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STATUTORY INSTRUMENTS

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**1991 No. 1966 (L. 31)**

**JUSTICES OF THE PEACE,  
ENGLAND AND WALES**

**The Justices of the Peace (Size and Chairmanship  
of Bench) (Amendment) Rules 1991**

*Made* - - - - - *30th August 1991*  
*Laid before Parliament* *9th September 1991*  
*Coming into force* - - - *30th September 1991*

The Lord Chancellor, in exercise of the powers conferred upon him by section 18 of the Justices of the Peace Act 1979<sup>(1)</sup>, after consultation with the Rule Committee appointed under section 144 of the Magistrate's Courts Act<sup>(2)</sup>, hereby makes the following Rules:

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Justices of the Peace (Size and Chairmanship of Bench) (Amendment) Rules 1991 and shall come into force on 30th September 1991.

(2) In these Rules, “the principal Rules” means the Justices of the Peace (Size and Chairmanship of Bench) Rules 1990<sup>(3)</sup>.

**Amendments to the Justices of the Peace (Size and Chairmanship of Bench) Rules 1990**

2. The principal Rules shall have effect subject to the following amendments.

3.—(1) In rule 4(2)—

(a) after the words “subject to rule 6(5)” there shall be inserted the words “and rule 6A(5)”;  
and

(b) after the words “under rule 6” there shall be inserted the words “or rule 6A”.

(2) In rule 4(5), after the words “under rule 6” there shall be inserted the words “or rule 6A”.

(3) In rule 4(6)(b), at the end there shall be added “, unless that was decided at the previous election meeting, pursuant to paragraph (7) below, and a short list of candidates has been drawn up”.

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(1) 1979 c. 55.

(2) 1980 c. 43.

(3) S.I.1990/1554.

(4) In rule 4(6)(b), there shall be added the following paragraph: “(7) Where, pursuant to rule 5(1) of these Rules, the justices decide to adopt the procedure in rule 6A of these Rules, the number of deputy chairmen to be elected at each election meeting at which that procedure is to apply shall be decided, in respect of each such meeting, at the immediately preceding election meeting; save that where, pursuant to rule 6A(4), in respect of any election meeting, no short list of candidates is drawn up, the number of deputy chairmen to be elected shall be decided at that election meeting.”.

4.—(1) In the heading to rule 5, there shall be added at the end the words “or one or more deputy chairmen”.

(2) For paragraph (1) of rule 5 there shall be substituted the following paragraph:

“(1) Subject to paragraph (1A) below, at the election meeting in October 1991, and thereafter at the election meeting in every third year, the justices for the petty sessions area shall decide whether, in relation to the three subsequent election meetings to be held, to adopt the procedure in rule 6, or, subject to paragraph (1B) below, rule 6A.”.

(3) After rule 5(1) there shall be inserted the following paragraphs:

“(1A) Paragraph (1) of this rule does not apply, in so far as it makes provision for the procedure in rule 6 to be adopted, where, at the election meeting in October 1990, the justices for a petty sessions area decided to adopt the procedure in rule 6 in relation to the three subsequent election meetings to be held; and where the justices so decided, they may, at the election meeting in October 1991, decide that that procedure shall be adopted also in relation to the election meeting in October 1994.

(1B) No decision shall be made to adopt the procedure in rule 6A unless the justices have decided that no more than five deputy chairmen shall be elected at each of the three subsequent election meetings.”.

(4) In rule 5(2)—

- (a) after the words “procedure in rule 6” there shall be inserted the words “or rule 6A”;
- (b) for the words “that procedure” there shall be substituted the words “the procedure in rule 6”;
- (c) after the words “election for a chairman” there shall be inserted the words “, and the procedure in rule 6A shall apply in relation to any election for one or more deputy chairmen,”; and
- (d) after the words “specified in rule 6(1)” there shall be inserted the words “or, as the case may be, rule 6A(1).”.

(5) In rule 5(3), after the words “procedure in rule 6” there shall be inserted the words “or rule 6A” and for the words “the procedure as aforesaid” there shall be substituted the words “either procedure as aforesaid”.

5.—(1) In rule 6(3),

- (a) for the words “there is an equality of number of votes cast” there shall be substituted the words “the four highest number of votes received were cast for more than four justices”; and
- (b) for the words “the most number of votes cast” there shall be substituted the words “the four highest number of votes cast”.

(2) In rule 6(4), after the words “lesser number of justices” there shall be inserted the words “as did receive votes”.

6. After rule 6 there shall be inserted the following rule:

**“Procedure for drawing up short list of candidates for one or more deputy chairmen**

**6A.—(1)** Where, pursuant to rule 5(1) of these Rules, the justices decide to adopt, in relation to the three subsequent election meetings to be held, the procedure in this rule, the justices' clerk shall, subject to rule 5(2) of these Rules, not more than 3 months nor less than 21 days before each of those election meetings, send by post to each justice eligible to vote at the election for the chairman and one or more deputy chairmen, a ballot paper containing the names, in alphabetical order, of all the justices acting for the petty sessions area and shall indicate the number of deputy chairmen to be elected and the date by which the completed ballot paper should be returned to him.

