



# Justices of the Peace Act 1997

## 1997 CHAPTER 25

### PART II

#### JUSTICES OF THE PEACE

##### *Justices other than stipendiary magistrates*

#### **5 Appointment and removal of justices of the peace**

- (1) Subject to the following provisions of this Act, justices of the peace for any commission area shall be appointed by the Lord Chancellor by instrument on behalf and in the name of Her Majesty and a justice so appointed may be removed from office in like manner.
- (2) Subsection (1) above—
  - (a) does not apply to stipendiary magistrates; and
  - (b) is without prejudice to the position of the Lord Mayor and aldermen as justices for the City of London by virtue of the charters of the City.

#### **6 Residence qualification**

- (1) Subject to the provisions of this section, a person shall not be appointed as a justice of the peace for a commission area in accordance with section 5 above, nor act as a justice of the peace by virtue of any such appointment, unless he resides in or within 15 miles of that area.
- (2) If the Lord Chancellor is of the opinion that it is in the public interest for a person to act as a justice of the peace for a particular area though not qualified to do so under subsection (1) above, he may direct that, so long as any conditions specified in the direction are satisfied, that subsection shall not apply in relation to that person's appointment as a justice of the peace for the area so specified.
- (3) Where a person appointed as a justice of the peace for a commission area in accordance with section 5 above is not qualified under the preceding provisions of this section to

act by virtue of the appointment, he shall be removed from office as a justice of the peace in accordance with that section if the Lord Chancellor is of the opinion that the appointment ought not to continue having regard to the probable duration and other circumstances of the lack of qualification.

- (4) No act or appointment shall be invalidated by reason only of the disqualification or lack of qualification under this section of the person acting or appointed.

## **7 Supplemental list for England and Wales**

- (1) There shall be kept in the office of the Clerk of the Crown in Chancery a supplemental list for England and Wales as provided for by this Act (in this Act referred to as “the supplemental list”).

- (2) Subject to the following provisions of this section, there shall be entered in the supplemental list—

- (a) the name of any justice of the peace who has attained the age of 70 and neither holds nor has held high judicial office within the meaning of the Appellate Jurisdiction Act 1876; and
- (b) the name of any justice of the peace who holds or has held such office and has attained the age of 75.

- (3) A person who, on the date when his name falls to be entered in the supplemental list in accordance with subsection (2) above, holds office as chairman of the justices for a petty sessions area (whether by an election under section 22 below, or, in the City of London, as Chief Magistrate or acting Chief Magistrate) shall have his name so entered on the expiry or earlier determination of the term for which he holds office on that date.

- (4) The Lord Chancellor may direct that the name of a justice of the peace for any area shall be entered in the supplemental list if the Lord Chancellor is satisfied either—

- (a) that by reason of the justice’s age or infirmity or other similar cause it is expedient that he should cease to exercise judicial functions as a justice for that area; or
- (b) that the justice declines or neglects to take a proper part in the exercise of those functions.

- (5) On a person’s appointment as a justice of the peace for any area the Lord Chancellor may direct that his name shall be entered in the supplemental list if that person is appointed a justice for that area on ceasing to be a justice for some other area.

- (6) The name of a justice of the peace shall be entered in the supplemental list if he applies for it to be so entered and the application is approved by the Lord Chancellor.

- (7) Nothing in this section applies to a person holding office as stipendiary magistrate.

## **8 Removal of name from supplemental list**

- (1) A person’s name shall be removed from the supplemental list if—

- (a) he ceases to be a justice of the peace; or
- (b) the Lord Chancellor so directs.

- (2) Subsection (1)(b) above does not apply where the person’s name is required to be entered in the supplemental list by section 7(2) or (3) above.

