



# Police and Magistrates' Courts Act 1994

## 1994 CHAPTER 29

### PART IV

#### MAGISTRATES' COURTS

##### *Magistrates' courts committees*

#### **69 Alteration of magistrates' courts committee areas**

- (1) A magistrates' courts committee may at any time submit to the Lord Chancellor written proposals—
  - (a) for the replacement of two or more magistrates' courts committees (including the committee submitting the proposals) with a single magistrates' courts committee or with two or more magistrates' courts committees in relation to areas different from the existing magistrates' courts committee areas, or
  - (b) for the replacement of the committee submitting the proposals with two or more magistrates' courts committees.
- (2) Before submitting such proposals, the magistrates' courts committee shall consult—
  - (a) the magistrates for their area or any other existing magistrates' courts committee area to which the proposal relates,
  - (b) any other magistrates' courts committee to which the proposal relates, and
  - (c) every interested authority.
- (3) Whether or not proposals have been submitted to him under subsection (1) above, the Lord Chancellor may by order made by statutory instrument provide—
  - (a) for the replacement of two or more magistrates' courts committees with a single magistrates' courts committee or with two or more magistrates' courts committees relating to areas which are different from the existing magistrates' courts committee areas, or
  - (b) for the replacement of a magistrates' courts committee with two or more magistrates' courts committees.

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- (4) The Lord Chancellor shall not make an order under subsection (3) above unless he is satisfied that the making of the order is likely to contribute to an overall increase in the efficiency of the administration of the magistrates' courts for the magistrates' courts committee area or areas to which the order relates.
- (5) Before making an order under subsection (3) above, other than an order which implements proposals submitted to him under subsection (1) above, the Lord Chancellor shall consult—
- (a) the magistrates for each of the existing magistrates' courts committee areas to which the order relates,
  - (b) the magistrates' courts committees to which the proposal relates, and
  - (c) every interested authority.
- (6) For the purposes of subsection (5) above, an order shall be taken to implement proposals if it implements them without alteration or the departures from the proposals do not, in the opinion of the Lord Chancellor, effect important alterations in the proposals.
- (7) Where proposals under subsection (1) above or an order under subsection (3) above would (apart from this subsection) divide a petty sessions area between the areas of two or more magistrates' courts committees, the proposals or order shall provide for a consequential alteration of petty sessions areas.
- (8) An order under subsection (3) above may contain such consequential and transitional provisions as appear to the Lord Chancellor to be necessary or expedient, including—
- (a) provision for the transfer of property, rights and liabilities,
  - (b) provision for the management or custody of transferred property (whether real or personal), and
  - (c) provision for any magistrates' courts committee coming into existence by virtue of the order to be constituted under section 22 of the 1979 Act as a body corporate, and to incur liabilities, before the date on which the functions of any existing magistrates' courts committee are transferred to it.
- (9) A statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this section—
- “existing magistrates' courts committee area” means a magistrates' courts committee area existing by virtue of—
- (a) section 19(2) of the 1979 Act (as amended by section 79(4) of this Act),
  - (b) an order made under section 19(3) of that Act before the commencement of this section, or
  - (c) a previous order under subsection (3) above;
- “interested authority”, in relation to any proposal or order, means the council of every local authority whose area includes any of the existing magistrates' courts committee areas to which the proposal or order relates, or part of any such area;
- “local authority” means any unitary authority or any county council so far as they are not a unitary authority; and
- “unitary authority” means—
- (a) the council of any county so far as they are the council for an area for which there are no district councils,

- (b) the council of any district comprised in an area for which there is no county council,
  - (c) a county borough council,
  - (d) a London borough council, or
  - (e) the Common Council of the City of London.
- (11) Any order made under subsection (3) of section 19 of the 1979 Act (power to establish a single magistrates' courts committee for a joint committee area) before the commencement of this section shall continue to have effect notwithstanding the repeal of that subsection by this Act, but subject to any subsequent order under subsection (3) above.
- (12) Until 1st April 1996, the definition of “unitary authority” in subsection (10) above shall have effect with the omission of paragraph (c).

