



Justices of the Peace Act 1997 (repealed)

1997 CHAPTER 25

PART II

JUSTICES OF THE PEACE

Justices other than [^{F1}District Judges (Magistrates' Courts)]

Textual Amendments

- F1** Words in heading substituted (31.8.2000) by 1999 c. 22, s. 78, Sch. 11 paras. 43, 44 (with Sch. 14 para. 7(2)); S.I. 2000/1920, art. 3(a)

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 [^{F2}District Judges (Magistrates' Courts)]; ^{F3} . . .
 - ^{F3}(b)

Textual Amendments

- F2** Words in s. 5(2)(a) substituted (31.8.2000) by 1999 c. 22, s. 78, Sch. 11 paras. 43, 44 (with Sch. 14 para. 7(2)); S.I. 2000/1920, art. 3(a)
- F3** S. 5(2)(b) and the word "and" immediately preceding it repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), Sch. 15 Pt. V(1) (with Sch. 14 paras. 7(2), 36(9)); S.I. 19992657, art. 2(d)(iii)

Status: Point in time view as at 01/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Justices of the Peace Act 1997 (repealed), Part II. (See end of Document for details)

Modifications etc. (not altering text)

- C1** S. 5 extended (27.9.1999) by 1999 c. 22, ss. 105, 108(3)(e), **Sch. 14 Pt. V para. 21** (with Sch. 14 para. 7(2)); S.I. 1999/2657, **art. 2(d)(i)**

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.
- [^{F4}(1A) If a person who is the Lord Mayor or an alderman of the City of London is appointed in accordance with section 5 above as a justice of the peace for a commission area including the City of London, subsection (1) above shall not apply in relation to his appointment as a justice of the peace for that area so long as he holds either of those offices.]
- (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.

Textual Amendments

- F4** S. 6(1A) inserted (27.9.1999) by 1999 c. 22, ss. 76, 108(3)(c), **Sch. 10 paras. 47, 48** (with Sch. 14 paras. 7(2))

Modifications etc. (not altering text)

- C2** S. 6(1A) extended (27.9.1999) by 1999 c. 22, ss. 105, 108(3)(e), **Sch. 14 Pt. V para. 21** (with Sch. 14 paras. 7(2)); S.I. 1999/2657, **art. 2(d)(i)**

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—

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- (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 ^{M1}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 ^{F5} . . . 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 [^{F6}District Judge (Magistrates’ Courts)].

Textual Amendments

- F5** Words in s. 7(3) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. V(1)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(iii)**
- F6** Words in s. 7(7) substituted (31.8.2000) by 1999 c. 22, s. 78, Sch. 11 paras. 43, **45** (with Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3(a)**

Marginal Citations

- M1** 1876 c. 59.

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

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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 [^{F7}District Judge (Magistrates' Courts)] 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—
- (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.

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- (7) In subsection (6)(b) above, “the appropriate authority”^[F8] means, in relation to a justice ^[F9]for a commission area consisting wholly or partly of Greater London, the Greater London Magistrates’ Courts Authority, and in relation to any other justice]—
- (a) the council of the local government area which consists of or includes the petty sessions area for which he acts; or
 - (b) 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.]
- ^[F10](8) In subsection (7) above “local government area” means—
- (a) in relation to England, ^{F11} . . . a metropolitan district, a non-metropolitan county for which there is a council or a unitary district; and
 - (b) in relation to Wales, a county or a county borough;
^{F11} . . .]
- (9) Where by virtue of ^[F12]subsection (7)(b)] 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.

Textual Amendments

- F7** Words in s. 10(4) substituted (31.8.2000) by 1999 c. 22, s. 78, Sch. 11 paras. 43, **46** (with Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3(a)**
- F8** S. 10(7)(a)(b) and immediately preceding words substituted (27.9.1999) by 1999 c. 22, ss. 76, 108(3), Sch. 10 paras. 47, **49** (with Sch. 14 para. 7(2))
- F9** Words in s. 10(7) inserted (1.4.2001) by 1999 c. 22, s. 83, Sch. 12 paras. 9, **10** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(i)** (subject to transitional provisions in Sch. 2 para. 2)
- F10** S. 10(8) substituted (27.9.1999) by 1999 c. 22, ss. 76, 108(3)(C), Sch. 10 paras. 47, **49(1)(3)** (with Sch. 14 para. 7(2))
- F11** Words in s. 10(8) repealed (1.4.2001) by 1999 c. 22, s. 76, **Sch. 15 Pt. V(6)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 2(c)(i)** (subject to transitional provisions in Sch. 2 para. 2)
- F12** Words in s. 10(9) substituted (27.9.1999) by 1999 c. 22, ss. 76, 108(3)(c), Sch. 10 paras. 47, **49(1)(4)** (with Sch. 14 para. 7(2))