## **9 Effect of entry of name in supplemental list**

- (1) Subject to the provisions of this section, a justice of the peace for any area, while his name is entered in the supplemental list, shall not by reason of being a justice for that area be qualified as a justice to do any act or to be a member of any committee or other body.
- (2) Subsection (1) above does not preclude a justice from doing all or any of the following acts as a justice, namely—
  - (a) signing any document for the purpose of authenticating another person's signature;
  - (b) taking and authenticating by his signature any written declaration not made on oath; and
  - (c) giving a certificate of facts within his knowledge or of his opinion as to any matter.
- (3) The entry of a person's name in the supplemental list does not preclude him, if so authorised by the Lord Chancellor, from acting as a judge of the Crown Court so long as he has not attained the age of 72.
- (4) No act or appointment shall be invalidated by reason of the disqualification under this section of the person acting or appointed.

## **10 Travelling, subsistence and financial loss allowances**

- (1) Subject to the provisions of this section, a justice of the peace shall be entitled—
  - (a) to receive payments by way of travelling allowance or subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him to perform any of his duties as a justice; and
  - (b) to receive payments by way of financial loss allowance where for that performance he incurs any other expenditure to which he would not otherwise be subject or he suffers any loss of earnings or of benefit under the enactments relating to social security which he would otherwise have made or received.
- (2) For the purposes of this section a justice following a training course under a scheme made in accordance with arrangements approved by the Lord Chancellor, or a training course provided by the Lord Chancellor, shall be treated as acting in the performance of his duties as a justice.
- (3) A justice shall not be entitled to any payment under this section in respect of any duties if—
  - (a) in respect of those duties a payment of the like nature may be paid to him under arrangements made apart from this section; or
  - (b) regulations provide that this section shall not apply.
- (4) A stipendiary magistrate shall not be entitled to any payment under this section in respect of his duties as such.
- (5) Allowances payable under this section shall be paid at rates determined by the Lord Chancellor with the consent of the Treasury.
- (6) An allowance payable under this section shall be paid—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) in the case of an allowance payable in respect of duties as a justice in the Crown Court, by the Lord Chancellor; and
  - (b) in the case of an allowance otherwise payable to a justice for any commission area in respect of his duties as such, by the appropriate authority.
- (7) In subsection (6)(b) above, “the appropriate authority” means—
- (a) in relation to a justice for the City of London, the Common Council;
  - (b) in relation to a justice for any of the outer London areas, the council of the outer London borough which is or includes the petty sessions area for which he acts;
  - (c) in relation to a justice for a metropolitan county, the council of the metropolitan district which is or includes the petty sessions area for which he acts;
  - (d) in relation to a justice for any other commission area—
    - (i) the council of the local government area which is or includes the petty sessions area for which he acts; or
    - (ii) where he acts for a petty sessions area which is partly included in two or more local government areas, the councils of those local government areas.
- (8) In subsection (7)(d) above, “local government area” means—
- (a) in relation to the inner London area, an inner London borough;
  - (b) in relation to Wales, a county or a county borough; and
  - (c) otherwise, a county for which there is a council or a unitary district.
- (9) Where by virtue of subsection (7)(d)(ii) above an allowance under this section is payable jointly by two or more councils the manner in which it is to be borne by each of them shall be determined by agreement between them or, in default of agreement, by the Lord Chancellor.
- (10) Regulations may make provision as to the manner in which this section is to be administered, and in particular—
- (a) for prescribing the forms to be used and the particulars to be provided for the purpose of claiming payment of allowances; 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.
- (11) Regulations for the purposes of this section shall be made by the Lord Chancellor by statutory instrument.
- (12) 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.

### *Stipendiary magistrates*

## **11 Appointment and removal of stipendiary magistrates**

- (1) Her Majesty may appoint a person who has a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990) to be, during Her Majesty’s pleasure, a whole-time stipendiary magistrate in any commission area or

areas outside the inner London area and the City of London, and may appoint more than one such magistrate in the same area or areas.