## **70 Constitution of magistrates' courts committees**

For section 20 of the 1979 Act there shall be substituted—

### **“20 Constitution of magistrates' courts committees**

- (1) A magistrates' courts committee shall, subject to subsections (2) to (4) below, be composed of magistrates for the area to which the committee relates, chosen in accordance with regulations under section 21 of this Act.
- (2) Not more than two other members, who need not be justices of the peace, may be either—
  - (a) co-opted by a magistrates' courts committee to the committee with the approval of the Lord Chancellor, or
  - (b) appointed by the Lord Chancellor to the committee.
- (3) The chief metropolitan stipendiary magistrate shall by virtue of his office be a member of the inner London magistrates' courts committee.
- (4) Until such day as the Lord Chancellor may by order made by statutory instrument appoint, two members of the inner London magistrates' courts committee shall be other metropolitan stipendiary magistrates appointed by the chief metropolitan stipendiary magistrate.
- (5) In subsections (3) and (4) above “the inner London magistrates' courts committee” means the magistrates' courts committee for an area consisting of or including the whole of the inner London area or, if there is no such committee, every magistrates' courts committee for any area which consists of or includes any part of the inner London area.”

## **71 Regulations as to constitution etc. of magistrates' courts committees**

- (1) Section 21 of the 1979 Act (powers of Lord Chancellor in relation to magistrates' courts committees) shall be amended as follows.
- (2) After subsection (1) there shall be inserted—

“(1A) Any such regulations shall provide for the members referred to in section 20(1) of this Act to be chosen by a selection panel constituted in accordance with the regulations.”

(3) For subsection (2) there shall be substituted—

“(2) Any such regulations may—

- (a) lay down an upper limit for the number of members of a magistrates' courts committee (inclusive of the members referred to in subsections (2), (3) and (4) of section 20 of this Act), and
- (b) enable the Lord Chancellor to direct that, in relation to any magistrates' courts committee to which the direction is given, any members co-opted or appointed under subsection (2) of that section are to be left out of account in applying the upper limit.

(2A) Any such regulations may also make different provision in relation to the magistrates' courts committees for areas which consist of or include the whole or any part of the inner London area from that made in relation to other committees.”

## **72 Supplementary provisions as to magistrates' courts committees**

(1) Section 22 of the 1979 Act (supplementary provisions as to magistrates' courts committees) shall be amended in accordance with this section.

(2) For subsection (1) there shall be substituted—

“(1) Subject to subsection (1A) below, a magistrates' courts committee shall appoint one of their members to be chairman of the committee.

(1A) Until such day as the Lord Chancellor may by order made by statutory instrument appoint, the chief metropolitan stipendiary magistrate shall by virtue of his office be the chairman of any magistrates' courts committee for an area which consists of or includes the whole of the inner London area.”

(3) Subsection (2) shall be omitted.

(4) At the end of subsection (4) there shall be added the words “which may, if they include at least one member of the committee, also include persons who are not members”.

(5) After subsection (4) there shall be inserted—

“(4A) A magistrates' courts committee may also arrange for the discharge of any of their functions—

- (a) by the chairman of the committee, or
- (b) by the justices' chief executive.”

(6) At the end there shall be added—

“(8) A magistrates' courts committee shall, on at least one occasion in every calendar year, admit members of the public to a meeting of the committee.

(9) The minutes of proceedings of every meeting of a magistrates' courts committee shall be open to inspection by members of the public at the offices of the committee, except to the extent that the committee determine that the minutes disclose information of a confidential nature.

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- (10) Copies of any minutes which are open to inspection under subsection (9) above shall be made available to the public on payment of such reasonable fee as the magistrates' courts committee may in any case determine.
- (11) A magistrates' courts committee making a determination under subsection (9) above shall state their reasons for regarding the information in question as being of a confidential nature."

### **73 General powers and duties of magistrates' courts committees**

After section 22 of the 1979 Act there shall be inserted—

#### **“22A General powers and duties of magistrates' courts committees**

- (1) A magistrates' courts committee shall be responsible for the efficient and effective administration of the magistrates' courts for their area.
- (2) A magistrates' courts committee may, in particular—
  - (a) allocate administrative responsibilities among the justices' chief executive, the justices' clerks and the staff of the committee, and
  - (b) determine the administrative procedures to be followed by any of the persons mentioned in paragraph (a) above.
- (3) It shall be the duty of every magistrates' courts committee to provide courses of instruction for justices' clerks and for staff of the committee.
- (4) The Lord Chancellor may give directions to magistrates' courts committees requiring each of them, in discharging their responsibilities under subsection (1) above, to meet specified standards of performance.
- (5) The Lord Chancellor may also give directions to magistrates' courts committees requiring each of them to take specified steps, at such intervals as may be specified—
  - (a) for the purpose of keeping the magistrates for their area informed as to the activities of the committee, or
  - (b) for the purpose of ascertaining the views of those magistrates on particular matters related to the functions of the committee.
- (6) In discharging their responsibilities under subsection (1) above, a magistrates' courts committee shall have regard to the needs of court users who are disabled; and so long as any direction under subsection (4) above is in force the standards of performance required under that subsection must include standards relating to the provision made for such court users.
- (7) A direction under this section may be given to all magistrates' courts committees or to one or more particular committees.
- (8) The Lord Chancellor shall arrange for any direction given under this section to be published in such manner as he thinks fit.”

