
STATUTORY INSTRUMENTS

2004 No. 1514

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

**The Justices of the Peace (Size and Chairmanship
of Bench) (Amendment) Rules 2004**

<i>Made</i>	- - - -	<i>7th June 2004</i>
<i>Laid before Parliament</i>		<i>17th June 2004</i>
<i>Coming into force</i>	- -	<i>9th July 2004</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 24 of the Justices of the Peace Act 1997⁽¹⁾ and after consultation with the Rule Committee appointed under section 144 of the Magistrates' Courts Act 1980⁽²⁾ 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 2004 and shall come into force on 9th July 2004.

(2) In these Rules a rule cited by number alone means the rule so numbered in the Justices of the Peace (Size and Chairmanship of Bench) Rules 2002⁽³⁾.

Amendments to the Justices of the Peace (Size and Chairmanship of Bench) Rules 2002

2. In rule 2 (interpretation), after the definition of “justices' chief executive” insert—

““reserve vote” means a vote cast in accordance with rule 6(5A);”.

3.—(1) In rule 6 (conduct of postal ballot)—

(a) for paragraphs (4) and (5) substitute—

“(4) Each justice who votes shall write “X” on the appropriate ballot paper—

(a) against the name of the justice who is his choice to be chairman,

(1) 1997 c. 25; section 24 has been amended by the Access to Justice Act 1999 (c. 22), Schedule 15, Part V(3); section 24 will be repealed by the Courts Act 2003 (c. 39), Schedule 10, from a date to be appointed.

(2) 1980 c. 43; section 144 is extended by section 145 of that Act and amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 25(7); and the Access to Justice Act 1999, Schedule 11, paragraphs 26 and 29 and Schedule 13, paragraphs 95 and 116.

(3) S.I.2002/193.

- (b) where a single deputy chairman is to be elected, against the name of the justice who is his choice to be deputy chairman, and
 - (c) where more than one deputy chairman is to be elected, against the names of as many justices as are his choice to be deputy chairmen, provided that the number of votes so cast does not exceed the number of deputy chairmen to be elected.
- (5) Paragraph (5A) applies in the case of a justice who votes, where—
- (a) the nomination of a candidate has, by virtue of rule 5(7), been treated as a nomination for the office of chairman and for the office of deputy chairman,
 - (b) the justice has voted for that person as a candidate for the office of deputy chairman,
 - (c) the justice has cast the maximum number of votes for the office of deputy chairman permitted under paragraph (4) above, and
 - (d) there remain candidates for the office of deputy chairman for whom the justice has not voted.
- (5A) In a case to which this paragraph applies, a justice may, in addition to the votes he has already cast, cast a reserve vote by writing “R” on the appropriate ballot paper against the name of the justice who is his choice to be deputy chairman in the event that any other justice for whom he has voted as his choice to be deputy chairman is elected to be chairman.”; and
- (b) after rule 6(9), insert—
- “(10) When the result of the postal ballot has been determined, the justices' chief executive shall—
- (a) immediately notify the candidates of the result, and
 - (b) either give the justices for the petty sessions area written notice of the result before the election meeting or announce it at the meeting.”.

4. For rules 7 and 8 substitute—

“Determining result of postal ballot for election of chairman

7.—(1) This rule applies for determining the result of the postal ballot for the election of chairman.

(2) Subject to paragraph (3), the justice who has received the highest number of the votes cast shall be elected chairman.

(3) If two or more justices have received equally the highest number of votes, the justices' chief executive shall, at the election meeting, decide between them by lot and paragraph (4) applies.

(4) Where this paragraph applies—

- (a) the justice on whom the lot falls shall be elected chairman; and
- (b) the justices' chief executive shall, at the election meeting, announce the name of the justice so elected.

Determining result of postal ballot for election of deputy chairmen

8.—(1) This rule applies for determining the result of the postal ballot for the election of one or more deputy chairmen.

(2) In this rule, “requisite number” means the number of deputy chairmen to be elected.

(3) Except as provided by paragraph (8), reserve votes are not to be counted for the purposes of this rule.

(4) The requisite number of justices who have received the highest numbers of votes cast shall be elected deputy chairmen.

(5) If—

(a) two or more justices have received an equal number of votes (the ‘tied candidates’); and

(b) taking into account the election of any justice who has received a higher number of votes than the tied candidates—

(i) the election of one or more of the tied candidates is necessary to make up the requisite number, but

(ii) the election of all of the tied candidates would exceed the requisite number, the justices' chief executive shall, at the election meeting, decide by lot which of the tied candidates is to be elected, and paragraph (6) applies.

(6) A justice on whom the lot falls shall be elected deputy chairman and the justices' chief executive shall, at the election meeting, announce the name of any justice so elected.

(7) If a justice has been elected chairman and his name was included on a ballot paper for the election of deputy chairman, all the votes for him as deputy chairman shall be disregarded and shall no longer be counted as votes.

(8) Where a justice has—

(a) cast a vote for a candidate which has been disregarded under paragraph (7) or under rule 11(1), and

(b) cast a reserve vote for any other candidate,

the reserve vote shall be counted as a vote for the purposes of this rule.

(9) If any deputy chairmen remain to be elected, the justices shall elect them at the election meeting in accordance with the provisions of the Schedule.

(10) The election referred to in paragraph (9) shall be by secret ballot unless paragraph 3 of the Schedule applies.”.

5. Sub-paragraph (a) in rule 10(2) shall be omitted.

6. For rule 11 (miscellaneous provisions about ballots) substitute—

“Miscellaneous provisions about ballots

11.—(1) If a justice withdraws his nomination on the date of posting the ballot papers or at any time after that date up to (and including) the closing date for receipt of completed ballot papers, all the votes for that justice shall be disregarded and shall no longer be counted as votes.

(2) Where a ballot paper—

(a) is returned unmarked; or

(b) in a postal ballot is marked—

(i) by writing otherwise than as indicated by rule 6(4) or 6(5A), or

(ii) in such a manner that there is doubt as to the intention of the voter; or

(c) in a ballot held at a meeting, is marked in such a manner that there is doubt as to the identity of the justice or justices 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.

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- (3) There shall be no disclosure as to how any justice voted in any ballot.
- (4) The justices' chief executive shall—
 - (a) keep a note of the date that a ballot paper was received by him; and
 - (b) keep the ballot papers received for a period of 12 months commencing with the day after the election meeting.”.

Signed by authority of the Lord Chancellor.

Dated 7th June 2004

Christopher Leslie
Parliamentary Under-Secretary of State
Department for Constitutional Affairs

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Justices of the Peace (Size and Chairmanship of Bench) Rules 2002. They replace the weighted preferential voting system for postal ballots set out in the 2002 Rules with a system based on a single vote for each office to be filled. The new system is supplemented, in an election for a deputy chairman, by the provision of a 'reserve' vote, which is taken into account where a candidate for deputy chairman has been elected chairman or has withdrawn his nomination (*new rule 8(8)(a)*).

These Rules also remove the requirement to defer announcement of the result of a postal ballot to the election meeting; instead the justices' chief executive must notify the candidates of the result immediately and may either notify the justices in writing before the election meeting or announce the result at the meeting (*new rule 6(10)*).