- (2) A person so appointed to be a stipendiary magistrate in any commission area shall by virtue of his office be a justice of the peace for that area.
- (3) Any stipendiary magistrate appointed under this section—
  - (a) shall be a person recommended to Her Majesty by the Lord Chancellor; and
  - (b) shall not be removed from office except on the Lord Chancellor's recommendation.
- (4) The number of stipendiary magistrates appointed under this section shall not at any time exceed 50 or such other number (which is not less than 40) as Her Majesty may from time to time by Order in Council specify.
- (5) No Order in Council may be made under subsection (4) above unless a draft of the Order has been laid before Parliament and approved by resolution of each House.

## **12 Retirement of stipendiary magistrates**

- (1) A stipendiary magistrate appointed on or after 31st March 1995 shall vacate his office on the day on which he attains the age of 70.
- (2) A stipendiary magistrate appointed before 31st March 1995 shall vacate his office at the end of the completed year of service in the course of which he attains the age of 70.
- (3) Subsections (1) and (2) above are subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor's power to authorise continuance in office up to the age of 75) and to section 27 of that Act (completion of proceedings) and Schedule 7 to that Act (transitional provisions).

## **13 Acting stipendiary magistrate**

- (1) Where it appears to the Lord Chancellor that it is expedient to do so in order to avoid delays in the administration of justice in any commission area in which a stipendiary magistrate can be appointed under section 11 above, the Lord Chancellor—
  - (a) may authorise any person qualified to be so appointed to act as a stipendiary magistrate in that area during such period (not exceeding three months at one time) as the Lord Chancellor thinks fit; or
  - (b) may require so to act any stipendiary magistrate appointed under that section in another commission area.
- (2) While acting as a stipendiary magistrate in any commission area under subsection (1) above, a person shall have the same jurisdiction, powers and duties as if he had been appointed stipendiary magistrate in that area and were a justice of the peace for that area.
- (3) Part V of this Act applies to a person acting as a stipendiary magistrate under subsection (1) above as it applies to a stipendiary magistrate.
- (4) The Lord Chancellor may pay to any person who is authorised to act under this section and is not a stipendiary magistrate such remuneration as he may, with the approval of the Treasury, determine.

**14 Place of sitting and powers of stipendiary magistrates**

- (1) A stipendiary magistrate appointed under section 11 above in any commission area shall sit at such court-houses in the area, on such days and at such times as may be determined by, or in accordance with, directions given by the Lord Chancellor from time to time.
- (2) A stipendiary magistrate appointed under section 11 above, sitting in a place appointed for the purpose, shall have power—
  - (a) to do any act; and
  - (b) to exercise alone any jurisdiction,which can be done or exercised by two justices, including any act or jurisdiction expressly required to be done or exercised by justices sitting or acting in petty sessions.
- (3) Subsection (2) above does not apply where the law under which the act or jurisdiction can be done or exercised was made after 2nd August 1858 and contains express provision contrary to that subsection.
- (4) Any statutory provision auxiliary to the jurisdiction exercisable by two justices of the peace shall apply also to the jurisdiction of such a stipendiary magistrate.
- (5) Subsections (2) and (4) above do not apply where the act or jurisdiction relates to the grant or transfer of any licence.
- (6) Any authority or requirement in any enactment for persons to be summoned or to appear at petty sessions in any case shall include authority or a requirement in such a case for persons to be summoned or to appear before such a stipendiary magistrate at the place appointed for his sitting.
- (7) Nothing in this section applies to the hearing or determination of family proceedings within the meaning of section 65 of the Magistrates' Courts Act 1980.

**15 Certain restrictions on magistrates' courts not to apply to stipendiary magistrates**

- (1) Subject to subsection (2) below, nothing in the Magistrates' Courts Act 1980—
  - (a) requiring a magistrates' court—
    - (i) to be composed of two or more justices; or
    - (ii) to sit in a petty sessional court-house or an occasional court-house; or
  - (b) limiting the powers of a magistrates' court—
    - (i) when composed of a single justice; or
    - (ii) when sitting elsewhere than in a petty sessional court-house,shall apply to any stipendiary magistrate sitting in a place appointed for the purpose.
- (2) Subsection (1) above does not apply to the hearing or determination of family proceedings within the meaning of section 65 of the Magistrates' Courts Act 1980.