### **74 Reports and plans**

After section 24B of the 1979 Act there shall be inserted—

**“24C Reports and plans**

- (1) The Lord Chancellor may by regulations made by statutory instrument require magistrates' courts committees to submit to him such reports and plans, in relation to matters for which they are responsible, as may be prescribed.
- (2) Any report or plan required by regulations under this section—
  - (a) shall be prepared in the prescribed manner, after such consultation as may be prescribed, and within such time as may be prescribed,
  - (b) shall be in the prescribed form,
  - (c) shall be sent to such persons as may be prescribed, and
  - (d) shall be made available to the public on payment of such reasonable fee as the magistrates' courts committee may in any case determine.
- (3) The Lord Chancellor may direct any one or more magistrates' courts committees to produce such additional reports or plans in relation to matters for which they are responsible as may be specified in the direction.”

*Justices' chief executives, justices' clerks and staff*

**75 Appointment and functions of justices' chief executive**

After section 24C of the 1979 Act there shall be inserted—

*“Justices' chief executives, justices' clerks and staff*

**24D Appointment of justices' chief executive**

- (1) Every magistrates' courts committee shall appoint a justices' chief executive.
- (2) A person may not be appointed as justices' chief executive unless—
  - (a) the magistrates' courts committee have submitted to the Lord Chancellor, in accordance with regulations, an application for approval of one or more persons offering themselves for the appointment,
  - (b) the Lord Chancellor has approved one or more of those persons, and
  - (c) the person appointed is a person so approved.
- (3) For the purposes of subsection (2) above, appointment as justices' chief executive does not include, in relation to a person employed as such under a contract for a fixed term, re-appointment on the expiry of that term.
- (4) Where the Lord Chancellor declines to approve any person who is named in an application under subsection (2)(a) above, he shall inform the magistrates' courts committee of the reasons for his decision.
- (5) A person may not be appointed as justices' chief executive unless he is eligible under section 26 of this Act for appointment as justices' clerk.
- (6) A person may not be appointed both as justices' chief executive and as justices' clerk for a petty sessions area unless the Lord Chancellor has agreed that he may hold both appointments.

- (7) Where, in accordance with subsection (6) above, a person holds an appointment as justices' chief executive with an appointment as justices' clerk for a petty sessions area, he shall not exercise any functions as justices' clerk for the petty sessions area unless authorised to do so (either generally or in any particular case) by the magistrates' courts committee for the area which includes that petty sessions area.
- (8) In this section “regulations” means regulations made by the Lord Chancellor by statutory instrument.

#### **24E Functions of justices' chief executive**

- (1) The justices' chief executive in relation to any magistrates' courts committee shall—
- (a) act as clerk to the committee, and
  - (b) subject to and in accordance with any directions given by the committee, carry on the day to day administration of the magistrates' courts for the area to which the committee relates.
- (2) A justices' chief executive may arrange for his functions under subsection (1) (a) above to be exercised by any member of the staff of the magistrates' courts committee.
- (3) It shall be the duty of the justices' chief executive to make arrangements for discussions relating to law, practice and procedure among the justices' clerks for petty sessions areas within the area of the committee.”

#### **76 Appointment and removal of justices' clerks**

For section 25 of the 1979 Act (and the heading “Justices' clerks and their staffs” immediately preceding it) there shall be substituted—

#### **“25 Appointment and removal of justices' clerks**

- (1) Justices' clerks shall be appointed by the magistrates' courts committee; and a magistrates' courts committee may appoint more than one justices' clerk for any petty sessions area.
- (2) A person may not be appointed as justices' clerk unless—
- (a) the magistrates' courts committee have submitted to the Lord Chancellor, in accordance with regulations, an application for approval of one or more persons offering themselves for the appointment,
  - (b) the Lord Chancellor has approved one or more of those persons, and
  - (c) the person appointed is a person so approved.
- (3) For the purposes of subsection (2) above, appointment as justices' clerk does not include, in relation to a person employed as such under a contract for a fixed term, re-appointment on the expiry of that term.
- (4) Where the Lord Chancellor declines to approve any person who is named in an application under subsection (2)(a) above, he shall inform the magistrates' courts committee of the reasons for his decision.

