

SCHEDULE

Article 5

TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

Interpretation

1. In this Schedule—

“the 1979 Act” means the Justices of the Peace Act 1979⁽¹⁾;

“the Constitution Regulations” means the Magistrates' Courts Committees (Constitution) Regulations 1994⁽²⁾;

“the first appointed day” means 1st June 1996 or such earlier day as the transferor committees shall appoint for the establishment of the selection panel;

“the second appointed day” means 1st July 1996 or such earlier day as the transferor committees shall appoint for the establishment of the transferee committee;

“the amalgamation date” means 1st April 1997;

“the transferor committees” means the magistrates' courts committees abolished by article 2;

“the transferee committee” means the magistrates' courts committee constituted by article 3;

“bench” means the justices assigned to a petty sessions area;

all other words and phrases have the same meanings as in the Constitution Regulations.

The selection panels for the transferor committees

2. The members of the selection panels for the committee areas of the transferor committees shall continue to hold office until 31st March 1997 and accordingly regulation 5(8) of the Constitution Regulations shall not apply.

The clerk designate

3.—(1) As soon as reasonably practicable after the coming into force of this Order, and in any event not later than the day before the first appointed day, the transferor committees shall appoint a clerk designate in respect of the committee area of the transferee committee.

(2) The clerk designate shall hold office until such time as the transferee committee shall appoint a justices' chief executive, and upon such appointment the office of clerk designate shall cease to exist.

The selection panel for the transferee committee

4.—(1) The justices for the committee areas of the transferor committees shall establish a selection panel for the committee area of the transferee committee and appoint the first members of that panel in accordance with the following sub-paragraphs.

(2) The selection panel shall come into existence on the first appointed day, and the first members of the selection panel shall be appointed for a period beginning on the first appointed day and ending on 31st December 1997.

(3) The transferor committees shall by the day before the first appointed day appoint a clerk to the selection panel (who may be the clerk designate), and the clerk to the selection panel shall act as such from the first appointed day until such time as the transferee committee shall appoint a justices' chief executive and thereafter the justices' chief executive shall act as clerk to the selection panel.

(1) 1979 c. 55, as amended by the Police and Magistrates' Courts Act 1994 (c. 29) sections 70, 72 and 75.

(2) S.I.1994/2811.

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(4) For the purposes of the appointment of the first members of the selection panel, the names of the representatives from each bench shall be notified to the clerk to the selection panel by the day before the first appointed day, and regulation 5(9) of the Constitution Regulations shall not apply.

(5) Except as provided in the preceding sub-paragraphs, regulation 5 of the Constitution Regulations shall apply in relation to the appointment of the first members of the selection panel.

(6) The members of the selection panel for all periods after 31st December 1997 shall be appointed in accordance with regulation 5 of the Constitution Regulations.

(7) The selection panel shall not until the amalgamation date constitute a panel for the purposes of paragraph 8 of Schedule 1B to the Police Act 1964(3).

Selection of transferee committee

5.—(1) As soon as reasonably practicable after the first appointed day, and in any event not later than the second appointed day, the selection panel shall select the first members of the transferee committee, who shall take office on the second appointed day.

(2) The transferor committees shall, by the day before the first appointed day, inform the clerk designate of the number of persons, subject to regulation 11 of the Constitution Regulations, they wish to be selected as the first members of the transferee committee.

(3) Subject to paragraph 4 above and to the preceding sub-paragraphs of this paragraph, the Constitution Regulations shall apply to the transferee committee except that—

- (a) regulations 2(2), 2(3), 3, 6(3)(a) and 14(4) and Schedule 3 shall not apply;
- (b) paragraphs (2), (3) and (7) of regulation 6 shall not apply in relation to the selection of the first members of the transferee committee;
- (c) regulation 7 shall apply to the selection of the first members of the transferee committee as if for the reference to 31st December there were substituted a reference to the day before the first appointed day;
- (d) any period served on the transferee committee or as chairman of that committee prior to the amalgamation date shall not count towards the maximum period of service permitted by regulation 10;
- (e) regulation 14(3) and Schedule 2 shall apply as if—
 - (i) for every reference to “1st April 1995” there were substituted a reference to the second appointed day; and
 - (ii) the words “for the inner London area” in regulation 14(3) were omitted;
 - (iii) every reference to a term of a specified number of years were read as a reference to a period beginning on the second appointed day and ending upon the expiry of the specified number of years after the amalgamation date;
- (f) regulations 15 and 16 shall not apply before the amalgamation date;
- (g) references in any regulation to any other regulation shall be read as references to that other regulation as modified by paragraphs (a) to (f) above.