(2) Each justice to whom a ballot paper is sent under paragraph (1) above who votes shall place a mark against the name of as many justices as there are deputy chairmen to be elected being the justices he wishes to be included on a short list of candidates for election as deputy chairmen and shall return the ballot paper to the justices' clerk by the date indicated by the justices' clerk by the date indicated by the justices' clerk under paragraph (1) above.

(3) Subject to paragraph (4) below, the short list of candidates for election as deputy chairman shall comprise the names of such number of justices as equals the number of deputy chairmen to be elected multiplied by four (such product hereinafter being referred to as “x”) being the justices who received the most number of votes and, if he is not among such number, the name of any justice who received at least 10% of all the votes cast, or, where the x highest number of votes received were cast for more than x justices, the names of such larger number of justices who received the x highest number of votes cast and, if he is not among such number, the name of any justice who received who received at least 10% of all the votes cast.

(4) Where the votes received are for fewer than x justices, the names of such lesser number of justices as did receive votes shall comprise the short list of candidates for election as deputy chairman unless the number of justices for whom votes are cast is fewer than the number of deputy chairmen to be elected, or, in the case where only one deputy chairman is to be elected, votes are cast for one justice only, in which case the names of such justices shall not be disclosed and no short list of candidates shall be drawn up.

(5) Notice of a result of a ballot held under this rule and given in accordance with rule 4(2) of these Rules shall contain the names of the justices comprised in the short list and no other or the fact that votes were cast for fewer justices than the number of deputy chairmen to be elected, or for one justice only, as appropriate, but shall not disclose the number of votes cast for any justice.

(6) Where the votes received under a ballot held under this rule were for fewer justices than the number of deputy chairmen to be elected, or, in the case where only one deputy chairman was to be elected, for one justice only, the notice of the result of the ballot shall also state that the ballot for the election of the deputy chairman or deputy chairmen will be conducted under rule 7(3) of these Rules.”.

**7.—(1)** In rule 7(1)—

(a) after the words “office of chairman” there shall be inserted the words “, or for the election of one or more deputy chairmen,”; and

(b) for the word “and” there shall be substituted the words “or (as the case may be)”.

(2) After rule 7(1) there shall added the following paragraph— “(1A) Where there is a short list of candidates for the office of chairman or for the election of one or more deputy chairmen and the number of candidates on the short list is, for any reason, reduced to one, the election for the office of chairman or of one or more deputy chairmen, as appropriate, shall proceed under this rule as if no short list of candidates had been drawn up.”.

- (3) In rule 7(2)—
- (a) after the words “office of chairman” there shall be inserted the words “, or for the election of one or more deputy chairmen,”, and
  - (b) for the words “and the provisions in paragraph (3) below which relate to the election of one or more deputy chairmen shall apply to the election” there shall be substituted the words “or (as the case may be)”.
- (4) In rule 7(4)—
- (a) after the words “under rule 6” there shall be inserted the words “, or the election of one or more deputy chairmen under rule 6A,”; and
  - (b) at the end there shall be added “or (as the case may be) deputy chairman”.
- 8** For rule 11, there shall be substituted the following rule:

**“Absence of chairman or deputy chairman**

**11.** In the absence of a chairman or deputy chairman elected under these Rules, nothing in these Rules shall prevent the appointment by justices present of one of their number to preside at a court sitting to deal with any case, provided that—

- (a) before making such an appointment, the justices present are satisfied as to the suitability for this purpose of the justice proposed; and
- (b) the justice proposed has completed an appropriate course of instruction provided by a magistrates' courts committee in accordance with arrangements approved by the Lord Chancellor under section 63 of the Justices of the Peace Act 1979, unless by reason of illness or other emergency no such justice is present.”.

Dated 30th August 1991

*Mackay of Clashfern, C.*

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules amend the Justices of the Peace (Size and Chairmanship of Bench) Rules 1990 principally so as extend to the election of one or more deputy chairmen the optional procedure for drawing up a short list of candidates in advance of an election meeting which presently applies in respect of the election of a chairman. Amendments made by these Rules provide that the decision to adopt such a procedure in respect of the three subsequent election meetings may only be made where the justices have decided that no more than five deputy chairmen shall be elected at each of those meetings. Where the justices have decided to adopt the short list procedure for the election of one or more deputy chairmen, the number of deputy chairmen to be elected in respect of an election meeting at which the procedure applies is, in general, to be decided at the previous election meeting.

These Rules additionally provide that where no chairman or deputy chairman is present at a court sitting to deal with any case, the justices shall not appoint one of their number to preside unless satisfied that he is suitable for this purpose and that he has completed an appropriate course of instruction provided by a magistrates' courts committee, unless by reason of illness or emergency, no such justice is present.