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- (5) The approval of the Lord Chancellor shall be required—
- (a) for any decision to increase the number of justices' clerks in a petty sessions area or to have more than one justices' clerk in a new petty sessions area, or
  - (b) for the removal of the justices' clerk for a petty sessions area where the magistrates for the area do not consent to the removal.
- (6) A magistrates' courts committee shall consult the magistrates for any petty sessions area—
- (a) on the appointment of a justices' clerk for the area, except in the case of a re-appointment on the expiry of a fixed term, or
  - (b) on the removal of a justices' clerk for the area.
- (7) Before—
- (a) approving any persons under subsection (2) above, or
  - (b) approving the removal of a justices' clerk,
- the Lord Chancellor shall consider any representations made to him by the magistrates for the petty sessions area concerned; and before approving the removal of a justices' clerk the Lord Chancellor shall also consider any representations made to him by the clerk.
- (8) For the purposes of subsections (5) to (7) above, removal as justices' clerk shall be taken to include, in relation to a person employed as such under a contract for a fixed term, the expiry of that term without renewal in any case where the clerk has not consented to the failure to renew.
- (9) In this section “regulations” means regulations made by the Lord Chancellor by statutory instrument.”

**77 Justices' chief executives and justices' clerks to be employed under contracts of service**

After section 26 of the 1979 Act there shall be inserted—

**“26A Justices' chief executives and justices' clerks to be employed under contracts of service**

- (1) Except as provided by this Act, a justices' chief executive or justices' clerk—
- (a) shall be employed by the magistrates' courts committee, on such terms as they may determine, and
  - (b) shall hold and vacate office in accordance with the terms of his contract of service.
- (2) Subsection (1) above shall not have effect in relation to any person appointed by a magistrates' courts committee before the commencement of this section as justices' clerk for a petty sessions area so long as he—
- (a) continues to hold office as a justices' clerk for that area or for any one or more petty sessions areas including any part of that area, and
  - (b) has not entered into a contract of service after the commencement of this section.



- (3) Any justices' clerk in relation to whom, by virtue of subsection (2) above, subsection (1) above does not have effect shall hold office during the pleasure of the magistrates' courts committee concerned.”

## **78 Independence of justices' clerk and staff in relation to legal functions**

After section 30 of the 1979 Act there shall be inserted—

### **“30A Independence of justices' clerk and staff in relation to legal functions**

- (1) When exercising the functions specified in subsection (2) below or giving advice to justices of the peace in an individual case—
- (a) a justices' clerk shall not be subject to the direction of the magistrates' courts committee, the justices' chief executive or any other person, and
  - (b) any member of the staff of a magistrates' courts committee shall not be subject to the direction of that committee or of the justices' chief executive (when acting as such).
- (2) The functions referred to in subsection (1) above are functions conferred by rules made in accordance with section 144 of the Magistrates' Courts Act 1980 by virtue of section 28(1) or (1A) of this Act.”

### *Inner London area*

## **79 Magistrates' courts committee for inner London area**

- (1) Section 35 of the 1979 Act (under which the committee of magistrates for the inner London area is constituted) shall cease to have effect.
- (2) The body corporate constituted under that section shall remain in existence, but as a magistrates' courts committee for the inner London area constituted in accordance with Part II of the 1979 Act.
- (3) Any reference in any document to the committee of magistrates shall have effect, in relation to any time after the commencement of subsection (2) above, as a reference to the magistrates' courts committee for the inner London area.
- (4) In section 19(2) of the 1979 Act (areas to which magistrates' courts committees relate) for the word “and” at the end of paragraph (c) there shall be substituted the words—  
“(cc) the inner London area; and”.
- (5) Section 38(2) of the 1979 Act (which confers administrative functions on the chief metropolitan stipendiary magistrate) shall cease to have effect.
- (6) Subsections (2) and (3) above have effect subject to any order made under section 69 of this Act after the commencement of subsection (2) above.

## **80 Organisation of justices' clerks in inner London area**

- (1) Section 37 of the 1979 Act (which obliges the committee of magistrates for the inner London area to appoint a principal chief clerk and chief clerks, together with such

senior deputy chief clerks, deputy chief clerks and other officers as may be necessary) shall cease to have effect.