### *Metropolitan stipendiary magistrates*

#### **16 Appointment, removal and retirement of metropolitan stipendiary magistrates**

- (1) Metropolitan stipendiary magistrates shall be appointed by Her Majesty, and Her Majesty shall from time to time appoint such number of persons as is necessary; but the number of metropolitan stipendiary magistrates shall not at any time exceed 60 or such larger number as Her Majesty may from time to time by Order in Council specify.
- (2) A person shall not be qualified to be appointed a metropolitan stipendiary magistrate unless he has a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990).
- (3) The Lord Chancellor shall designate one of the metropolitan stipendiary magistrates to be the chief metropolitan stipendiary magistrate.
- (4) Each metropolitan stipendiary magistrate—
  - (a) shall by virtue of his office be a justice of the peace for each of the London commission areas and for the retained counties of Essex, Hertfordshire, Kent and Surrey; and
  - (b) may be removed from office by the Lord Chancellor for inability or misbehaviour.
- (5) Section 12 above applies to metropolitan stipendiary magistrates as well as other stipendiary magistrates in England or Wales.
- (6) No Order in Council shall be made under subsection (1) above unless a draft of the Order has been laid before Parliament and approved by resolution of each House.

#### **17 Metropolitan stipendiary magistrates: allocation and sittings etc**

- (1) The Lord Chancellor may assign metropolitan stipendiary magistrates to petty sessional divisions of the inner London area and may alter any assignment under this subsection; but the assignment of a magistrate to a particular division shall not preclude him from exercising jurisdiction for any other division of the inner London area.
- (2) Metropolitan stipendiary magistrates shall sit at such court-houses provided for the inner London area under the following provisions of this Act on such days and at such times as may be determined by, or in accordance with, directions given by the Lord Chancellor from time to time.
- (3) The chief metropolitan stipendiary magistrate shall—
  - (a) cause a meeting of all the metropolitan stipendiary magistrates (or such of them as are able to attend) to be held at least once in every three months; and
  - (b) if present, preside over the meeting.

#### **18 Jurisdiction of metropolitan stipendiary magistrates and lay justices for inner London area**

- (1) Metropolitan stipendiary magistrates shall hold magistrates' courts for the inner London area.

- (2) In the inner London area the jurisdiction conferred on justices of the peace by any enactment, by their commission or by the common law shall be exercisable both—
  - (a) by metropolitan stipendiary magistrates; and
  - (b) by justices of the peace for that area who are not metropolitan stipendiary magistrates (in this Part of this Act referred to as “lay justices”).
- (3) Subject to subsections (4) and (5) below, the jurisdiction conferred on metropolitan stipendiary magistrates as such by any enactment shall be exercisable both—
  - (a) by metropolitan stipendiary magistrates; and
  - (b) by lay justices for the inner London area.
- (4) Subsection (3)(b) above does not apply to the jurisdiction conferred on metropolitan stipendiary magistrates by—
  - (a) section 25 of the Children and Young Persons Act 1933 (restrictions on persons under 18 going abroad for the purpose of performing for profit); or
  - (b) the Extradition Act 1989.
- (5) A magistrates' court consisting of lay justices for the inner London area shall not by virtue of subsection (3) above try an information summarily or hear a complaint except when composed of at least two justices.
- (6) Without prejudice to subsection (2) above, subsections (2) to (7) of section 14 above apply to a metropolitan stipendiary magistrate as they apply to a stipendiary magistrate appointed under section 11 above.
- (7) Section 15 above applies to metropolitan stipendiary magistrates as well as other stipendiary magistrates in England or Wales.