Functions of transferee committee

6.—(1) The transferee committee shall come into existence as a body corporate on the second appointed day.

(3) 1964 c. 48. Schedule 1B was inserted by section 3 and Schedule 2 to the Police and Magistrates' Courts Act 1994 (c. 29). Paragraphs 7 and 8 of Schedule 1B provide for appointment of magistrate members of police authorities established under section 3 of the 1964 Act.

(2) The first chairman of the transferee committee shall be appointed at the first meeting after the second appointed day, and shall hold office until the first meeting after 1st April 1998; accordingly, regulation 10(2) of the Constitution Regulations shall not apply in relation to the first meeting after 1st April 1997.

(3) The clerk designate for the time being shall act as clerk to the transferee committee from the second appointed day until such time as the transferee committee shall appoint a justices' chief executive, and thereafter the justices' chief executive shall act as clerk to the transferee committee.

(4) From the second appointed day until the amalgamation date the transferee committee shall be a shadow committee and shall only have the following functions and powers—

- (a) to commence and sustain the running of the committee as a shadow committee;
- (b) to make all necessary preparations for the assumption of its functions as a magistrates' courts committee on the amalgamation date;
- (c) to prepare any budgets or plans required by it when those functions are assumed and to consult with the paying authorities in relation to them;
- (d) to appoint a justices' chief executive and staff of the transferee committee;
- (e) to co-opt members in accordance with section 20(2)(a) of the 1979 Act;
- (f) to act through sub-committees appointed by it as described in section 22(4) of the 1979 Act;
- (g) to arrange for the discharge of any of its functions as described in section 22(4A) of the 1979 Act.

(5) The transferor committees shall give the transferee committee such information and assistance as is reasonably required to enable it to carry out its functions under this paragraph.

(6) On the amalgamation date, the transferee committee shall assume all the functions and powers of a magistrates' courts committee.

Transfer of staff

7.—(1) Any person employed by a transferor committee on the day before the amalgamation date shall be transferred on the amalgamation date to the employment of the transferee committee on the same terms as those on which he was employed by the transferor committee.

(2) A justices' clerk holding office at the pleasure of a transferor committee on the day before the amalgamation date shall on and after the amalgamation date hold office at the pleasure of the transferee committee.

Transfer of property

8. Any real or personal property in the ownership of the transferor committees immediately before the amalgamation date shall, on the amalgamation date, vest in the transferee committee.

Continuity of matters

9.—(1) Anything which, before the amalgamation date, is in the process of being done by, to or in relation to a transferor committee in the exercise of, or in connection with its functions and powers as a magistrates' courts committee may be continued by the transferee committee, including any legal action or proceedings being taken by or against the transferor committee.

(2) All contractual and other rights and liabilities of a transferor committee and the benefit of any insurance policy in the name of a transferor committee shall pass on the amalgamation date to the transferee committee.

(3) From and after the second appointed day—

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- (a) any application under section 24D(2)(a) of the 1979 Act made before the second appointed day by a transferor committee shall be treated as an application by the transferee committee;
- (b) any approval under section 24D(2)(b) of the 1979 Act granted before the second appointed day to a transferor committee shall be treated as an approval granted to the transferee committee;
- (c) any reference in such an application or approval to the appointment of any person as justices' chief executive for a transferor committee shall be construed as a reference to the appointment of that person as justices' chief executive for the transferee committee.

References in enactments

10. Any reference in any enactment to a transferor committee shall, as from the amalgamation date, be construed as a reference to the transferee committee.