- (2) Any person who, immediately before the commencement of subsection (1) above, holds office as principal chief clerk for the inner London area shall be taken to have been appointed by the magistrates' courts committee for the inner London area as justices' chief executive in accordance with section 24D of the 1979 Act.
- (3) Any person who, immediately before the commencement of subsection (1) above, holds office as chief clerk for any petty sessional division of the inner London area or for the youth courts or family proceedings courts for that area and the City of London shall be taken to have been appointed by the magistrates' courts committee for the inner London area in accordance with section 25 of the 1979 Act as a justices' clerk for that petty sessional division or, as the case requires, in accordance with section 34B of that Act as a justices' clerk for those courts.
- (4) Except as provided by subsections (5) to (7) of section 25 of the 1979 Act, any person to whom subsection (2) or (3) above applies shall hold and vacate office in accordance with the terms of his appointment or, if he has entered into a contract of service (whether before or after the commencement of subsection (1) above), in accordance with the terms of his contract of service.
- (5) The abolition by virtue of subsection (1) above of the statutory offices of senior deputy chief clerk and deputy chief clerk shall not affect the continuation of the contract of service of any person who holds either of those offices immediately before the commencement of that subsection.
- (6) A person who is employed under a contract of service to which subsection (5) above applies shall not be dismissed from his employment without the approval of the Lord Chancellor; and before approving the dismissal of any such person the Lord Chancellor shall consider any representations made by him.
- (7) Any reference in any instrument or document to the chief clerk for any petty sessional division of the Inner London area or for the youth courts or family proceedings courts for that area and the City of London shall have effect, in relation to any time after the commencement of subsection (1) above, as a reference to the justices' clerk for that petty sessional division or, as the case may be, for those courts.

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

After section 34 of the 1979 Act there shall be inserted—

### **“34A Division of work in inner London area**

- (1) There shall be established for the purposes of this section a committee consisting 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.
- (2) The lay justices eligible for appointment under paragraph (b) of subsection (1) above include any of the chairmen referred to in that paragraph.

- (3) The members of the committee shall hold office for a period of twelve months, but shall be eligible for re-appointment.
- (4) The chief metropolitan stipendiary magistrate shall be the chairman of the committee.
- (5) 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.”

## **82 Pensions etc. of justices' chief executive, justices' clerks and staff in inner London area**

- (1) Schedule 7 (which re-enacts certain provisions relating to the functions of the Receiver for the Metropolitan Police District with respect to pensions etc. of court staff) shall have effect.
- (2) The Lord Chancellor may by order make provision with respect to pensions, allowances or gratuities payable to or in respect of inner London court staff, or any class of inner London court staff.
- (3) An order under subsection (2) above may—
  - (a) itself make provision with respect to the pensions, allowances or gratuities which, subject to the fulfilment of such requirements and conditions as may be prescribed by the order, are to be or may be paid to or in respect of inner London court staff, or any class of inner London court staff, or
  - (b) provide that the civil service provisions are to have effect, with such modifications as may be prescribed by the order, in relation to the payment by such persons as may be so prescribed, out of such funds as may be so prescribed, of pensions, allowances and gratuities to or in respect of inner London court staff, or any class of inner London court staff.
- (4) Without prejudice to the generality of subsections (2) and (3) above, an order under subsection (2)—
  - (a) may include all or any of the provisions referred to in paragraphs 1 to 11 of Schedule 3 to the Superannuation Act 1972, and
  - (b) may make different provision as respects different classes of persons and different circumstances.
- (5) Paragraphs 1 to 11 of Schedule 3 to the Superannuation Act 1972 shall have effect, in their application for the purposes of this section, as if references to regulations were references to an order under this section and references to the Secretary of State were references to the Lord Chancellor.
- (6) Subsections (3) and (4) of section 7 of the Superannuation Act 1972 (which relate to increases under the Pensions (Increase) Act 1971) shall have effect in relation to an order under subsection (2) above as they have effect in relation to regulations under that section.

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- (7) The Lord Chancellor may by order repeal or amend any of the relevant enactments, whether or not he makes provision under subsection (2) above.
- (8) An order under subsection (2) or (7) above may make such consequential, transitional, incidental or supplemental provision (including provision amending or repealing any provision of this Act, the 1979 Act or any other enactment) as the Lord Chancellor thinks necessary or expedient.
- (9) Before making an order under subsection (2) or (7) above the Lord Chancellor shall consult—
- (a) the inner London magistrates' courts committee,
  - (b) such local authorities as appear to him to be concerned,
  - (c) the Receiver for the Metropolitan Police District, and
  - (d) such representatives of other persons likely to be affected by the proposed order as appear to him to be appropriate.
- (10) An order under subsection (2) or (7) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section—
- “the civil service provisions” has the meaning given by section 15(1) of the Superannuation (Miscellaneous Provisions) Act 1967,
- “inner London court staff” means the justices' chief executive employed by the inner London magistrates' courts committee, any justices' clerk for the inner London area and staff of the inner London magistrates' courts committee,
- “the inner London magistrates' courts committee” means the magistrates' courts committee for an area consisting of or including the inner London area or, if there is no such committee, every magistrates' courts committee for any area which consists of or includes any part of the inner London area, and
- “the relevant enactments” means—
- (a) Schedule 7 to this Act, and
  - (b) section 15 of the Superannuation (Miscellaneous Provisions) Act 1967 (superannuation of metropolitan civil staffs) so far as it relates to the persons mentioned in subsection (1)(a)(ii) of that section.