## **19 Acting metropolitan stipendiary magistrate**

- (1) If it appears to the Lord Chancellor that it is expedient to do so in order to avoid delays in the administration of justice in the inner London area, he may authorise any person who has a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990) to act as a metropolitan stipendiary magistrate during such period (not exceeding three months at one time) as the Lord Chancellor thinks fit.
- (2) Anything required or authorised by law to be done by, to or before a metropolitan stipendiary magistrate may be done by, to or before any person acting as a metropolitan stipendiary magistrate under subsection (1) above.
- (3) Part V of this Act applies to a person acting as a metropolitan stipendiary magistrate under subsection (1) above as it applies to a metropolitan stipendiary magistrate.
- (4) The Lord Chancellor may pay to any person authorised to act under this section such remuneration as he may, with the approval of the Treasury, determine.

## **20 Division of work in inner London area**

- (1) There shall be a committee established for the purposes mentioned in subsection (6) below.
- (2) The committee shall consist of the following members—
  - (a) the chief metropolitan stipendiary magistrate;



- (b) six lay justices appointed by the chairmen of the petty sessional divisions of the inner London area; and
  - (c) six metropolitan stipendiary magistrates appointed by the chief metropolitan stipendiary magistrate.
- (3) The lay justices eligible for appointment under paragraph (b) of subsection (2) above include any of the chairmen referred to in that paragraph.
- (4) The members of the committee shall hold office for a period of twelve months, but shall be eligible for re-appointment.
- (5) The chief metropolitan stipendiary magistrate shall be the chairman of the committee.
- (6) It shall be the duty of the committee—
- (a) to keep under consideration the division of work in the inner London area between the metropolitan stipendiary magistrates and the lay justices; and
  - (b) to give general directions to any magistrates' courts committee for any area which consists of or includes the whole or any part of the inner London area as to the division of the work.

#### *City of London magistrates*

### **21 Ex officio and appointed justices**

- (1) The Lord Mayor and aldermen of the City of London shall by virtue of the charter granted by His late Majesty King George II dated 25th August 1741 continue to be justices of the peace for the City but any of them may be excluded by the Lord Chancellor from the exercise of his functions as a justice.
- (2) The persons holding office as justices of the peace for the City shall constitute a single body of justices, without distinction between those holding office by virtue of the charter and those appointed; and the jurisdiction and powers of the Lord Mayor and aldermen as justices by virtue of the charter are the same in all respects as those of appointed justices.
- (3) The jurisdiction and powers of the justices of the peace for the City are in continuation of those which, before the issue of a commission of the peace for the City, belonged exclusively to the justices holding office by virtue of the charter.

#### *General provisions*

### **22 Chairman and deputy chairmen of justices**

- (1) For any petty sessions area there shall be a chairman and one or more deputy chairmen of the justices chosen from amongst themselves by the magistrates for the area; and any contested election for the purpose of this section shall be held by secret ballot.
- (2) Subject to subsections (3) and (4) below, if the chairman or a deputy chairman of the justices for a petty sessions area is present at a meeting of those justices, he shall preside unless he requests another justice to preside in accordance with rules made under section 24 below.

- (3) Subsection (2) above does not confer on any chairman or deputy chairman of the justices the right to preside in court if, under rules made under section 24 below, he is ineligible to preside in court.
- (4) Subsection (2) above does not confer on any chairman or deputy chairman of the justices the right to preside—
  - (a) in a youth court or family proceedings court;
  - (b) at meetings of a committee or other body of justices having its own chairman; or
  - (c) at meetings when any stipendiary magistrate is engaged as such in administering justice.
- (5) A metropolitan stipendiary magistrate who is by virtue of his office a justice of the peace for any area mentioned in section 16(4) above shall not, by reason only of his being a justice of the peace for that area by virtue of that office, be qualified—
  - (a) to be chosen under subsection (1) above as chairman or deputy chairman of the justices for a petty sessional division of that area; or
  - (b) to vote under that subsection at the election of any such chairman or deputy chairman.