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[^{F13} District Judges (Magistrates' Courts)]

Textual Amendments

F13 Heading substituted (31.8.2000) by 1999 c. 22, s. 78(1) (with Sch. 14 para. 7(2)); S.I. 2000/1920, art. 3(a)

[^{F14} 10A Appointment and tenure.

- (1) Her Majesty may, on the recommendation of the Lord Chancellor, appoint a person who has a 7 year general qualification (within the meaning of section 71 of the ^{M2}Courts and Legal Services Act 1990) to be a District Judge (Magistrates' Courts).
- (2) The Lord Chancellor—
 - (a) shall designate one of the District Judges (Magistrates' Courts) to be the Senior District Judge (Chief Magistrate); and
 - (b) may designate another of them to be his deputy.
- (3) A District Judge (Magistrates' Courts) may not be removed from office except by the Lord Chancellor on the ground of incapacity or misbehaviour.
- (4) The Lord Chancellor may pay to a District Judge (Magistrates' Courts) (in addition to the salary charged on and paid out of the Consolidated Fund under section 9 of the ^{M3}Administration of Justice Act 1973) such allowances as he may, with the approval of the Treasury, determine.]

Textual Amendments

F14 Ss. 10A-10E substituted (31.8.2000) for ss. 11-20 by 1999 c. 22, s. 78(1) (with Sch. 14 para. 7(2)); S.I. 2000/1920, art. 3(a)

Marginal Citations

M2 1990 c.41.
M3 1973 c.15.

[^{F15} 10B Deputies.

- (1) The Lord Chancellor may appoint any person who has a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990) to be a Deputy District Judge (Magistrates' Courts) for such period as the Lord Chancellor considers appropriate (but subject to subsection (2) below).
- (2) The Lord Chancellor may remove a Deputy District Judge (Magistrates' Courts) from office on the ground of incapacity or misbehaviour.
- (3) The Lord Chancellor may pay to a Deputy District Judge (Magistrates' Courts) such remuneration and allowances as he may, with the approval of the Treasury, determine.
- (4) During the period of his appointment a Deputy District Judge (Magistrates' Courts) shall act as a District Judge (Magistrates' Courts) and shall be treated for all purposes (apart from appointment, tenure, remuneration and allowances and pensions) as if he were a District Judge (Magistrates' Courts).

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Textual Amendments

F15 Ss. 10A-10E substituted (31.8.2000) for ss. 11-20 by 1999 c. 22, s. 78(1) (with Sch. 14 para. 7(2)); S.I. 2000/1920, art. 3(a)

^{F16}10C Status.

- (1) A District Judge (Magistrates' Courts) shall by virtue of his office be a justice of the peace for every commission area.
- (2) Where any enactment makes provision defining the powers of any person or court by reference to the area for which a person is a justice of the peace, the provision shall have effect where that person is a District Judge (Magistrates' Courts) as if it defined the powers by reference to the area for which he is for the time being acting as a justice of the peace.
- (3) A District Judge (Magistrates' Courts) shall sit at such court-houses, 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.
- (4) References in any enactment, instrument or other document to a district judge or deputy district judge do not include a District Judge (Magistrates' Courts).

Textual Amendments

F16 Ss. 10A-10E substituted (31.8.2000) for ss. 11-20 by 1999 c. 22, s. 78(1) (with Sch. 14 para. 7(2)); S.I. 2000/1920, art. 3(a)

^{F17}10D Power to discharge functions exercisable by two justices.

- (1) A District Judge (Magistrates' Courts), 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.
- (2) Subsection (1) 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.
- (3) Any statutory provision auxiliary to the jurisdiction exercisable by two justices of the peace shall apply also to the jurisdiction of a District Judge (Magistrates' Courts).
- (4) Subsections (1) and (3) above do not apply where the act or jurisdiction relates to the grant or transfer of any licence.
- (5) 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 a District Judge (Magistrates' Courts) at the place appointed for his sitting.

Status: Point in time view as at 01/04/2001.

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- (6) 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.