*Administrative and financial arrangements*

**83 Administrative and financial arrangements for magistrates' courts**

- (1) For sections 55 and 56 of the 1979 Act there shall be substituted—

**“55 Duties of local authorities**

- (1) Subject to the provisions of this Act, the paying authority or authorities in relation to any magistrates' courts committee shall provide the petty sessional court-houses and other accommodation, and the goods and services, proper for the performance of the functions of—
- (a) the magistrates for the magistrates' courts committee area,
  - (b) the magistrates' courts committee,

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- (c) any other committee of the magistrates for that area, or
  - (d) the justices' clerks for any part of the magistrates' courts committee area.
- (2) Subsection (1) above shall not require the paying authority or authorities to provide any current item or class of current items if the magistrates' courts committee have notified the authority or authorities that they intend to obtain that item or class of items otherwise than from that authority or any of those authorities.
- (3) For the purposes of subsection (2) above “current item” means any goods or services which are of such a kind that expenditure incurred by a paying authority on providing them would not be capital expenditure.
- (4) Where there is one paying authority in relation to a magistrates' courts committee, that authority shall pay the expenses of the committee.
- (5) Where there are two or more paying authorities in relation to a magistrates' courts committee, each of those authorities shall pay a proper proportion of those expenses.
- (6) For the purposes of subsections (4) and (5) above the expenses of a magistrates' courts committee shall be taken to include—
  - (a) expenses incurred by them in obtaining goods and services which are proper for the purposes mentioned in subsection (1) above but which by virtue of subsection (2) above the paying authority or authorities are not required to provide;
  - (b) the sums payable under Part II of this Act on account of a person's salary or expenses as justices' chief executive or as justices' clerk for any part of the magistrates' courts committee area, the remuneration of any staff employed by the committee and the remuneration of any court security officers employed (whether by the committee or a paying authority) under section 76(2)(a) of the Criminal Justice Act 1991 in relation to petty sessions areas within the magistrates' courts committee area together with—
    - (i) secondary Class I contributions payable in respect of any such person, staff or officers under Part I of the Social Security Contributions and Benefits Act 1992, and
    - (ii) state scheme premiums so payable under Chapter III of Part III of the Pension Schemes Act 1993;
  - (c) the sums payable under any contract entered into (whether by any such magistrates' courts committee or a paying authority) under section 76(2)(b) of the Criminal Justice Act 1991; and
  - (d) so far as they are not otherwise provided for, all other costs incurred, with the general or special authority of the magistrates' courts committee, by the justices for the magistrates' courts committee area.
- (7) Nothing in subsection (1), (4) or (5) above shall require any paying authority to incur any expenditure or make any payment which would—
  - (a) cause the net cost to it in any year of the matters mentioned in subsection (1) of section 59 of this Act to exceed the amount which, in relation to that authority and that year, is for the time being determined by the Lord Chancellor under subsection (3)(b) of that section, or

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- (b) cause its capital expenditure in any year in pursuance of functions under this Part of this Act to exceed the amount which, in relation to that authority and that year, is for the time being determined by the Lord Chancellor under subsection (4)(b) of that section;
- and in determining any such net cost as is mentioned in paragraph (a) above there shall be disregarded any such capital expenditure as is mentioned in paragraph (b) above.
- (8) Subject to section 16(2) of this Act, any accommodation provided under this section for any justice, justices' clerk or justices' chief executive may be outside the area for which the justices act and, in the case of a petty sessional court-house, shall be deemed to be in that area for the purposes of the jurisdiction of the justices when acting in the court-house.
- (9) Two or more paying authorities may arrange for accommodation, goods or services provided for the purposes of this section by one of them to be used also as if provided for those purposes by the other or each of the others.
- (10) In this section—
- “paying authority” in relation to a magistrates' courts committee, means any responsible authority whose area comprises all or part of the area to which the committee relates;
- “responsible authority” means any unitary authority or any county council so far as they are not a unitary authority; and
- “unitary authority” means—
- (a) the council of any county so far as they are the council for an area for which there are no district councils,
  - (b) the council of any district comprised in an area for which there is no county council,
  - (c) a county borough council,
  - (d) a London borough council, or
  - (e) the Common Council of the City of London.
- (11) Until 1st April 1996, the definition of “unitary authority” in subsection (10) above shall have effect with the omission of paragraph (c).