## **23 Chairman and deputy chairmen of justices in the City of London**

- (1) In the City of London, the Lord Mayor for the time being, if not disqualified, shall be chairman of the justices, with the style of Chief Magistrate, instead of a chairman being elected under section 22(1) above; and, subject to subsection (3) below, the aldermen who have been Lord Mayor and are not disqualified (or, if there are more than eight such aldermen, the eight who were last Lord Mayor) shall be deputy chairmen in addition to any deputy chairmen elected under section 22(1) above.
- (2) For the purposes of this section a Lord Mayor or alderman is disqualified at any time while his name is entered in the supplemental list.
- (3) If the Lord Mayor is disqualified, then during his mayoralty the senior of the aldermen designated as deputy chairmen in subsection (1) above shall, instead of being a deputy chairman, be chairman of the justices as acting Chief Magistrate.
- (4) Subsections (2) and (4) of section 22 above apply to any Lord Mayor or alderman as chairman or deputy chairman of the justices as they apply to a chairman or deputy chairman elected under subsection (1) of that section.

## **24 Rules as to chairmanship and size of bench**

- (1) The number of justices (other than metropolitan stipendiary magistrates) sitting to deal with a case as a magistrates' court shall not be greater than the number prescribed by rules made under this section.
- (2) Rules made under this section may make provision as to the manner in which section 22 above and this section are to be administered, and in particular—
  - (a) as to the arrangements to be made for securing the presence on the bench of enough, but not more than enough, justices;
  - (b) as to the term of office and the procedure at an election of the chairman or a deputy chairman of the justices for a petty sessions area (including any

- procedure for nominating candidates at any such election), and the number of deputy chairmen to be elected for any such area;
- (c) as to training courses to be completed by justices before they may preside in court;
  - (d) as to the approval of justices, by committees of justices constituted in accordance with the rules, before they may preside in court, as to the justices who may be so approved and as to the courts to which the approval relates; and
  - (e) as to circumstances in which a justice may preside in court even though requirements imposed by virtue of paragraph (c) or (d) above are not satisfied in relation to him.
- (3) The right of magistrates to vote at an election of the chairman or a deputy chairman of the justices for a petty sessions area may, by rules made under this section, be restricted with a view to securing that the election is made by magistrates experienced as such in the area.
- (4) No rules shall be made under this section except on the advice of, or after consultation with, the rule committee established under section 144 of the Magistrates' Courts Act 1980.
- (5) Rules under this section shall be made by the Lord Chancellor by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **25 Records of justices of the peace**

- (1) In each commission area, other than the City of London, such one of the justices as may be designated by the Lord Chancellor shall be keeper of the rolls.
- (2) There shall be transmitted to the keeper of the rolls for each commission area, and be enrolled in the records of the justices for that area, a copy of any instrument appointing or removing a justice of the peace in that area in accordance with section 5 above; and the keeper of the rolls shall be notified, in such manner as the Lord Chancellor may direct, of any resignation or death of a justice so appointed, and shall cause to be kept, and from time to time rectified, a record of those for the time being holding office by virtue of any such appointment.
- (3) Subsection (2) above has effect in relation to the City of London as if for each reference to the keeper of the rolls there were substituted a reference to the Lord Mayor.
- (4) There shall be kept in the office of the Clerk of the Crown in Chancery a record of all persons for the time being holding office as justices of the peace by virtue of appointments made in accordance with section 5 above, together with the instruments of appointment or removal.

## **26 Greater Manchester, Merseyside and Lancashire**

- (1) Sections 5(1), 6 and 25 above have effect in relation to the counties of Greater Manchester and Merseyside and the retained county of Lancashire with the substitution, for any reference to the Lord Chancellor, of a reference to the Chancellor of the Duchy of Lancaster.
- (2) In relation to the entry in or removal from the supplemental list of the name of a person who is a justice of the peace only for any of—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) the counties of Greater Manchester and Merseyside; and
- (b) the retained county of Lancashire,

sections 7(4) to (6) and 8 above have effect with the substitution, for any reference to the Lord Chancellor, of a reference to the Chancellor of the Duchy of Lancaster.