk shall announce that fact and state the names of the justices for whom votes have been cast and the number of votes which each such justice has received.

(3) Subject to the provisions of this Rule, no justice shall be declared to be elected chairman unless he obtains more than half of the votes cast and, if no justice obtains such a majority at a ballot, subsequent ballots shall be held until such a majority is obtained:

Provided that if, after three ballots have been held, no justice has obtained such a majority, the justice who has obtained most votes in the aggregate in the three ballots shall be declared to be elected.

(4) Subject to the provisions of this Rule, the result of a ballot for the election of the deputy chairman or deputy chairmen shall be ascertained by counting

the votes given to each justice and the justice or justices, as the case may be, who have obtained the most votes shall be declared to be elected:

Provided that if any justices obtain an equal number of votes and the addition of a vote to those cast for any one or more of those justices would entitle him or them to be elected, the Clerk shall announce the fact and state the names of the justices concerned and the number of votes which they received; and thereupon a second ballot shall be held.

(5) Where a second ballot is necessary by reason of the proviso to paragraph (4) above, the justices' clerk shall either—

- (a) prepare ballot papers containing the names in alphabetical order of all the justices in the petty sessions area, deleting the name of any justice who has been elected chairman or deputy chairman, or
- (b) prepare ballot papers containing the words "deputy chairman – second ballot,"

and the provisions of paragraph (1) above, so far as relevant, and of paragraph (4) above, except for the proviso, shall apply.

(6) If, after three ballots for the election of the chairman, two or more justices have obtained the same number of votes in the aggregate, or if, at the second ballot for the election of a deputy chairman two or more justices obtain an equal number of votes, so that in either case the addition of a vote to those cast for any one or more of them (as the case may be) would entitle him or them to be elected, the justices' clerk shall forthwith decide between those justices by lot, and proceed as if any justice on whom the lot falls had received an additional vote.

(7) Where the procedure adopted is that mentioned in sub-paragraph (a) of paragraph (1) above and where a ballot paper is unmarked or it is marked in such a manner that there is doubt as to the identity of the justice for whom the vote is cast, the ballot paper or the vote (as the case may be) shall be rejected when the votes are counted; and where the procedure adopted is that mentioned in sub-paragraph (b) of the said paragraph (1) and there is doubt as to the identity of the justice for whom a vote is cast such vote shall be rejected when the votes are counted.

(8) There shall be no disclosure how any justice voted.

Period of office and eligibility for re-election

6.—(1) A chairman elected under these Rules shall hold office for one year from 1st January next after the date of his election and, shall, subject to paragraph (2) below, be eligible for re-election.

(2) A person who has held office as chairman shall not be eligible for re-election as chairman at an election meeting if on 1st January next after the election meeting he will have held such office for five consecutive years and less than three years will have elapsed from when he last held that office unless the justices entitled to vote at the election meeting decide, in accordance with paragraph (3) below, that this restriction on eligibility for re-election shall not apply in relation to the election to be held at that meeting.

(3) The justices shall be taken to have decided that the restriction on eligibility for re-election provided for in paragraph (2) above shall not apply in relation to the election to be held at the election meeting if, on a postal ballot of the justices entitled to vote at the meeting conducted by the justices' clerk and carried out not more than two months and not less than 21 days before the date of the meeting, a majority of at least three-quarters of such justices vote in favour of the restriction not being applied as aforesaid.

(4) The fact that a justice entitled to vote at the election meeting has not received a ballot paper sent to him by the justices' clerk or the justice's clerk has not received a completed ballot paper sent to him by a justice shall not invalidate the ballot conducted under sub-paragraph (3) above.

(5) Such a postal ballot as is referred to in paragraph (3) above shall be held in the fifth consecutive and any succeeding year of office of the chairman unless the chairman directs the justices' clerk that it shall not be held.

(6) There shall be no disclosure how any justice voted in any postal ballot held for purposes of paragraph (2) above.

(7) A deputy chairman elected under these Rules shall hold office for one year from 1st January next after the date of his election and shall be eligible for re-election.

Vacancy in office

7. If the office of chairman or deputy chairman becomes or is about to become vacant for any reason, the justices shall, as soon as practicable, proceed to elect, in the manner provided for under these Rules, another chairman or deputy chairman, as the case may be, who shall hold office for the remainder of the term of the appointment of the justice whom he replaces.

Absence of chairman or deputy chairman

8. In the absence of a chairman or deputy chairman elected under these Rules, nothing in Rule 4, 5, 6 or 7 shall prevent the appointment by justices present of one of their number to preside at a court sitting to deal with any case.

Requests to a justice to preside

9. Before a chairman or deputy chairman of the justices for a petty sessions area who is present at a meeting of those justices requests another justice to preside under the provisions of section 17(2) of the Justices of the Peace Act 1979, he shall satisfy himself as to the suitability of that justice for this purpose.

Hailsham of St. Marylebone, C.

29th May 1986.

SCHEDULE

Rule 1(2)

REVOCATIONS

Rules revoked	References
The Justices of the Peace (Size and Chairmanship of Bench) Rules 1964	S.I. 1964/1107
The Justices of the Peace (Size and Chairmanship of Bench) (Amendment) Rules 1969	S.I. 1969/1272
The Justices of the Peace (Size and Chairmanship of Bench) (Amendment) Rules 1978	S.I. 1978/1163

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules consolidate, with amendments, the Justices of the Peace (Size and Chairmanship of Bench) Rules 1964 as from time to time amended. The principal change is made by Rule 6 under which a person who has been chairman of the justices for five consecutive years or more is no longer eligible for re-election as chairman unless three years have elapsed since he last held office or the justices decide that he should be eligible for re-election. Provision is made for such a decision to be taken on a postal ballot of the justices entitled to vote held before the election meeting concerned. Under Rule 4, provision is made for notice of the result of such a ballot to be included in the notice of that meeting. Under Rule 4(3) a justice is precluded from voting at an election meeting held within twelve months of his assignment to the petty sessions area in respect of which it is held.

In Rule 8 the former requirement that an appointment of one justice to preside at a court in the absence of a chairman or deputy chairman should be made in any manner which is customary has been removed.

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