Textual Amendments

F17 Ss. 10A-10E substituted (31.8.2000) for ss. 11-20 by 1999 c. 22, s. 78(1) (with Sch. 14 para. 7(2)); S.I. 2000/1920, art. 3(a)

^{F18}10E Disapplication of restrictions.

- (1) Nothing in the ^{M4}Magistrates' Courts Act 1980—
- (a) requiring a magistrates' court to be composed of two or more justices or to sit in a petty sessional court-house or an occasional court-house; or
 - (b) limiting the powers of a magistrates' court when composed of a single justice or when sitting elsewhere than in a petty sessional court-house,
- shall apply to any District Judge (Magistrates' Courts) 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.

Textual Amendments

F18 Ss. 10A-10E substituted (31.8.2000) for ss. 11-20 by 1999 c. 22, s. 78(1) (with Sch. 14 para. 7(2)); S.I. 2000/1920, art. 3(a)

Marginal Citations

M4 1980 c.43.

Stipendiary magistrates

Metropolitan stipendiary magistrates

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Changes to legislation: There are currently no known outstanding effects for the Justices of the Peace Act 1997 (repealed), Part II. (See end of Document for details)

F20 . . .

Textual Amendments

F20 S. 21 and preceding heading repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. V(1)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(iii)**

F21 21

Textual Amendments

F21 S. 21 and preceding heading repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. V(1)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(iii)**

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 [^{F22}District Judge (Magistrates' Courts)] is engaged as such in administering justice.

F23 (5)

Textual Amendments

F22 Words in s. 22(4)(c) substituted (31.8.2000) by 1999 c. 22, s. 78, Sch. 11 paras. 43, 47 (with Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3(a)**

F23 S. 22(5) repealed (31.8.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(3)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 3(c)**

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Changes to legislation: There are currently no known outstanding effects for the Justices of the Peace Act 1997 (repealed), Part II. (See end of Document for details)

F24 23

Textual Amendments

F24 S. 23 repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. V(1)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(iii)**

24 Rules as to chairmanship and size of bench.

- (1) The number of justices ^{F25} . . .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 ^{M13}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.

Textual Amendments

F25 Words in s. 24(1) repealed (31.8.2000) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(3)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 3(e)**

Marginal Citations

M13 1980 c. 43.

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Changes to legislation: There are currently no known outstanding effects for the Justices of the Peace Act 1997 (repealed), Part II. (See end of Document for details)

25 Records of justices of the peace.

- (1) In each commission area ^{F26} . . . , 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.
- ^{F27}(3)
- (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.

Textual Amendments

- F26** Words in s. 25(1) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. V(1)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(iii)**
- F27** S. 25(3) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. V(1)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 1999/2657, **art. 2(d)(iii)**

[^{F28}26 Greater Manchester, Merseyside and Lancashire.

- (1) This section applies to the area consisting of the counties of Greater Manchester and Merseyside and the retained county of Lancashire; and for this purpose the retained county of Lancashire is that county as it stood immediately before 1st April 1995.
- (2) Sections 5(1), 6 and 25 above have effect—
 - (a) in the case of a commission area which is wholly included within the area to which this section applies with the substitution, for any reference to the Lord Chancellor, of a reference to the Chancellor of the Duchy of Lancaster; and
 - (b) in the case of a commission area which is partly included within that area with the substitution, for any reference to the Lord Chancellor, of a reference to the Lord Chancellor and the Chancellor of the Duchy of Lancaster acting jointly.
- (3) Sections 7(4) to (6) and 8 above have effect—
 - (a) in the case of a person who is a justice of the peace only for a commission area which is wholly included within that area with the substitution, for any reference to the Lord Chancellor, of a reference to the Chancellor of the Duchy of Lancaster; and
 - (b) in the case of a person who is a justice either for such a commission area and another commission area or for a commission area which is partly included within that area with the substitution, for any reference to the Lord Chancellor, of a reference to the Lord Chancellor and the Chancellor of the Duchy of Lancaster acting jointly.]

Status: Point in time view as at 01/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Justices of the Peace Act 1997 (repealed), Part II. (See end of Document for details)

Textual Amendments

F28 S. 26 substituted (27.9.1999) by 1999 c. 22, ss. 76, 108(3)(c), Sch. 10 paras. 47, 50 (with Sch. 14 paras. 7(2))

Status:

Point in time view as at 01/04/2001.

Changes to legislation:

There are currently no known outstanding effects for the Justices of the Peace Act 1997 (repealed), Part II.