### **56 Provisions supplementary to s. 55**

- (1) Subject to the provisions of this section—
- (a) the petty sessional court-houses and other accommodation, goods and services to be provided by the paying authority, or each of the paying authorities, under section 55 of this Act,
  - (b) the salary to be paid to a justices' clerk or justices' chief executive and to staff of a magistrates' courts committee, and
  - (c) the nature and amount of the expenses which a magistrates' courts committee may incur in the discharge of any functions or may authorise to be incurred,
- shall be such as may from time to time be determined by the magistrates' courts committee after consultation with the paying authority or authorities.
- (2) Where the expenses of a magistrates' courts committee (including any sums which are taken by section 55(6) of this Act to be such expenses) fall to be

borne by more than one paying authority, any question as to the manner in which they are to be borne by the authorities concerned shall be determined by agreement between those authorities and the magistrates' courts committee concerned or, in default of such agreement, shall be determined by the Lord Chancellor.

- (3) Any paying authority which is aggrieved by a determination of a magistrates' courts committee under subsection (1) above may, within one month from the receipt by the authority of written notice of the determination, appeal to the Lord Chancellor, whose decision shall be binding upon the magistrates' courts committee and any authority concerned.
  - (4) The approval of the Lord Chancellor shall be required for any determination under subsection (1) above reducing the salary of a justices' clerk or justices' chief executive, unless the justices' clerk or justices' chief executive concerned consents to the reduction.
  - (5) In this section "paying authority" has the same meaning as in section 55 of this Act."
- (2) Section 57 of the 1979 Act (application of sections 55 and 56 to outer London areas and City of London) and section 58 of that Act (arrangements for inner London area corresponding to those under section 55 of that Act) shall cease to have effect.

#### **84 Local authority land appropriated to magistrates' courts purposes**

After section 59 of the 1979 Act there shall be inserted—

##### **"59A Local authority land appropriated to magistrates' courts purposes**

- (1) Where after the commencement of this section a responsible authority appropriate any land owned by them to magistrates' courts purposes, the authority shall be taken for the purposes of section 59(2) of this Act to incur, in the year in which the appropriation is made, capital expenditure in pursuance of their functions under this Part of this Act of an amount equal to the open market value of the land at the time of the appropriation.
- (2) In subsection (1) above—
  - "land" includes any interest in land,
  - "magistrates' courts purposes" means the purposes of being provided under section 55(1) of this Act as a petty sessional court-house or other accommodation, and
  - "responsible authority" has the same meaning as in section 55 of this Act."

#### **85 Regulations as to accounts and audit**

After section 62 of the 1979 Act there shall be inserted—

##### **"62A Regulations as to accounts and audit**

- (1) The Lord Chancellor may by regulations made by statutory instrument require magistrates' courts committees—

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

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- (a) to keep prescribed accounts and prescribed records in relation to those accounts, and
- (b) to cause any such accounts to be audited in accordance with the regulations.

(2) In subsection (1) above “prescribed” means prescribed by the regulations.”

*Inspectors of the magistrates' courts service*

**86 Inspectors of the magistrates' courts service**

- (1) The Lord Chancellor may appoint such number of inspectors of the magistrates' courts service (to be known collectively as “Her Majesty’s Magistrates' Courts Service Inspectorate”) as he may consider appropriate.
- (2) The Lord Chancellor shall appoint one of the persons so appointed to be Her Majesty’s Chief Inspector of the Magistrates' Courts Service.
- (3) It shall be the duty of inspectors of the magistrates' courts service—
  - (a) to inspect and report to the Lord Chancellor on the organisation and administration of magistrates' courts for each magistrates' courts committee area, and
  - (b) to discharge such other functions in connection with the organisation and administration of magistrates' courts as the Lord Chancellor may from time to time direct.
- (4) Her Majesty’s Chief Inspector of the Magistrates' Courts Service shall make an annual report to the Lord Chancellor as to the discharge of the functions of the Inspectorate and the Lord Chancellor shall, within one month of receiving the report, lay a copy of it before each House of Parliament.
- (5) The Lord Chancellor shall make to or in respect of inspectors of the magistrates' courts service such payments by way of remuneration, allowances or otherwise as he may with the approval of the Treasury determine.
- (6) Any person appointed by the Lord Chancellor before the commencement of this section as an inspector of the magistrates' courts service, or as Her Majesty’s Chief Inspector of the Magistrates' Courts Service, shall be taken to have been appointed under this section.

**87 Powers of inspectors**

- (1) Subject to subsection (2) below, an inspector of the magistrates' courts service exercising his functions under section 86 above shall have at all reasonable times—
  - (a) a right of entry to any court-house or other premises occupied by a magistrates' courts committee, and
  - (b) a right to inspect, and take copies of, any records kept by a magistrates' courts committee, and any other documents containing information relating to the administration of the magistrates' courts for their area, which he considers relevant to the discharge of his functions.
- (2) Subsection (1) above does not entitle an inspector—
  - (a) to be present when a magistrates' court is hearing proceedings in private, or



- (b) to attend any private deliberations of the justices of the peace.
- (3) The records referred to in paragraph (b) of subsection (1) above include records kept by means of a computer; and an inspector exercising the power to inspect records conferred by that subsection—
  - (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and associated apparatus or material which is or has been in use in connection with the records in question, and
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been so used, or
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford him such reasonable assistance as he may require.

#### *Default powers*

### **88 Default powers**

- (1) The Lord Chancellor may make an order under subsection (3) below if he is of the opinion that, without reasonable excuse, a magistrates' courts committee—
  - (a) are failing properly to discharge any duty imposed on them by or under any enactment, or
  - (b) have so failed and are likely to do so again.
- (2) Before making an order under subsection (3) below, the Lord Chancellor shall give a written warning to the magistrates' courts committee specifying the default or defaults to which the order relates.
- (3) An order under this subsection shall—
  - (a) state that the Lord Chancellor is of the opinion mentioned in subsection (1) above, and
  - (b) provide either or both of the following—
    - (i) that, on the making of the order, the chairman of the committee is to vacate his office as chairman, or
    - (ii) that, on the making of the order, one or more specified members of the committee (who may include the chairman but may not consist of all the members of the committee) are to vacate their office.
- (4) If, after making an order under subsection (3) above, the Lord Chancellor remains of the opinion mentioned in subsection (1) above, he may make an order—
  - (a) stating that he remains of that opinion, and
  - (b) providing—
    - (i) that all the members of the committee are to vacate their office on the making of the order, and
    - (ii) that for a specified period, not exceeding three months, beginning with the making of the order the committee is to consist of persons nominated by the Lord Chancellor (who need not be justices of the peace).

- (5) An order under subsection (4) above shall provide for new members of the committee to be chosen, in accordance with regulations under section 21 of the 1979 Act, to take office at the end of the specified period.
- (6) In relation to the magistrates' courts committee for an area which consists of or includes the whole or any part of the inner London area, the reference in subsection (3) (b)(ii) above to members of the committee does not include the chief metropolitan stipendiary magistrate; and where an order under subsection (4) above is made in relation to any such committee, subsections (3) and (4) of section 20 of the 1979 Act (under which the chief metropolitan stipendiary magistrate and other stipendiary magistrates are members of the committee) shall not have effect in relation to the committee during the period specified in the order.

*Studies by Audit Commission*

**89 Studies by Audit Commission**

- (1) The Audit Commission may, at the request of a magistrates' courts committee, undertake or promote comparative and other studies—
  - (a) designed to enable the Commission to make recommendations for improving economy, efficiency and effectiveness in the performance of the committee's functions, and
  - (b) for improving the financial or other management of the committee.
- (2) Any magistrates' courts committee which has requested a study in accordance with subsection (1) above, and any officer or member of such a committee, shall provide the Audit Commission, or any person authorised by it, with such information as it or he may reasonably require for the carrying out of the study.
- (3) The Audit Commission shall charge the magistrates' courts committee concerned such fees for any study carried out under subsection (1) above as will cover the full cost of carrying it out.
- (4) In this section “the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales.

*General*

**90 Regulations under Justices of the Peace Act 1979**

After section 69 of the 1979 Act there shall be inserted—

**“69A Regulations**

A statutory instrument containing (whether alone or with other provisions) regulations made by virtue of section 12, 21, 24C, 24D(2), 25(2) or 62A of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

## **91 Minor and consequential amendments**

- (1) Schedule 8 to this Act (which makes minor and consequential amendments relating to magistrates' courts) shall have effect.
- (2) The repeal of subsections (1), (2) and (4) of section 27 of the 1979 Act does not affect any justices' clerks in relation to whom section 26A(1) of the 1979 Act does not have effect.
- (3) The repeal of sections 36 and 36A of the 1979 Act does not affect the division of the inner London area into petty sessional divisions as existing immediately before the commencement of the repeal or the names of those petty sessional divisions.

## **92 Interpretation of Part IV**

- (1) In this Part of this Act “the 1979 Act” means the Justices of the Peace Act 1979.
- (2) Expressions used in this Part of this Act and in the 1979 Act have the same meaning in this Part as in that Act.